



**Outsource Online Services Ltd (T/A OUTSOURCE TELECOM)**  
**MASTER SERVICES AGREEMENT**

## Index

1. Definitions and Interpretation
2. Term
3. Orders
4. Services
5. Software
6. Equipment
7. Charges and Rebates
8. Use of the Services
9. Suspension of the Service
10. Maintenance
11. Intellectual Property Rights
12. Indemnities
13. Limitation of Liability
14. Force Majeure
15. Termination
16. Consequences of Termination
17. Confidential Information
18. Assignment
19. Escalation and Dispute Resolution
20. No Partnership or Agency
21. Variations
22. Entire Agreement
23. Notices
24. Waiver
25. Severance
26. Governing Law and Jurisdiction
27. Counterparts
28. Anti-Bribery
29. Agreement & Schedule Amendment

**THIS AGREEMENT** is made **BETWEEN:**

1. **OUTSOURCE ONLINE SERVICES Ltd.** is a limited company incorporated in Northern Ireland and registered at companies house with registration number NI671940, whose registered office is at 3 PLASKETS CLOSE, KILBEGS BUSINESS PARK, ANTRIM, COUNTY ANTRIM, NORTHERN IRELAND, BT41 4LY and principal place of business is at 3 PLASKETS CLOSE, KILBEGS BUSINESS PARK, ANTRIM, COUNTY ANTRIM, NORTHERN IRELAND, BT41 4LY ("**TRADING AS OUTSOURCE TELECOM**");

And

2. **THE CUSTOMER** identified in the contract application (the "**Customer**")

The parties to this Agreement agree to sign this Agreement by electronic signature (whatever the form the electronic signature takes) and agree that such method of signature shall be equally conclusive of their intention to be bound by the terms and conditions of this Agreement.

By signing up for the Services you warrant that you are capable of entering into a binding contract; or are acting with the express permission of a person or organisation and using the payment details of that person and that they also agree to be bound by the terms of this Agreement. You also agree to comply and adhere to any and all applicable laws and regulations in relation to this Agreement.

## 1. Definitions and Interpretation

1.1. In this Agreement, the following expressions shall have the following meanings unless the context otherwise requires:

<b>"Acceptable Use Policy"</b>	OUTSOURCE TELECOM's acceptable use policy concerning use of the Service at the Appendix to this Agreement as may be updated from time to time in accordance with clause 8.13.7;
<b>"the Act"</b>	the Communications Act 2003;
<b>"Agreement"</b>	the execution page, the Particulars of Contract and these General Terms and Conditions;
<b>"Appropriate Use"</b>	the use of services in accordance with the Numbering Conventions set down by Ofcom which govern the use and management of numbers and codes from the United Kingdom's Specified Numbering Scheme;
<b>"Associated Company"</b>	each and any Parent Undertaking or Subsidiary Undertaking of a company and each and any Subsidiary Undertaking of a Parent Undertaking of that company. Parent Undertaking and Subsidiary Undertaking shall have the meanings given to them as in section 1162 of the Companies Act 2006;
<b>"Business Day"</b>	any day which is not a Saturday, a Sunday or a bank or public holiday
<b>"Charges"</b>	the charges for use, installation and delivery of the Services as specified in the Service Schedule;

<b>“CLI” or “Caller Line Identifier”</b>	a single telephone line with a unique telephone number allocated as part of the UK national switched network;
<b>“Customer”</b>	the party identified in the application for an account;
<b>“Customer Information”</b>	the information that the Customer should provide to OUTSOURCE TELECOM in relation to the Services (including all relevant details which relate to the Customer’s and/or any User’s requirement for the provision of the Services and information more particularly described in the Service Schedule);
<b>“Code”</b>	any Code of Practice relevant to the Services issued by Phonepay Plus or Ofcom as amended from time to time;
<b>“Confidential Information”</b>	all confidential information or data (whether oral, visual, recorded in writing, in any other medium or by any other method) disclosed to or obtained by one party from the other or from a third party, including any information relating to a Party’s operations, processes, plans, intentions, price lists, pricing structures, know-how, design rights, trade secrets, software, market opportunities, customers and business affairs;
<b>“OUTSOURCE TELECOM Network”</b>	the system for the conveyance, through the agency of electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy of (i) speech, music and other sounds, (ii) visual images signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images or (iii) signals serving for the actuation or control of machinery or apparatus which OUTSOURCE TELECOM operates in connection with the provision of the Service;
<b>“the Equipment”</b>	any all equipment owned or controlled by OUTSOURCE TELECOM utilised in the provision of the Service, including but not limited to the equipment related to or used in connection with the metallic path facility provided by a Service Provider;
<b>“Go Live Date”</b>	the date when OUTSOURCE TELECOM notifies the Customer or any User that the Service is ready for use by the Customer or User, or if earlier the date when the Customer or User or starts to use the Service;
<b>“Insolvency Event”</b>	the occurrence of any of the following events (or any event analogous to any of the following in a jurisdiction other than Northern Ireland) in relation to the relevant entity: <ul style="list-style-type: none"> <li>(a) the entity passing a resolution for its winding-up or a court of competent jurisdiction making an order for the entity to be wound up or dissolved or the entity being otherwise dissolved;</li> <li>(b) the filing of a notice of intention to appoint an administrator of or, the filing of a notice of appointment of an administrator of or, the making of an administration order in relation to the entity or the appointment of a receiver or administrative receiver of, or an encumbrance taking possession of or levying distress over, or selling, the whole or any part of the entity’s undertaking, assets, rights or revenue;</li> <li>(c) the entity proposing to enter into, or entering into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them or takes steps to obtain a moratorium or makes an application to a court of competent jurisdiction for protection from its creditors;</li> </ul>

	(d) the entity being unable to pay its debts or being deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
<b>"Intellectual Property Rights"</b>	(i) patents, designs, trade marks and trade names (whether registered or unregistered), copyright and related rights, database rights, know-how and confidential information; (ii) all other intellectual property rights and similar or equivalent rights in the world which currently exist or are recognised in the future; and (iii) applications, extensions and renewals in relation to any such rights;
<b>"Loss" or "Losses"</b>	any and all losses, damages, costs, expenses, (including court or legal expenses) or other liabilities of whatever nature (whether foreseeable or not);
<b>"Order"</b>	the Customer's request for the supply of Services to a User as accepted by OUTSOURCE TELECOM in accordance with the applicable Services Agreement;
<b>"Service"</b>	the services provided by OUTSOURCE TELECOM to the Customer as specified in a Service Schedule;
<b>"Service(s) Schedules"</b>	any agreement between the parties stated as being subject to the terms of this Agreement;
<b>"Service Credit"</b>	the credit offered by OUTSOURCE TELECOM for any failure by OUTSOURCE TELECOM to perform the Services in accordance with the Service Levels as more particularly specified in the Service Schedule;
<b>"Service Levels"</b>	the service levels in respect of the Services and specified in the Service Schedule;
<b>"Service Minimum Period"</b>	the minimum period for the provision of the Service as specified in the Service Schedule;
<b>"Service Provider"</b>	any person providing underlying or network facilities in connection with the Services;
<b>"Support Processes"</b>	the means of contacting OUTSOURCE TELECOM's support team and reference material outlining standard procedures;
<b>"Trade Names"</b>	OUTSOURCE TELECOM together with such other trade names and/or logos as OUTSOURCE TELECOM may adopt in connection with the operation of its business from time to time;
<b>"User"</b>	a party to whom the Customer resells the Services and any other parties (including without limit any ultimate end user) to whom the Services are subsequently resold from time to time in accordance with the terms of this Agreement;
<b>"VAT"</b>	value added tax as defined in the Value Added Tax Act 1994 and including any other tax from time to time replacing it or of a similar fiscal nature.
<b>"Year"</b>	means the period of 12 months from the date of the Agreement and each consecutive period of 12 months thereafter.

- 1.2. The clause headings are for convenience only and shall not affect the interpretation of this Agreement.
- 1.3. References to the singular include the plural and vice versa, and references to one gender include the other gender.
- 1.4. Any phrase introduced by the expressions "includes", "including" or "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.5. Any reference to a statute, statutory provision or subordinate legislation (together "legislation") shall (except where the context otherwise requires) (i) be deemed to include any bye-laws, licences, statutory instruments, rules, regulations, orders,

notices, directions, consents or permissions made under that legislation and (iii) shall be construed as referring to any legislation which replaces, re-enacts, amends or consolidates such legislation (with or without modification) at any time.

- 1.6. Unless specifically provided to the contrary all notices under this Agreement shall be in writing.
- 1.7. The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.8. References to times are to London times.

## **2. Term**

This Agreement shall be effective upon the Customer Party completing the OUTSOURCE TELECOM online sign-up form and shall continue unless terminated in accordance with clause 15, for a minimum period of one (1) month (the "Initial Term") and shall continue thereafter until terminated in accordance with clause 15.

## **3. Orders**

- 3.1. The terms and conditions set out in this Agreement shall:
  - 3.1.1. apply to and be incorporated into each Service Schedule; and
  - 3.1.2. prevail over any inconsistent terms or conditions contained, or referred to, in the Customer's purchase order, confirmation of order, acceptance of a quotation or specification, or implied by law, trade custom, practice or course of dealing.
- 3.2. The Customer shall submit a request to OUTSOURCE TELECOM for each Service required by the Customer and if OUTSOURCE TELECOM is prepared to provide those services to the Customer under this Agreement a general Service Schedule shall be entered into between the parties in relation to those services, and then if Orders are to be placed then they shall be placed pursuant to the terms of the relevant Services Schedule.
- 3.3. Each individual Service is subject to its own Service Minimum Period the Service Minimum Periods are stated either in the Service Schedules for the Services provided under those schedules or, specifically on the order documentation for Services that carry variable Service Minimum Periods by specific Service or, failing any specific reference the Service Minimum Period defaults to thirty days.
- 3.4. Each individual Service is subject to its own notice period, in the absence of a specified notice period for a Service the default notice period is sixty days such notice to expire at the end of the Service Minimum Period.
- 3.5. Some Services are subject to termination fees which are payable on termination of the Service these are specified in the specific where applicable.

## **4. Services**

- 4.1. During the Term, and subject to the Customer's compliance with this Agreement, OUTSOURCE TELECOM shall provide the Services to the Customer to the standards of a reasonable and prudent communications services provider offering the same or similar services in the United Kingdom and in accordance in all material respects with the Agreement and the Service Schedule.

- 4.2. OUTSOURCE TELECOM shall use reasonable endeavours to perform the Services in accordance with the Service Levels which shall apply with effect from the Go Live Date until the Service Schedule is terminated in accordance with its terms.
- 4.3. If OUTSOURCE TELECOM fails to provide the Services to meet any Service Levels then:
- 4.3.1. OUTSOURCE TELECOM shall at OUTSOURCE TELECOM's expense deploy as soon as reasonably practicable such additional resources as are reasonably necessary to perform the Services in the future in a manner likely to meet the Service Levels.
- 4.3.2. for the avoidance of doubt any failure of OUTSOURCE TELECOM to provide the Services in accordance with the Service Levels shall not be a material breach unless such breach is in itself material or is a minor breach that continues to a material extent, and is demonstrated to have a detrimental effect on the services provided and the Customer has first served written notice on OUTSOURCE TELECOM giving reasonable particulars of the relevant breach or breaches and afforded OUTSOURCE TELECOM a period of two months to remedy the deficiency and OUTSOURCE TELECOM shall have failed to comply with clause 4.3.1.
- 4.3.3. OUTSOURCE TELECOM shall not be liable for any failure to comply with a Service Level to the extent is caused by the act or omission of any network operator
- 4.4. OUTSOURCE TELECOM shall use reasonable endeavours to meet any dates or times for performance of the Services specified in the Service Schedule and the Order. Except as expressly stated to the contrary in a Service Schedule or the Order any dates specified by OUTSOURCE TELECOM for performance of the Services or delivery in relation to the Agreement are an estimate only and in relation to the same and time shall not be of the essence. If no delivery dates are specified within the relevant Service Schedule delivery shall be within a reasonable time.
- 4.5. OUTSOURCE TELECOM may at any time make any changes to the Services supplied as it in its reasonable opinion deems necessary provided always that (a) any changes shall not materially affect the performances and/or accessibility of the Service(s) in a detrimental way; and (b) OUTSOURCE TELECOM shall provide the Customer as much notice as practicable prior to any such change taking effect (having due regard to the likely impact on the Customer and/or the Users and the nature of such change).
- 4.6. Customer contact
- 4.6.1. The Customer and OUTSOURCE TELECOM shall each promptly provide the other with details of those personnel with whom each may, in OUTSOURCE TELECOM's performance of its obligations in the provision of any of the Services and the Customer's use of the Services, wish or be required to interface. These can be accessed and changed through the OUTSOURCE TELECOM Control Panel at any time.
- 4.6.2. Each party shall promptly notify the other of any amendments to the contact details provided and in the case of the Customer the amended details shall be provided to OUTSOURCE TELECOM in accordance with clause 4.6.1.
- 4.6.3. OUTSOURCE TELECOM shall not be liable for any failure to satisfactorily provide any Services to the extent that such failure is due to:
- (i) the Customer having failed to provide the requisite information or to update such information as required by this clause 4.6; or
  - (ii) OUTSOURCE TELECOM being unable to make contact with the Customer's nominated personnel due to such personnel being unavailable.

## 5. Software

- 5.1. OUTSOURCE TELECOM hereby grants the Customer the right to use all software provided by OUTSOURCE TELECOM as part of the Services. Such licence shall be a personal, revocable, non-transferable, non-sub licensable right to use such software (without the requirement to pay licence fee or royalty fees) to the extent necessary to use the Services as contemplated by the Agreement and any Services Agreement. Such licence shall terminate immediately on the cessation of the provision of the applicable Services by OUTSOURCE TELECOM.
- 5.2. OUTSOURCE TELECOM shall, as soon as is reasonably practicable (after becoming aware) notify the Customer in the event that any use of the Services by the Customer or any User causes OUTSOURCE TELECOM to be in breach of any software licence which OUTSOURCE TELECOM has in place with any third-party licensor in order to provide the Services (or any part thereof). The Customer shall, as soon as is reasonably practical after such notification cease to use the Services in such manner and/or shall procure the same of Users (as applicable).

## 6. Equipment

- 6.1. The Equipment will at all times remain the property of OUTSOURCE TELECOM or, if provided by a Service Provider, that Service Provider unless otherwise agreed in writing.
- 6.2. The Customer will:
  - 6.2.1. ensure that the Equipment is used only for the purposes of the Services;
  - 6.2.2. not connect any other equipment to the Equipment except as expressly authorised in writing by OUTSOURCE TELECOM;
  - 6.2.3. not tamper with or remove any label on any Equipment;
  - 6.2.4. not (and procure that the Users do not) open, disconnect, repair, maintain, modify or remove the Equipment; and
  - 6.2.5. permit OUTSOURCE TELECOM and/or any Service Provider to modify, change, add or replace the Equipment or any part of the Equipment;
- 6.3. The Customer is responsible for, and will, subject to clause 13, indemnify OUTSOURCE TELECOM in respect of, all costs, expenses and liabilities that OUTSOURCE TELECOM incurs as a result of any loss of or damage to the Equipment caused by the Customer other than where the damage or loss has been caused as a result of the Customer acting in accordance with instructions issued by OUTSOURCE TELECOM.
- 6.4. The Customer will not permit any lien, charge or other like restriction to be placed on the Equipment.
- 6.5. OUTSOURCE TELECOM may take possession of the Equipment from the Customer's or a User's premises or take other reasonable steps which OUTSOURCE TELECOM reasonably believes are necessary to protect its or the Service Provider's ownership rights in the Equipment and the Customer will use its reasonable endeavours to provide OUTSOURCE TELECOM with the necessary access to exercise these rights.
- 6.6. Promptly after expiry or earlier termination of any Services Agreement, the Customer will use its reasonable endeavours to provide OUTSOURCE TELECOM and Service Providers with access to the Equipment and all reasonable assistance in the removal of the same

## 7. Charges



- 7.1. The Customer shall pay to OUTSOURCE TELECOM the Charges for the Services provided to the Customer. Such Charges shall be invoiced in advance for rentals and arrears for usage charges the manner set out in this Agreement.
- 7.2. All Charges payable by the Customer shall be payable to OUTSOURCE TELECOM in British Pounds Sterling within a maximum fourteen (14) days of the date of the OUTSOURCE TELECOM invoice.
- 7.3. The Charges are exclusive of all applicable taxes, including VAT, sales taxes and duties of levies imposed by any authority, government department, all of which, if any, shall be assumed and paid promptly when due by the Customer.
- 7.4. If the Customer fails to make any payment due to OUTSOURCE TELECOM under the Agreement and/or any Services Agreement by the due date for payment (and such late or non-payment is not the subject of a bonafied dispute in accordance with clause 7.4), then without prejudice to any other rights and remedies of OUTSOURCE TELECOM:
- 7.4.1. OUTSOURCE TELECOM may upon not less than 7 days' prior written notice to the Customer suspend the performance of the Service(s) to which the unpaid (or partly unpaid) invoice(s) relate and shall be under no obligation to provide any or all of such Services while the invoice(s) concerned remain unpaid, provided that notwithstanding any suspension of the Services by OUTSOURCE TELECOM, OUTSOURCE TELECOM may continue to incur expenses and/or charges of Service Providers (including, without limit, rental charges) which shall be payable by the Customer; and
- 7.4.2. OUTSOURCE TELECOM may charge the Customer interest on the overdue amount at the rate of 8% per annum above the Bank of England base rate. Such interest shall accrue on a daily basis from due date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest immediately on demand by OUTSOURCE TELECOM. This clause shall not apply to payments that the Customer contests in good faith;
- 7.5. In the event that the Customer acting reasonably and in good faith disputes an invoice or any part thereof raised by OUTSOURCE TELECOM then provided that it notifies OUTSOURCE TELECOM in writing of the same as soon as is reasonably practicable and pays such part of any invoice which is not the subject of the bona-fide dispute in accordance with clause 7.1, then the provisions of 7.4.1 and 7.4.2 shall not apply to such disputed payment, unless and until it is subsequently determined that either the whole or part of the payment which is the subject of the bona fide dispute should have been payable to OUTSOURCE TELECOM by the original due date.
- 7.6. For the avoidance of doubt, all Charges due to OUTSOURCE TELECOM under the Agreement shall be paid in full by the Customer by the due date for payment notwithstanding that the Customer may not have received payment from its User(s) and any dispute between the Customer and its Users regarding billing, the provision of services or otherwise shall be the sole responsibility of the Customer.
- 7.7. Any fraud or other improper use of the Services committed by the Customer or its User(s) shall not relieve the Customer of its payment obligations to OUTSOURCE TELECOM under the Agreement.
- 7.8. OUTSOURCE TELECOM will consider billing queries from the Customer only if such queries are made in writing within fourteen (14) days of the date of the applicable OUTSOURCE TELECOM invoice in respect of charges in connection with the use of the Services. In the absence of any queries from the Customer pursuant to this clause, the Customer is deemed to have accepted the applicable OUTSOURCE TELECOM invoice.
- 7.9. A Credit Note shall not be payable unless the Customer requests it within thirty (30) days from the date of the service affecting event.

- 7.10. OUTSOURCE TELECOM may at any time or times, with prior written notice to the Customer, set off any liability against amounts due by OUTSOURCE TELECOM to the Customer. Any exercise by OUTSOURCE TELECOM of its rights under this clause shall be without prejudice to any other rights or remedies available to it under this Agreement or otherwise.
- 7.11. All charges and rebates shall be calculated by reference to data recorded or logged by OUTSOURCE TELECOM and not to data recorded or logged by the Customer (save in the case of demonstrable error).
- 7.12. OUTSOURCE TELECOM will regularly review the Charges in consultation with the Customer. If OUTSOURCE TELECOM's costs of providing the Services increase as a result of any changes in legislation or regulations applying to the performance of the Services or increased taxation or increases in the charges of any relevant Service Provider, OUTSOURCE TELECOM may increase the Charges to reasonably reflect the increase in the cost of providing the Service(s) by giving not less than thirty (30) days' prior written notice to the Customer, such notice to identify the amount of the increase in the Charges.
- 7.13. If the Customer disputes any portion of an invoice based upon usage of the Services, OUTSOURCE TELECOM records of such usage shall be presumed to be accurate unless determined otherwise by an independent expert appointed in accordance with clause 20 (Escalation and Dispute Resolution).
- 7.14. OUTSOURCE TELECOM reserves the right to pass on to Customers on a cost-plus basis (adding 10%) any charges levied by the Service Provider to which it is exposed as a result of the Customer and/or its Users' and/or Additional Users' actions.
- 7.15. OUTSOURCE TELECOM reserves the right to carry out a credit check prior or after the Customer's acceptance of this agreement and may request copies of two utility bills from the declared business address. Subsequent to any credit check OUTSOURCE TELECOM reserves the right to request a deposit or 3rd party guarantee, to be specified at that time, from the Customer as a condition of providing or continuing Service. Any deposit shall be held by OUTSOURCE TELECOM for a period of twelve (12) months (or until the Agreement is otherwise terminated) when it shall be returned in full or credited against an invoice at OUTSOURCE TELECOM's sole discretion. Any deposit does not relieve the customer of the responsibility for the prompt payment of invoices in accordance with relevant Clauses contained herein.

## **8. Use of the Services**

- 8.1. The Customer shall and shall use its reasonable endeavours to procure that the Users shall use the Services in accordance with our support processes and any reasonable operating instructions issued by OUTSOURCE TELECOM from time to time in writing (which shall for these limited purposes include email) to the Customer. OUTSOURCE TELECOM shall not be liable for any failure or delay in the provision of the Services and/or the performance of its obligations under the Agreement and/or any Services Agreement to the extent that such failure and/or delay has been caused by any failure and/or delay by the Customer and/or any User to comply with the support processes and/or any reasonable operating instruction issued by OUTSOURCE TELECOM.
- 8.2. The Customer shall and shall procure that all Users, be authenticated and that they shall be provided with a unique username and password in order to access any part of the Services.
- 8.3. The Customer shall not itself or knowingly permit any User to use the OUTSOURCE TELECOM Network or Services to do any of the following (a "Prohibited Activity"):
  - 8.3.1. publish, post, distribute or disseminate defamatory, infringing, obscene, indecent or other unlawful material or information;
  - 8.3.2. threaten, harass, stalk, abuse, disrupt or otherwise violate the rights (including rights of privacy and publicity) of others;
  - 8.3.3. engage in illegal or unlawful activities through the OUTSOURCE TELECOM Network;

- 8.3.4. knowingly make available or upload files that contain software or other material, data or information not owned by or licensed to the Customer or a User;
  - 8.3.5. knowingly make available or upload files that contain a virus or corrupt data;
  - 8.3.6. falsify the true ownership of software or other material or information contained in a file that the Customer or any User makes available via the OUTSOURCE TELECOM Network;
  - 8.3.7. "spam" or otherwise deliberately abuse any part of the OUTSOURCE TELECOM Network;
  - 8.3.8. breach the rights of third parties;
  - 8.3.9. obtain access, through whatever means, to notified restricted areas of OUTSOURCE TELECOM Network; or
  - 8.3.10. act in a manner which restricts or inhibits any other user from using or enjoying OUTSOURCE TELECOM's or a Service Provider's products or services.
- 8.4. If the Customer becomes aware that any User is using the OUTSOURCE TELECOM Network to perform any of the Prohibited Activities the Customer shall, as reasonably appropriate, enforce the applicable terms in its agreement with its User(s) and shall use all reasonable endeavours to stop (or prevent a repetition of) such User.
- 8.5. If OUTSOURCE TELECOM becomes aware that a User is performing any of the Prohibited Activities, OUTSOURCE TELECOM shall bring the breach to the attention of the Customer in writing. If OUTSOURCE TELECOM have not received, within one (1) Business Days of dispatch of such a message, a satisfactory response from the Customer detailing the actions that have been taken to stop a User performing any Prohibited Activity or to prevent the repetition of a Prohibited Activity, which actions may, depending on the circumstances and if reasonable and appropriate to do so, include restricting the access of the User to the OUTSOURCE TELECOM Network or disconnecting the User from the OUTSOURCE TELECOM Network, then OUTSOURCE TELECOM shall have the right to restrict the access of and/or disconnect the User(s) in question from the OUTSOURCE TELECOM Network. If OUTSOURCE TELECOM exercises its rights to disconnect a User it will notify the Customer as soon as reasonably practicable. Provided that if the Prohibited Activity in OUTSOURCE TELECOM's reasonable opinion is serious, (including where it has a direct or indirect impact on the experience of other Customers of OUTSOURCE TELECOM), OUTSOURCE TELECOM may suspend the provision of the services immediately in relation to the User until such time as the Prohibited Activities have ceased.
- 8.6. Each Party shall provide the other with all reasonably necessary co-operation, information and support to prevent and/or stop any misuse of OUTSOURCE TELECOM Network by Users.
- 8.7. The Customer may resell the Services to its Users and shall be entitled to permit its direct Users to resell the Services to other Users.
- 8.8. Any agreement between the Customer and a User or between a User and another User will be a separate arrangement between those parties and OUTSOURCE TELECOM will not be a party to it. The Users shall have no rights under this Agreement or any Service Schedule.
- 8.9. The Customer acknowledges that OUTSOURCE TELECOM is acting as a wholesale partner of each Service Provider and not as the agent of any Service Provider.
- 8.10. The Customer shall be responsible for any dealings with Users concerning the Services and shall not direct its Users to contact any Service Provider or OUTSOURCE TELECOM unless otherwise agreed in writing.
- 8.11. In order for OUTSOURCE TELECOM to meet its legal obligations to comply with any request by any government, enforcement or regulatory agency (Information Request) the Customer shall keep and maintain suitable records of all Users and details of all current agreements entered into between them.
- 8.12. The Customer shall (and shall procure that the User shall) ensure that its marketing literature accurately reflects and promotes the Services. At the written request of OUTSOURCE TELECOM, the Customer shall (or shall use its reasonable

endeavours to procure that Users engaged in the re-sale of the Services will) provide OUTSOURCE TELECOM with copies of any marketing literature used by the Users in relation the resale of the Services.

8.13. The Customer shall:

- 8.13.1. co-operate and use all reasonable endeavours to procure that all Users co-operate with all reasonable written requests and instructions of OUTSOURCE TELECOM relating to the Services;
- 8.13.2. ensure that they check and reconcile their monthly invoices so as to confirm the accuracy of the invoice, the services provided and notify OUTSOURCE TELECOM of incorrect items within thirty (30) days of receipt of the invoice.
- 8.13.3. provide, for OUTSOURCE TELECOM, its agents, sub-contractors and employees, in a timely manner and at no charge, access to the Customer's or (so far as the Customer is able) any User's premises, office accommodation, data and other facilities as reasonably requested by OUTSOURCE TELECOM provided that such persons adhere at all times with all information communicated to them pursuant to clause 8.13.4;
- 8.13.4. provide, in a timely manner, such information as OUTSOURCE TELECOM may reasonably request (which is relevant to the Customer's and/or its Users receipt and use of the Services;
- 8.13.5. inform OUTSOURCE TELECOM of all Health and Safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's and any User's premises and provide OUTSOURCE TELECOM and Service Providers who are given access to Customer's and/or User's premises with a suitable and safe working environment;
- 8.13.6. ensure that all Customer's and any User's equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant UK standards or requirements;
- 8.13.7. obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the use of Equipment insofar as such licences, consents and legislation relate to the Customer's business and premises in all cases before the date on which the Services are to start;
- 8.13.8. comply and use its reasonable endeavours to procure that its Users comply with the Acceptable Use Policy as may be updated by OUTSOURCE TELECOM notifying the Customer in writing from time to time (which for these purposes shall include notification by email to the Customer's General Counsel.

8.14. The Customer shall not and shall use all reasonable endeavours to procure that its Users shall not:

- 8.14.1. purport to act on behalf of or represent any Service Provider; and
- 8.14.2. except with OUTSOURCE TELECOM's prior written consent, refer to any Service Provider in any marketing or service literature.

8.15. The Customer acknowledges that it is solely responsible for providing the Customer Information and that OUTSOURCE TELECOM shall rely on the Customer Information in determining and selecting the appropriate Services.

8.16. OUTSOURCE TELECOM shall be entitled to rely upon any written specification or written advice given by the Customer (its employees, directors, agents and sub-contractors) to OUTSOURCE TELECOM in relation to the suitability of the Services for meeting the Customer's requirements. To the extent that the Services comply with such written specification and or such written advice OUTSOURCE TELECOM shall be deemed to have supplied the same in accordance with the relevant Service Schedule, without limitation, notwithstanding the Customer Information.

8.17. OUTSOURCE TELECOM does not warrant that the Services will be uninterrupted or error free.

## 9. Suspension of the Service

- 9.1. OUTSOURCE TELECOM may suspend or block the Customer's (or any User's) access to the Service in any of the following circumstances:
  - 9.1.1. if OUTSOURCE TELECOM or any third party providing equipment or services to OUTSOURCE TELECOM in connection with the provision of the Services is required to so do in order to comply with any law, regulation, court order, or request, order, direction, determination or consent by or of a governmental or regulatory body or authority;
  - 9.1.2. where a Service is no longer provided by the applicable Service Provider and the same has been notified by OUTSOURCE TELECOM to the Customer at least 30 days prior to the date of suspension and notwithstanding such notice, the Customer has not contracted with OUTSOURCE TELECOM for an alternative service or served 14 days' notice to terminate the Service the subject of the suspension;
  - 9.1.3. If OUTSOURCE TELECOM or any third party providing equipment or services to OUTSOURCE TELECOM in connection with the provision of the services requires to carry out any emergency maintenance or repair, which will include any necessary action to prevent interference with, damage to or degradation of the OUTSOURCE TELECOM Network where possible OUTSOURCE TELECOM will give the Customer a minimum of 24 hours advance notice of such emergency maintenance or repair;
  - 9.1.4. to carry out planned maintenance or upgrade of the OUTSOURCE TELECOM Network or the Services in which OUTSOURCE TELECOM will provide not less than 24 hours prior notice of the suspension and, where practicable, will agree with the Customer when the Services will be suspended and for how long;
  - 9.1.5. if the Customer fails to comply with any of its obligations set out in this Agreement and/or any Services Agreement which directly prevents OUTSOURCE TELECOM from delivering the Services;
  - 9.1.6. If the Customer fails to pay any undisputed sum by the due date;
  - 9.1.7. if the Customer exceeds any credit limit agreed with OUTSOURCE TELECOM and does not remedy the situation within 7 days of receiving a written notice to do so;
  - 9.1.8. if OUTSOURCE TELECOM is required to eliminate a hazardous condition (including an event which represents a health and safety risk for OUTSOURCE TELECOM, its employees, agents, directors and sub-contractors)
- 9.2. OUTSOURCE TELECOM will restore suspended Services as soon as reasonably practicable after the cause of the suspension has been rectified and/or has ceased to exist. In the event of any suspension pursuant to clauses 9.1.3, or 9.1.4 (and where the issue giving rise to the suspension has not been caused by and/or arisen from an act or omission of the Customer or a User) OUTSOURCE TELECOM will use all reasonable endeavours to limit the amount of time for which the Services are suspended.
- 9.3. If the suspension of Services arises out of, or in connection with, an act or omission of the Customer or a User then the Customer will pay to OUTSOURCE TELECOM all reasonable costs that OUTSOURCE TELECOM incurs in reconnecting the Services.
- 9.4. OUTSOURCE TELECOM shall not be liable to the Customer for any charges incurred by the Customer for the use of other telecommunications services whether provided by OUTSOURCE TELECOM or any other person during any period of unavailability resulting from suspension of the Services by OUTSOURCE TELECOM in accordance with clause 9.

## 10. Maintenance

- 10.1. OUTSOURCE TELECOM shall consult with the Customer, as appropriate in the circumstances, by means of E-mail as to the time periods for conducting routine maintenance or upgrading works to the Equipment and/or the OUTSOURCE TELECOM Network. OUTSOURCE TELECOM shall use its reasonable endeavours to carry out such routine maintenance or upgrading during such times as the traffic over the OUTSOURCE TELECOM Network is at its lowest, at times agreed with the Customer (where possible) and in any event within the hours committed to in the applicable Services Agreement.
- 10.2. OUTSOURCE TELECOM shall be free to carry out emergency or urgent maintenance to the Equipment and/or the OUTSOURCE TELECOM Network at any time to ensure the Services continue to be supplied. OUTSOURCE TELECOM shall provide the Customer with as much prior written notice as reasonable possible, the likely impact of the works on the Service(s), the anticipate duration of any impact of the Services and wherever reasonably possible, any emergency or urgent maintenance shall be carried out during such times as the Customer's traffic over the OUTSOURCE TELECOM Network is at its lowest. OUTSOURCE TELECOM shall use its reasonable endeavours to ensure that disruption to the Service(s) is kept to an absolute minimum.

## 11. Intellectual Property Rights

- 11.1. All Intellectual Property Rights in the Services shall be owned by OUTSOURCE TELECOM or OUTSOURCE TELECOM's related companies and Service Providers save to the extent that any of the same contain Intellectual Property Rights owned by third parties.
- 11.2. OUTSOURCE TELECOM grants to the Customer a non-exclusive, royalty free, licence to use and to sub-license to the Users OUTSOURCE TELECOM's Intellectual Property Rights in the Services, strictly for the purpose of receiving the Service(s) in accordance with the provisions of the Service Schedule.
- 11.3. The Customer hereby acknowledges that it has no right, title or interest in the Trade Names and it is only a licensee of the Trade Names in accordance with the terms of the Agreement.
- 11.4. Subject to the terms of the Agreement OUTSOURCE TELECOM may grant the Customer a non-exclusive licence to use the Trade Names to promote the Services, provided always that the Customer may not use the Trade Names without OUTSOURCE TELECOM'S prior written consent and shall comply with such written instructions or directions as may be given by OUTSOURCE TELECOM from time to time as to the manner and context in which the Trade Name may be used by the Customer.
- 11.5. The Customer shall take such action and execute such documents in relation to any of the Trade Names as OUTSOURCE TELECOM may reasonably direct from time to time, including (but not limited to) entering into registered user agreements with OUTSOURCE TELECOM if requested by OUTSOURCE TELECOM provided always that such agreements shall be consistent with these terms and conditions, including but not limited to condition 11.2.
- 11.6. OUTSOURCE TELECOM warrants that it has the right to license the use of the Trade Names and the Intellectual Property Rights to the Customer in accordance with the terms of the Agreement.

## 12. Indemnities

- 12.1. The Customer shall fully indemnify and hold harmless OUTSOURCE TELECOM and keep it fully indemnified at all times against all Losses arising from or in connection with any use or misuse of the Service by the Customer or Users in breach of clause 8.3.

- 12.2. It shall be a condition precedent of any indemnity given under the Agreement that OUTSOURCE TELECOM shall:
- 12.2.1. advise the Customer in writing of any Losses as soon as is reasonably practicable;
  - 12.2.2. provide the Customer with all reasonable assistance and authority to defend or settle any claims or proceedings;
  - 12.2.3. make no admission relation to such claims or legal proceedings without the agreement of the Customer, which shall not be unreasonably withheld; and
  - 12.2.4. consult actively with the Customer regarding the conduct of any action and have due regard to the Customer's representations, and not agree any settlement of such claims or legal proceedings nor make any payment on account of them without the prior written agreement of the Customer, which shall not be unreasonably withheld or delayed.

### **13. Limitation of Liability**

- 13.1. OUTSOURCE TELECOM and the Customer agree that if the Customer or OUTSOURCE TELECOM has reason to believe that it may have a cause of action hereunder, the parties shall liaise in an open and co-operative way with a view to rectifying the reason for such cause of action whenever practicable.
- 13.2. Save to the extent that OUTSOURCE TELECOM has a corresponding claim against any third party and/or Service Provider in the form of service credits and OUTSOURCE TELECOM receives such service credits, OUTSOURCE TELECOM shall not be liable (and Service Credits will not accrue) for any failure or delay in performing any of its obligations under the Agreement that arises out of, or in connection with, any of the following:-
- (i) a fault in, or any other problem associated with, electricity or other power source supplied by the Customer or a User, any equipment other than Equipment or other telecommunications systems which (i) are not operated by OUTSOURCE TELECOM and/or (ii) are operated by any Service Provider;
  - (ii) any failures of any third parties to provide equipment, software, materials or information required to produce the Services;
  - (iii) any fault arising outside the OUTSOURCE TELECOM Network, except to the extent of a reasonable proportion (which relates directly to the affected Services of the Customer) of any compensation OUTSOURCE TELECOM receives from the third party directly the cause of such fault;
  - (iv) a fault (including any failure to perform its obligations under the Agreement, or in the case of a Service Provider under any other relevant agreement or order) or the negligence of the Customer or any third party that is not within the direct control of OUTSOURCE TELECOM;
  - (v) any suspension of the Services in accordance with the provisions of the Agreement;
  - (vi) any act or omission of the Customer which is relative to its obligations under the Agreement and/or any Services Agreement
  - (vii) down time of the computer systems caused by suppliers of third party computer services provided that (and to the extent that) the same is not due to any act, omission or default of OUTSOURCE TELECOM, its employees, agents or sub-contractors; or
  - (viii) any other circumstances caused by event for which OUTSOURCE TELECOM is not liable in accordance with the provisions of the Agreement and/or any Services Agreement.
- 13.3. Notwithstanding any other provision under the Agreement, a Services Agreement or otherwise neither Party seeks to limit or exclude liability for:

- 13.3.1. death or personal injury resulting from its own or its employees', agents' or sub-contractors' negligence; and/or
  - 13.3.2. any breach of its obligations implied by Section 12 of the Sale of Goods and Services Act 1979 or Section 2 of the Supply of Goods and Services Act 1982;
  - 13.3.3. in relation to any fraudulent misrepresentation or fraudulent acts of its employees shall not be limited;
  - 13.3.4. any wrongful or unlawful termination of the Agreement and/or any Services Agreement; and/or
  - 13.3.5. in relation to any liability arising under clause 16.5, clause 17 or clause 18.
- 13.4. Subject to clause 13.3 above neither Party (whether under this Agreement, a Services Agreement or otherwise) shall be liable to the other in respect of:
- 13.4.1. loss of profits; or
  - 13.4.2. loss of business; or
  - 13.4.3. depletion of goodwill and/or similar losses; or
  - 13.4.4. loss of anticipated savings; or
  - 13.4.5. loss or corruption of data or information; or
  - 13.4.6. any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses (including loss or damage suffered by the party as a result of an action brought by a third party) even if such loss was reasonably foreseeable or a party has been advised of the other party incurring the same. For the avoidance of doubt, nothing in this clause 13.4 or otherwise in the Agreement and/or any Service Schedule seeks to or has the effect of limiting or excluding the liability of the Customer to pay the Charges due to OUTSOURCE TELECOM.
- 13.5. Subject to clauses 13.3, and 13.4 the entire liability of a Party arising out of or in connection with this Agreement whether arising from contract, tort, negligence or otherwise shall be limited in each Year to £100,000 (one hundred thousand pounds sterling). Any payment of the Charges by the Customer shall not be taken into account when calculating whether the Customer's cap on liability has been reached.
- 13.6. Subject to clauses 13.2, 13.3 and 15.3.2, the Service Credits shall be the Customer's sole and exclusive right and remedy for any failure by OUTSOURCE TELECOM to comply with the applicable Service Levels.
- 13.7. Subject to clause 13.3, except as expressly set forth in the Agreement and any Services Agreement all conditions, warranties, representations, undertakings or agreements, with respect to the provision of the Services or otherwise, whether oral or in writing and whether express or implied, either by operation of law, statutory or otherwise (including any concerning the fitness of the Services or any part thereof for a particular purpose), are hereby expressly excluded to the maximum extent permitted by law.

#### **14. Force Majeure**

Neither Party will be liable for any breach of the Agreement and/or any Services Agreement due to any cause beyond that party's reasonable control including, but not limited to Act of God; insurrection or civil disorder; war or military operations; national or local emergency; act or omission of Government, fire, explosion, flood or the act or omission of any party for whom the party affected is not responsible and which is beyond the affected party's reasonable control (including other telecommunications service providers). The affected party will use all reasonable endeavours to bring the event to an end or find a solution by which the Agreement and any affected Services Agreement may be performed despite the event. If the affected party is prevented from performing its obligations for a continuous period in excess of sixty (60) days either Party may terminate the Agreement and any affected Services



Agreement immediately by serving written notice on the other Party, in which case neither party has any liability to the other except as regards rights and liabilities which have already accrued which will continue to subsist or are expressed to continue beyond the termination of the Agreement and/or any Services Agreement (as applicable).

## 15. Termination

- 15.1. Without prejudice to any rights that have accrued under this Agreement or any of its rights or remedies, the Agreement may be terminated by either Party on ninety (90) days written notice to the other, such notice not to take effect any earlier than the expiry of the Initial Term.
- 15.2. Subject at all times to earlier termination in accordance with the provisions of these terms and conditions, the provision of each service by Outsource Telecom to the Customer shall continue until the expiration of the Minimum Term. Following the expiry of the Minimum Term, the Contract for the provision of the service(s) shall automatically renew for successive periods of 12 months unless either party serves on the other not less than three months' written notice of termination, such notice to expire at the end of the minimum term or an anniversary of the date on which the minimum term expires.
- 15.3. Without prejudice to any rights or remedies that have accrued under this Agreement or a Services Schedule, a Services Schedule may be terminated by either Party on ninety (90) days' prior written notice to the other, such notice not to take effect any earlier than the expiry of Initial Term of this Agreement. In the event that the Customer terminates a Services Schedule earlier than the expiry of a Service Minimum Period relating to an individual service the Customer shall pay any applicable early termination charges in respect of such individual service(s) payable in accordance with clause 16.3.2 or as otherwise set out in a Service Schedule.
- 15.4. Notwithstanding any other rights under this Agreement and/or any Service Schedule, either Party may terminate this Agreement and/or any Service Schedule immediately if:
- 15.4.1. the other Party is the subject of an Insolvency Event; or
- 15.4.2. if either Party commits a material breach or other persistent breach of this Agreement and/or any Service Schedule which in the case of a breach capable of being remedied, is not remedied within thirty (30) days of a written request by the other Party to remedy the same.
- 15.5. OUTSOURCE TELECOM may immediately terminate or suspend:
- 15.5.1. the provision of Services to the Customer, if Ofcom or Phonepay Plus determine, or OUTSOURCE TELECOM reasonably considers, that use of the Services by the Customer (excluding use by a User) (i) does not constitute Appropriate Use (ii) is in breach or may be in breach of the Code or any other relevant statutory or regulatory act, regulation, code or similar (iii) is fraudulent or illegal or may be fraudulent or illegal;
- 15.5.2. the provision of Services to a User, if Ofcom or Phonepay Plus determine, or OUTSOURCE TELECOM reasonably considers, that use of the Services by the User (i) does not constitute Appropriate Use (ii) is in breach or may be in breach of the Code or any other relevant statutory or regulatory act, regulation, code or similar (iii) is fraudulent or illegal or may be fraudulent or illegal; or
- 15.5.3. all or any part of this Agreement or any Service Schedule if Ofcom or any other authority of competent jurisdiction revokes the supplier's authorisation as Public Electronic Communications Network under the Act and as a result

OUTSOURCE TELECOM can no longer legally comply with its material obligations under the Agreement and any Service Schedule.

- 15.6. Either party may terminate an Order for Services placed under a Service Schedule in respect of any User at any time before the Go Live Date. If the Customer terminates an Order for Services pursuant to this clause and it is not due to an act or omission of OUTSOURCE TELECOM or any of its employees, agents or subcontractors then the Customer shall pay OUTSOURCE TELECOM its costs incurred in connection with the cancelled Orders.
- 15.7. Without prejudice to any other rights arising under this Agreement or otherwise, OUTSOURCE TELECOM shall be entitled to terminate this Agreement and/or any Services Agreement (without liability to the Customer) by 14 days' written notice to the Customer if the Customer is in breach of its obligation to pay any charges when they fall due in accordance with this Agreement and/or any Services Schedule (save where the Customer fully remedies such late payment (including without limitation any interest which has accrued thereon pursuant to clause 7.4.2) prior to the expiry of the 14 day notice period).

## **16. Consequences of Termination**

- 16.1. On termination of any Service Schedule for whatever reason the Customer shall cease to use the Services (which were provided thereunder) and ensure that all Users cease to use any of the Services (which were provided thereunder).
- 16.2. Save where the Agreement and/or any Services Agreement has been terminated by OUTSOURCE TELECOM in accordance with clause 15.3 or 15.6 or where OUTSOURCE TELECOM is entitled to terminate the Agreement and/or any Services Agreement in accordance with clause 15.3 or 15.6:
- 16.2.1. both Parties shall co-operate and do such acts and things as may be reasonably necessary to facilitate the provision of Service(s) by an alternative provider and to ensure the provision of Services to Users remain uninterrupted provided that the Customer shall reimburse all reasonable costs incurred by OUTSOURCE TELECOM and the Parties shall negotiate in good faith any further transitional arrangements necessary ensuring the minimal disruption to existing Users.
- 16.3. Upon the termination of this Agreement or Service Schedule by OUTSOURCE TELECOM under clause 15.3.1 and/or clause 15.6, all amounts payable to OUTSOURCE TELECOM shall become immediately due and payable:
- 16.3.1. all Charges outstanding at the date of termination; and
- 16.3.2. where the Customer requests (pursuant to clause 15.2) that the Services Agreement terminates earlier than the expiry of the Service Minimum Period for any individual Services (as defined in the relevant Service Schedule) the Customer shall pay a cancellation charge for each individual Service cancelled prior to the expiry of the applicable Service Minimum Period that is equal to the lesser of:
- (a) any early termination charges or ongoing charges which OUTSOURCE TELECOM's incurs with its applicable Service Provider/s due to any Service Minimum Period being terminated prior to its full term and which it cannot reasonably mitigate plus a reasonable sum to reflect the profit that OUTSOURCE TELECOM would have earned had the Service Minimum Period been in force for its full term; and
- (b) 80% of the Charges which would have been payable for each Service from the date of termination to the end of the relevant Service Minimum Period, had it been in force for its full term.

16.4. Where the Agreement terminates prior to the termination of any Services Schedule:

16.4.1. the provisions of the Agreement shall survive to the extent necessary to give effect to the applicable Services Schedule until its termination; but

16.4.2. no further Orders will be accepted by OUTSOURCE TELECOM and no additional Services Schedules may be entered into by the Parties.

16.5. Any provisions which are either expressly or impliedly intended to survive termination of the Agreement and/or any Services Agreement shall as intended survive such termination, including without limitation this clause 16.

## **17. Confidential Information**

17.1. Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information that:

17.1.1. is or becomes publicly known other than through any act or omission of the receiving party; or

17.1.2. was in the other party's lawful possession before the disclosure; or

17.1.3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or

17.1.4. is independently developed by the receiving party, which independent development can be shown by written evidence; or

17.1.5. is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

17.2. Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement and/or any Services Agreement.

17.3. Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement and/or any Services Agreement.

17.4. Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

17.5. The obligations of confidentiality set out in this clause will remain in full force and effect despite termination of this Agreement and/or any Service Schedule for a period of two (2) years.

17.6. Each Party warrants to the other that it has obtained and will keep in force all requisite registrations under the Data Protection Act 1998 (the "Data Protection Act") throughout the Term of this Agreement and/or any Service Schedule and will comply at all times with the provisions of the Data Protection Act and each Party agrees to indemnify defend and hold harmless the other Party against all claims, liabilities, losses and costs (including reasonable and properly incurred legal costs) arising directly in connection with the breach of this clause except where such claims, liabilities, losses and costs arise from negligence or breach of this Agreement and/or any Service Schedule by the party seeking to rely on the indemnity in this clause 17.6.

## **18. Assignment**

- 18.1. Subject to clause 19.2, neither party shall without the prior written consent of the other (which cannot be unreasonably conditioned, withheld or delayed) assign, transfer, charge or deal in any way with this Agreement and/or any Services Agreement or any of its rights under it, or purport to do any of these things, nor sub-contract any or all of its obligations under this Agreement and/or any Services Agreement to any party.
- 18.2. OUTSOURCE TELECOM may sub-contract all or any part of the Services to a third party without the consent of the Customer, providing that OUTSOURCE TELECOM remains liable (subject always to the limitations and exclusions of liability contained in this Agreement) for the acts and omissions of its sub-contractors.

## **19. Escalation and Dispute Resolution**

- 19.1. If a dispute arises out of or in connection with the Agreement and/or any Services Agreement or the performance, validity or enforceability of them (Dispute) then, except as expressly provided in this Agreement, the parties shall follow the dispute escalation procedure set out in detail within the OUTSOURCE TELECOM code of practice.
- 19.2. Compliance with clause 12.1 shall not prevent the parties commencing or continuing court proceedings or referring the Dispute to Ofcom in accordance with any right (if any) either party may have to request a determination or other steps for its resolution.

## **20. Variations**

No variation of this Agreement and/or any Services Agreement shall be valid unless it is in writing and signed by or on behalf of each of the Parties.

## **21. Entire Agreement**

- 21.1. This Agreement and any Services Schedules constitutes the entire complete and only agreement between the Parties in relation to its subject matter, and replaces and extinguishes all prior agreements, undertakings, arrangements, understandings or statements of any nature made by the Parties, whether oral or written, with respect to such subject matter.
- 21.2. Each Party acknowledges that it has not relied on any statements, warranties or representations, understandings or agreements (whether written or oral) given or made by or on behalf of any other Party under or in connection with this Agreement and/or any Services Schedule other than those expressly set out or referred to in the Agreement. Each Party further acknowledges that it shall have no rights or remedies with respect to such subject matter other than under this Agreement and any Service Schedule.
- 21.3. The parties irrevocably and unconditionally waive any right they may have to claim damages for any misrepresentation arrangement understanding or agreement not contained in the Agreement or for any breach of any representation not contained in the Agreement (unless such misrepresentation or representation was made fraudulently).

## **22. Notices**

Unless provided otherwise in this Agreement and/or any Services Agreement, any notice or other communication to be given under

this Agreement and/or any Services Agreement ("Notice") shall be in writing (which for this purpose includes email), signed by or on behalf of the Party giving it and may be served by sending it by email, delivering it by hand or sending it by a recorded postal delivery service to the address and for the attention of the relevant Party using their last known address stated within the control panel:

**For OUTSOURCE TELECOM:**

For the attention of: Accounts Department  
Address: 3 PLASKETS CLOSE, KILBEGS BUSINESS PARK, ANTRIM, COUNTY ANTRIM, NORTHERN IRELAND, BT41 4LY  
Email address: [accounts@outsourcetele.com](mailto:accounts@outsourcetele.com)

- 22.1. Any Notice shall be deemed to have been served:
  - 22.1.1. if delivered by hand, at the time and date of delivery;
  - 22.1.2. if sent by email, on receipt of email; and
  - 22.1.3. if sent by post, at the expiration of 3 Business Days after the envelope containing the same was delivered into the custody of the postal authorities, provided that where, in the case of delivery by hand, such delivery or transmission occurs after 6pm on a Business Day or on a day which is not a Business Day, service shall be deemed to occur at 9am on the next following Business Day;
  - 22.1.4. If sent by email, on receipt of a reply within 1 working day.

**23. Waiver**

No waiver by either Party of any breach of any provision of this Agreement and/or any Services Agreement by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.

**24. Severance**

If any provision of this Agreement and/or any Services Agreement is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this Agreement or a Services Agreement and the remainder of the provision in question shall not be affected.

**25. Governing Law and Jurisdiction**

- 25.1. This Agreement, all Services Agreements and any dispute or claim arising out of or in connection with its or their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of Northern Ireland.
- 25.2. The parties irrevocably agree that the courts of Northern Ireland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement and/or any Services Agreement or its or their subject matter or formation (including non-contractual disputes or claims).

25.3. For the avoidance of doubt, clause 25.2 shall not prevent a party bringing enforcement proceedings of a judgment obtained in Northern Ireland in any jurisdiction.

## **26. Third Party Rights**

26.1. Any person who is not a party to this Agreement and/or any Services Agreement shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999; and

## **27. Counterparts**

27.1. This Agreement and any Services Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement or a Services Schedule (as applicable), but all the counterparts shall together constitute the same agreement.

## **28. Anti-Bribery**

28.1. The Customer shall, and shall procure that its staff, employees, agents and any other persons who perform its obligations under the Agreement (or otherwise carries out activities in relation to it) for and on behalf of it in connection with the Agreement shall:

28.1.1. comply with all applicable statutes, statutory instruments, bye-laws, orders, directives, treaties, decrees and laws which relate to the anti-bribery and/or anti-corruption, including the Bribery Act 2010 (Anti-Bribery Laws);

28.1.2. not offer, promise, give, request, agree to receive, receive or accept a bribe or financial or other advantage or commit any corrupt act;

28.1.3. have and shall maintain in place throughout the term of the agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Anti-Bribery Laws and the Relevant Policies, and will enforce them where appropriate;

28.1.4. not do or omit to do any act or thing which constitutes or may constitute an offence under Anti-Bribery Laws;

28.1.5. not do or omit to do any act or thing which causes or may cause OUTSOURCE TELECOM to be in breach of and/or commit an offence under any Anti-Bribery Laws;

28.1.6. without prejudice to Clause 29, not do or omit to do any act or thing which causes or may cause OUTSOURCE TELECOM to be guilty of an offence under section 7 Bribery Act 2010 (or would or may do so if OUTSOURCE TELECOM was unable to prove that it had in place adequate procedures designed to prevent persons associated with it from undertaking such conduct); and

28.1.7. provide OUTSOURCE TELECOM (at the Customer's cost) with such reasonable assistance as it may require from time to time to enable it to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with any Anti- Bribery Laws.

28.2. The Customer shall:

28.2.1. promptly report to OUTSOURCE TELECOM any request or demand for any financial or other advantage of any kind received in connection with the performance of the agreement by it or by its employees, agents or any other person

who performs the Agreement (or otherwise carries out activities in relation to it) for or on behalf of it in connection with the agreement; and

28.2.2. upon request, certify in writing that the Customer has complied with all of its obligations under this Clause 28. The Customer shall provide such supporting evidence of compliance as OUTSOURCE TELECOM may reasonably request.

28.3. The Customer warrants to OUTSOURCE TELECOM that it has not, and its staff, employees, agents and any other persons who perform the Agreement (or otherwise carries out activities in relation to it) for or on behalf of it in connection with the Agreement have not breached any applicable Anti-Bribery Laws; been convicted of any offence involving bribery, corruption, fraud or dishonesty; offered, promised, given, requested, agreed to receive, received or accepted a bribe or financial or other advantage or committed any corrupt act; done or omitted to do any act or thing which constitutes or may constitute an offence under the Anti-Bribery Laws; done or omitted to do any act or thing which caused or may cause any person to be in breach of and/or commit an offence under any Anti-Bribery Law; done or omitted to do any act or thing which caused or may cause any person to be guilty of an offence under section 7 Bribery Act 2010; or given any financial or other advantage, inducement or reward to any person in connection with the awarding or continuation in force of this agreement.

28.4. OUTSOURCE TELECOM may terminate this Agreement immediately if the Customer is in breach of any of its obligations under this Clause 28 or if OUTSOURCE TELECOM has reasonable cause to believe that such a breach has occurred or may occur.

## **29. Agreement & Schedule Amendment**

29.1. OUTSOURCE TELECOM reserves the right, at its discretion, to change, modify, add, or remove portions of these terms at any time without prior notification. In addition, when using a particular OUTSOURCE TELECOM service, you and OUTSOURCE TELECOM shall be subject to any posted guidelines or rules applicable to such service which may be posted from time to time. All such guidelines or rules are hereby incorporated by reference into the terms. OUTSOURCE TELECOM may terminate, change, suspend or discontinue any aspect of the OUTSOURCE TELECOM website, including the availability of any features of the website or OUTSOURCE TELECOM services, at any time. OUTSOURCE TELECOM may also impose limits on certain features and services or restrict your access to parts or the entire website without notice or liability.

29.2. This agreement represents the sole and exclusive agreement between you and OUTSOURCE TELECOM regarding the subject matter of this agreement. The parties may amend this agreement at any time by a written instrument signed by both of them.



**Outsource Online Services Ltd. (T/A OUTSOURCE TELECOM)  
LEASED LINE SCHEDULE**



## INDEX

1. Definitions and Interpretation
2. The Service Agreement
3. Commencement and duration of this Agreement
4. Duration of Services
5. Description of Leased Line Services
6. Orders for Leased Line Services
7. Support Services
8. Service Management
9. Service Availability and Credits
10. Charges Mandated By Service Provider
11. Equipment
12. Connection of Equipment
13. Access and Site Regulations
14. Charges
15. Use of the Service
16. Limitation of Liability
17. Termination
18. Consequences of Termination
19. Agreement & Addendums Amendment

This Addendum relates only to our leased line products. They do not relate to any other product or service supplied by OUTSOURCE TELECOM unless specified herein.

## 1. Definitions and Interpretation

In this Service Agreement, the following expressions shall have the following meanings unless the context otherwise requires:

<b>"Billing Period"</b>	means 1 month periods of time for the billing of Rental and other Charges under this Agreement or any Contract to the Client;
<b>"Business Days"</b>	any day which is not a Saturday, a Sunday or a bank or public holiday in England;
<b>"Charges"</b>	means the charges for the installation and use of Leased Line Services together with any charges for additional services and equipment due by the Client to OUTSOURCE TELECOM in terms of the Services Agreement;
<b>"Circuit"</b>	means a Leased Line circuit whether for the provision of Internet Leased Line Services or Point to Point Leased Line Services;
<b>"Client Provided Apparatus"</b>	means any apparatus at the Sites (not being Services Equipment) provided and used by the Client and/or a User in order to use the Services;
<b>"Client"</b>	means the Party identified in Schedule 1 of this Agreement;
<b>"EFM"</b>	means Ethernet in the First Mile i.e. using Ethernet protocols up to the customer premises.
<b>"EoFTTC"</b>	Means Ethernet over Fibre to the Cabinet utilising a hybrid of copper and fibre. A phone line is supplied as part of this circuit. EoFTTC is the name TalkTalk apply to this service.
<b>"GEA"</b>	GEA is the name BT Wholesale apply to the EoFTTC product. A phone line needs to be present in order to install this service.
<b>"Go Live Date"</b>	means the date on which OUTSOURCE TELECOM notifies the Client or any User that the Service or part thereof are ready for use or, if earlier, the date on which the Client or any User first makes use of the Service or part thereof;
<b>"Help Desk"</b>	the telephone helpdesk described in Clause 7.1;
<b>"Incident Report"</b>	notification of an Incident which is raised by OUTSOURCE TELECOM or by the Client;
<b>"Incident"</b>	a failure of the Service to operate in accordance with its published specification;
<b>"Installation Charges"</b>	means the charges payable for installation of Services Equipment and for the commissioning and configuration of Services, as specified in the Order or as subsequently varied in accordance with the terms of this Agreement;
<b>"Leased Line"</b>	means a circuit provided by OUTSOURCE TELECOM as described in clause 5;
<b>"Normal Business Hours"</b>	the hours between 09:00 and 17:30 on Business Days;
<b>"Operations Manual"</b>	the OUTSOURCE TELECOM operations manual applicable to the Services as may be amended from time to time;

<b>“Order”</b>	means a request for the provision of Services by the Client which has been accepted by OUTSOURCE TELECOM in accordance with Clause 6 of this Agreement;
<b>“Priority Level”</b>	the priority levels specified in the table set out at Clause 8.4.1;
<b>“Protected Circuit”</b>	means a Circuit the local tail of which is protected fibre;
<b>“Rental”</b>	means the rental payable by the Client to OUTSOURCE TELECOM for the provision of Services and the Services Equipment as specified in the Order or as increased or decreased by OUTSOURCE TELECOM in accordance with the terms of any Contract;
<b>“Service Credits”</b>	means reductions in certain charges or compensation payments in respect of OUTSOURCE TELECOM failing to meet specified Service Levels, calculated in the manner set out in this Agreement;
<b>“Service Provider”</b>	means any third party who from whom OUTSOURCE TELECOM procures services in order to provide the Services under this Agreement;
<b>“Services Equipment”</b>	means any apparatus, equipment and cabling provided by OUTSOURCE TELECOM at a Site as an essential part of providing Services under the terms of this Agreement;
<b>“Services”</b>	means the supply of 1st and 2nd line broadband technical helpdesk Services provided by OUTSOURCE TELECOM to the Client as specified in the Order and “Service” shall have a corresponding meaning;
<b>“Site”</b>	means the premises or other locations from and to which Services are to be provided to the Client as specified in the Order;
<b>“Support Service”</b>	the support services described in clause 7;
<b>“Target Go Live Date”</b>	means the target date agreed between OUTSOURCE TELECOM and the Client for the commencement of Services as set out in an Order or as subsequently revised by the Client in accordance with the terms of this Agreement;
<b>“the Act”</b>	means the Communications Act 2003;
<b>“the Code”</b>	means any Code of Practice relevant to the Services issued by Ofcom as amended from time to time;
<b>“this Agreement”</b>	means this Service Agreement and its Schedules and any Order;
<b>“Unavailable Time”</b>	means a period of time when there is a total break in transmission.
<b>“Unprotected Circuit”</b>	means a Circuit the local tail of which is unprotected copper or fibre;

- 1.1. The Condition and Schedule headings are for convenience only and shall not affect the interpretation of this Agreement.
- 1.2. References to the singular include the plural and vice versa, and references to one gender include the other gender.
- 1.3. Any phrase introduced by the expressions “includes”, “including” or “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.4. Any reference to a statute, statutory provision or subordinate legislation (together “legislation”) shall (except where the context otherwise requires) (i) be deemed to include any bye-laws, licences, statutory instruments, rules, regulations, orders, notices, directions, consents or permissions made under that legislation and (iii) shall be construed as referring to any legislation which replaces, re-enacts, amends or consolidates such legislation (with or without modification) at any time.
- 1.5. Unless specifically provided to the contrary all notices under this Agreement shall be in writing.

- 1.6. References to times are to London times.
- 1.7. Any reference to an "hour" means an hour in a day and any reference to a "day" means a period of 24 hours running from midnight to midnight.
- 1.8. Except to the extent that they are inconsistent with the definitions and interpretations in this Agreement or are otherwise defined in this Agreement, the definitions and interpretations in the Master Agreement shall apply to this Agreement.
- 1.9. The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.10. References to Clauses and Schedules are to the Clauses and Schedules of this Agreement.

## **2. The Service Agreement**

- 2.1. The terms of the Master Agreement shall apply in relation to the supply of the Services and the terms of this Agreement shall apply between the parties as if the Master Agreement were incorporated into this Agreement.
- 2.2. Notwithstanding Clause 3.1 the Master Agreement shall remain fully effective and unamended, in relation to the supply of any goods and or services other than the Service.

## **3. Duration of Services**

- 3.1. For the duration of this Agreement OUTSOURCE TELECOM agrees to:
  - 3.1.1. provide the Client with the Services on the terms of this Agreement;
  - 3.1.2. exercise the reasonable skill and care of a competent communications provider in providing the Service and if required, in determining how best to provide the Service to a Site;
  - 3.1.3. use its reasonable endeavours to provide the Service by the Target Go Live Date and in accordance with the service levels set out in this Agreement but all dates are estimates and except as set out in the service guarantee provisions, OUTSOURCE TELECOM has no liability for failure to meet any date;
- 3.2. It is technically impracticable to provide a fault free Service and OUTSOURCE TELECOM does not undertake to do so. OUTSOURCE TELECOM agrees to repair any faults in accordance with the service standards as set out in this Agreement.
- 3.3. The Service Minimum Period for Leased Line Services shall be as provided for in the relevant Order.

## **4. Description of Leased Line Services**

- 4.1. Leased Line Services are provided as:
  - 4.1.1. Internet Leased Line Services – a dedicated, private, fixed capacity circuit delivered from the OUTSOURCE TELECOM Network or Outsource suppliers to the Client Site with Internet connectivity. These Services may share infrastructure with the OUTSOURCE TELECOM Network and/or that of other Service Providers. Internet Leased Line Services are delivered as a Fully Managed Service with an OUTSOURCE TELECOM supplied router, 24/7 remote monitoring and management by OUTSOURCE TELECOM or the service providers network operations.
  - 4.1.2. Unmanaged Internet Leased Line Services – a dedicated, private, fixed capacity circuit delivered from the OUTSOURCE TELECOM Network to the Client Site with Internet connectivity. These Services may share infrastructure

with the OUTSOURCE TELECOM Network and/or that of other Service Providers. Internet Leased Line Services are delivered to the customers premises, but it is the customers responsibly to supply the termination equipment and to monitor.

- 4.1.3. Point-to-Point Leased Line Services– a dedicated, private, fixed capacity circuit delivered point to point between Client nominated sites. Point-to-Point Leased Line Services do not share infrastructure with the OUTSOURCE TELECOM Network and will be delivered as a stand-alone Service which will not be monitored by OUTSOURCE TELECOM.

## **5. Orders for Leased Line Services**

Orders for Leased Line Services shall be completed according to process set out in this clause.

- 5.1. All quotations made by OUTSOURCE TELECOM shall be deemed to be made subject to the terms and conditions of this Agreement and survey.
- 5.2. If excess construction charges (ECC) are applicable in order to provide the Services OUTSOURCE TELECOM shall notify the Client in writing of the charges and the reasons for them. The Client shall indicate acceptance of the excess construction charges in writing. 50% of ECC charges will be required to be paid prior to OUTSOURCE TELECOM confirming acceptance to the carrier.
- 5.3. If no ECC charges are identified the order will proceed and the ability to cancel free of charge is no longer available.
- 5.4. The provision of an online Order via the Customer Control Panel by the Client shall constitute an offer to acquire the Services specified in the Technical Requirements Document subject to (i) confirmation that the Services can be provided and (ii) where excess construction charges are applicable, acceptance of those charges in terms of clause 3.
- 5.5. No Order shall be binding on OUTSOURCE TELECOM until that Order has been accepted by the OUTSOURCE TELECOM Provisioning Team by notice to the Client.
- 5.6. Upon acceptance by OUTSOURCE TELECOM the Services shall be provided under the terms of this Agreement.
- 5.7. A request for the upgrade or downgrade of an existing Service shall not be considered a request for services in terms of this clause 5 but on acceptance by OUTSOURCE TELECOM will be deemed an amendment of the existing Order under which those Services are provided.

## **6. Support Services**

### **6.1. Help Desk Support**

During the hours of Service specified in Clause 6.2, OUTSOURCE TELECOM will provide a client service and administration telephone help desk facility ("Help Desk") for the benefit of the Client. OUTSOURCE TELECOM shall accept calls for English language telephone support in connection with Orders and Faults during the hours of Service specified in Clause 6.2.

### **6.2. Hours of Service**

- 6.2.1. The Help Desk is available to receive calls for reporting on all Faults via telephone 24 hours a day 7 days a week, including Bank and Public Holidays. Out of hours phone numbers will be provided. During business hours all calls and faults must be reported via the normal support phone number stated on our website. Prior to raising a fault it is expected the customer has followed our standard procedures and have collected the appropriate information before contacting the support desk.

6.2.2. The support team will aim to deliver proactive updates via email and / or phone, whichever is deemed to be most suitable.

### 6.3. Scheduled and Emergency Maintenance

6.3.1. From time to time THE CARRIER may interrupt the Service to maintain, update or enhance software Equipment or other aspects of the Service and/or the CARRIER Network ("Maintenance Events"). OUTSOURCE TELECOM will, where possible, give the Client a minimum of 2 Business Days advance notice of such events, and where possible will schedule Maintenance Events so as to cause minimum interruption of the Service. For the avoidance of doubt, it may not be possible to give such notice where interruption to the Service is necessary to deal with Incidents occurring in connection with the Service.

6.3.2. From time to time THE CARRIER may interrupt the Service to carry out emergency maintenance to the THE CARRIER Network in order to maintain appropriate levels of service quality and to provide where possible minimum impact to the Service.

6.3.3. The Client shall give all reasonable assistance to OUTSOURCE TELECOM to enable Maintenance Events to commence on the planned date and for them to be completed efficiently.

6.3.4. Any Maintenance Events which occur during Normal Business Hours, and which were not requested by the Client, shall be considered downtime for the purpose of service availability measurement set out in clause 8.

## 7. Service Management

### 7.1. Incident Reporting

7.1.1. OUTSOURCE TELECOM shall supply monitoring and management of Internet Leased Line Services 24 hours a day 7 days a week together with pre-emptive Incident reporting to the Client whenever reasonably possible. In the event that any Incident is experienced by the Client that it has not been identified by OUTSOURCE TELECOM, the Client must submit an Incident Report to our support teams by telephone or via email.

7.1.2. For Point to Point Leased Line and Unmanaged Leased Line Services clause 7.1.1 does not apply and the Client will be responsible for the submission of Incident Reports to OUTSOURCE TELECOM.

7.1.3. All Incident Reports submitted by the Client must provide a complete description of the Incident and any information reasonably requested by OUTSOURCE TELECOM.

7.1.4. The support team will require the Client to conduct first line diagnostics with any of its Users where appropriate.

7.1.5. If the Client wants to report any incident outside of Normal Business Hours, the Client must place a call to the out of hours number in order to notify the OUTSOURCE TELECOM engineer of the nature of the Incident.

### 7.2. Incident Response Timescales

7.2.1. OUTSOURCE TELECOM shall use best endeavours to assign an Incident to an appropriate engineer within 30 minutes of the generation or receipt of a fault for no less than 95% of Incidents properly submitted to OUTSOURCE TELECOM by the Client in accordance with Clause 7.1.

7.2.2. OUTSOURCE TELECOM shall use best endeavours to make an update on an Incident available to the Client via email within the response times specified in Clause 7.4.1.

7.3. Incident Resolution Targets

OUTSOURCE TELECOM shall use reasonable endeavours to clear Incidents within the time scales specified within the Incident classification matrix set out in Clause 7.4.1

7.4. Incident Classification Matrix

7.4.1. The Incident classification matrix set out below outlines the description, resolution and scheduled updates frequencies for the associated Incident priorities.

Priority	Description	Target Resolution	Response Time
High	Total loss of Service resulting from a single event. User has total loss of Service / product or degraded beyond usable limits. Degraded Service. E.g. Errors, packet loss to router interface, Inability to transmit/receive where Business operations are severely impacted.	4 hours (Fibre) (*24 Hours for fibre break) 5 Hours (GEA) 7 Hours (EoFTTC) 7 Hours (EFM)	1 hour followed by updates were reasonably possible
Medium	Partial loss of Service or degradation of Service, resulting from one event. Partial loss where Service is intermittent or slow throughput. Dribbling errors; packet loss less than 25%; slow throughput;	24 hours	6 hours
Low	Service Enhancement* that requires a change to the existing Service and/or THE CARRIER Network components that will facilitate Service. (*Service Enhancements exclude speed upgrades which are considered on a case-by-case basis and the team at OUTSOURCE TELECOM shall endeavour in conjunction with the carrier to resolve within 5 Business Days) Service requests or changes etc	3 Business Days	-

7.4.2. The Client understands and accepts that it may be necessary to extend the timescales in the Incident classification matrix above due to the complexity of the Incident or where OUTSOURCE TELECOM is dependent on a third party for resolution of the Incident. In such circumstances, OUTSOURCE TELECOM shall use reasonable endeavours to eliminate or reduce the impact of the Incident on the Service by provision of a workaround, with permanent correction to follow.

7.5. Clearance of Incidents

OUTSOURCE TELECOM will clear an Incident reported to OUTSOURCE TELECOM by the Client in accordance with this Agreement and an Incident Report will be considered to have been cleared where either:

7.5.1. it is corrected by OUTSOURCE TELECOM (including the provision of a temporary fix); or

7.5.2. OUTSOURCE TELECOM has investigated the Incident and OUTSOURCE TELECOM's initial fault diagnostic testing indicates that the Incident is not found and/or is not the fault of OUTSOURCE TELECOM; and this has been confirmed by OUTSOURCE TELECOM to the Client.

#### 7.6. Escalation Process

OUTSOURCE TELECOM will provide an escalation process where an Incident is understood as a clear request for the support of a higher technical or management level in order to clear the Incident. If the Incident is considered to be not progressing in a satisfactory manner or if it is foreseen that the targeted time to repair will not be met, either Party may escalate the Incident.

### 8. Service Availability and Credits

#### 8.1. Overall Service Availability

8.1.1. OUTSOURCE TELECOM aims to provide the Service with a target of 100% availability at all times, subject to the terms of this Agreement.

8.1.2. If there is an Outage, based on OUTSOURCE TELECOM's data, OUTSOURCE TELECOM will apply a reduction to the Customer's rental charge for the Service as follows, provided the Customer reports the Outage and claims for a reduction to the rental charge in accordance with 8.1:

a) where the Outage Period is greater than the limits set in 7.4.1, OUTSOURCE TELECOM will apply a credit equivalent to one (1) day's rental charge per hour of downtime for that Service in excess of the target resolution. For the purpose of calculating the Outage Period, a fraction of one (1) hour will be rounded-up to the nearest hour;

b) where the Customer has taken an OUTSOURCE TELECOM Resilient option and experiences an Outage, OUTSOURCE TELECOM, in accordance with this paragraph, will apply a reduction to the rental charges of both the primary and secondary links.

8.1.3. For the purposes of this clause 8.1, overall service availability excludes:

a) scheduled Maintenance Events as described in clause 6.3;

b) Client-caused or third party-caused outages or disruptions (except to the extent that such outages or disruptions are caused by those duly authorised third parties sub-contracted by OUTSOURCE TELECOM to provide the Service);  
or

c) outages or disruptions attributable in whole or in part to force majeure events;

#### 8.2. Limit on compensation

8.2.1. Any Service Credits due to the Client shall be the Client's sole and exclusive remedy with respect to such failures and shall be in lieu of any other remedy which the Client may have at law.

8.2.2. The maximum compensation for Unavailable Time the Client can receive in any month is an amount equal to 100% of the Rental due in respect of that Service for the month in which the failure(s) occur and the maximum



compensation in aggregate the Client can receive is an amount equal to 25% of the annual rental for the period covered by a 12 months cycle, the first such cycle starting on the Go Live Date.

### 8.3. How OUTSOURCE TELECOM will pay Service Credits

8.3.1. Any compensation payable under 7.4.1 above will be credited on the Client's invoice for Rental for the following Billing Period.

### 8.4. Exclusions from service availability and service credits

The service levels, service guarantees and any Service Credits will not apply if:

- 8.4.1. the failure by OUTSOURCE TELECOM is due to the Client's own network or equipment or any other network or equipment outside the OUTSOURCE TELECOM Network; or
- 8.4.2. the Client is in breach of any part of this Agreement or OUTSOURCE TELECOM suspends the Service or any part of it in accordance with this Agreement; or
- 8.4.3. through no fault of its own or because of circumstances beyond its reasonable control, OUTSOURCE TELECOM is unable to carry out any necessary work at, or gain access to the Client's Site and/or an End User's Site or the Client fails to agree an appointment date or work is aborted; or
- 8.4.4. the Client and OUTSOURCE TELECOM agree a different timescale for performance of the Service, but will apply to any new Target Go Live Date agreed, provided that the new date is after any previous Target Go Live Date(s); or
- 8.4.5. reasonable assistance is required or information is reasonably requested by OUTSOURCE TELECOM or a Service Provider from the Client, End User or a third party and such assistance or information is not provided; or
- 8.4.6. through no fault of its own, OUTSOURCE TELECOM is unable to obtain any necessary permissions or consents required in connection with the performance of a particular service level; or
- 8.4.7. the failure is due to a Force Majeure event; or
- 8.4.8. the failure is due to a scheduled Service outage; or
- 8.4.9. the failure is due to an inaccurate Order being submitted by the Client; or
- 8.4.10. the fault is not reported in accordance with clause 8.1 for Point to Point and Unmanaged Leased Line Services.

### 8.5. Network Performance

#### 8.5.1. OUTSOURCE TELECOM Packet Success Service Level Guarantee

OUTSOURCE TELECOM's packet success goal is based on the successful delivery of packets through the CARRIER's IP network. Unsuccessful packets are deemed to be those dropped due to transmission errors or router overload.

a) OUTSOURCE TELECOM's packet success Service Level Guarantee ("Guarantee") is successful delivery of packets will meet or exceed 99% between THE CARRIER's-designated IP backbone paths for Leased Line Services.

b) The measurement consists of 50 100-byte pings sent every 15 minutes. A daily average will be calculated using these 96 samples. The daily measurements will be averaged to calculate a monthly average.

c) Should OUTSOURCE TELECOM fail to meet the Guarantee in two consecutive calendar months, the Client is entitled to a one (1) day prorated credit of the Rental for the second month and an additional one (1) day prorated credit for any consecutive month in which the Guarantee is not met. To receive the credit the Client must contact OUTSOURCE TELECOM's customer service group within 30 days of the end of the month for which credit is requested. Credits will be paid to the Client in terms of clause 9.4.2.

#### 8.5.2. OUTSOURCE TELECOM Latency Service Level Guarantee

OUTSOURCE TELECOM's Latency Service Level Guarantee ("Guarantee") is based on an average round-trip transmission between THE CARRIER's-designated backbone POPs for OUTSOURCE TELECOM services. Latency shall be measured by OUTSOURCE TELECOM averaging sample measurements taken during a calendar month between such backbone POPs.

- Latency of 50ms or less - The measurement consists of 50 100-byte pings sent every 15 minutes. A daily average will be calculated using these 96 samples. The daily measurements will be averaged to calculate a monthly average.

### 9. Charges Mandated By Service Provider

OUTSOURCE TELECOM reserves the right to pass on to Clients on a cost-plus basis (adding 10%) any charges levied by the Service Provider to which it is exposed as a result of the Client and/or its Users' actions.

### 10. Equipment

10.1. All Services Equipment remains the property of OUTSOURCE TELECOM at all times.

10.2. The Client agrees to:

- 10.2.1. prepare the Site and provide a suitable place, conditions, connection points and electricity for OUTSOURCE TELECOM or carrier Equipment at the Site in accordance with OUTSOURCE TELECOM's reasonable instructions, if any; and
- 10.2.2. obtain all necessary consents, including for example, consents for any necessary alterations to buildings, permission to cross other people's land or permission to put OUTSOURCE TELECOM/carrier Equipment on their property.
- 10.2.3. The Client is responsible for OUTSOURCE TELECOM equipment and agrees to take reasonable steps to ensure that nobody (other than someone authorised by OUTSOURCE TELECOM) adds to, modifies or in any way interferes with it. The Client will be liable to OUTSOURCE TELECOM for any loss of or damage to OUTSOURCE TELECOM Equipment, except where such loss or damage is due to fair wear and tear or is caused by OUTSOURCE TELECOM, or anyone acting on OUTSOURCE TELECOM's behalf.

### 11. Connection of Equipment

11.1. Any equipment connected to the Service must be:

- 11.1.1. technically compatible with the Service and not harm the OUTSOURCE TELECOM Network, the Service or OUTSOURCE TELECOM Equipment or another party's network or equipment;
- 11.1.2. connected and used in line with any relevant instructions or laws; and
- 11.1.3. connected and used in line with any relevant standards including, in the order of precedence set out below:
  - (i) Any legal requirements imposed upon the parties including requirements arising from General Condition 2 set under section 45 of the Communications Act 2003;
  - (ii) any relevant specification notified by Ofcom in implementation of the recommendations of the Network Interoperability Consultative Committee;
  - (iii) any recommendations by the European Telecommunications Standards Institute; and
  - (iv) any recommendations by the Telecommunications Standards Bureau (formerly the International Telegraph and Telephone Consultative Committee) of the International Telecommunication Union.
- 11.1.4. The Client agrees to connect equipment to the Service only by using the NTE provided by OUTSOURCE TELECOM with the Service.
- 11.1.5. OUTSOURCE TELECOM will not be liable for failure to meet any service level or other obligations under this Agreement if any equipment is found to be connected otherwise than in accordance with this clause.
- 11.1.6. OUTSOURCE TELECOM reserves the right to disconnect any Client equipment if the Client does not fulfil its obligations under this Clause 12 or if in the reasonable opinion of OUTSOURCE TELECOM Client Provided Apparatus is liable to cause the death of, or personal injury to any person.

## **12. Access and Site Regulations**

- 12.1. The Client agrees to take reasonable steps to provide access to the Client's Site and to ensure that the End User provides OUTSOURCE TELECOM with access to the End User's Site including for the purpose of installation and use of the OUTSOURCE TELECOM Equipment at the Client's Site and/or at the End User's Site.
- 12.2. OUTSOURCE TELECOM agrees to observe the Client's and the End User's reasonable Site safety and security requirements.
- 12.3. The Client agrees to provide and agrees to take reasonable steps to ensure that the End User provides a suitable and safe working environment for OUTSOURCE TELECOM at the Client's Site and/or the End User's Site. The Client agrees to indemnify OUTSOURCE TELECOM against all loss, damages, liabilities, costs and expenses arising or incurred in respect of any actions, claims or legal proceedings which are brought or threatened against OUTSOURCE TELECOM if the Client is in breach of this sub-clause. The limitation of liability provisions of this Agreement do not apply to this indemnity.
- 12.4. It is the responsibility of the Client or End User to carry out any making good or decorator's work required but OUTSOURCE TELECOM accepts responsibility for any property damage caused by OUTSOURCE TELECOM's negligence subject to the limitation of liability provisions of this Agreement.

## **13. Charges**

- 13.1. The Client shall pay to OUTSOURCE TELECOM the Installation Charges and Rental and any other charges due under this Agreement. Such charges shall be invoiced monthly in advance. The first Billing Period shall commence on the Go Live Date.
- 13.2. All Charges payable hereunder by the Client shall be payable to OUTSOURCE TELECOM in British Pounds Sterling in immediately available funds within agreed credit terms after the date of OUTSOURCE TELECOM's invoice.

- 13.3. Where any Go Live Date is delayed at the Client's request or by virtue of the Client's act, neglect or failure to fulfil its obligations hereunder, the Rental for the first Billing Period and Installation Charges for that Service shall be payable no later than the Target Go Live Date for that Service unless otherwise agreed in writing between the Parties.
- 13.4. OUTSOURCE TELECOM shall be entitled to increase Rental and other charges payable by the Client after expiry of the Minimum Period from time to time by giving the Client not less than four (4) weeks' prior written notice.
- 13.5. The Charges are exclusive of all applicable taxes, including Value Added Tax, sales taxes and duties or levies imposed by any authority, government department, all of which, if any, shall be assumed and paid promptly when due by the Client.
- 13.6. Without prejudice to OUTSOURCE TELECOM's right to treat non-payment or late payment as a repudiatory breach of this Agreement, in the event of non-payment of any invoice which is not the subject of a bona fide dispute OUTSOURCE TELECOM reserves the right to charge daily interest on any outstanding amounts until payment is received in full at the rate set out in the Late Payment of Commercial Debts (Interest) Act 1998 as current from time to time whether before or after judgment until the date actual payment is received together with all external costs reasonably and necessarily incurred by OUTSOURCE TELECOM in securing such payment and/or obtaining such judgment, as the case may be.
- 13.7. All sums due to OUTSOURCE TELECOM under this Agreement shall be payable by the Client in full (without any set-off, deductions or withholding whatsoever) by Bank Transfer or Direct Debit.
- 13.8. OUTSOURCE TELECOM reserves the right at any time to require the Client to issue a deposit, irrevocable letter of credit or other form of security acceptable to OUTSOURCE TELECOM if the Client's financial circumstances or payment history is or becomes unacceptable to OUTSOURCE TELECOM.

#### **14. Use of the Service**

- 14.1. The Client shall use the Services strictly in accordance with any reasonable operating instructions issued by OUTSOURCE TELECOM from time to time.
- 14.2. The Client shall not itself or knowingly permit any User to use the OUTSOURCE TELECOM Network or Services to do any of the following:
  - 14.2.1. publish, post, distribute or disseminate defamatory, infringing, obscene, indecent or other unlawful material or information;
  - 14.2.2. threaten, harass, stalk, abuse, disrupt or otherwise violate the rights (including rights of privacy and publicity) of others;
  - 14.2.3. engage in illegal or unlawful activities through the OUTSOURCE TELECOM Network;
  - 14.2.4. knowingly make available or upload files that contain software or other material, data or information not owned by or licensed to the Client, the User or Additional User (as appropriate);
  - 14.2.5. knowingly make available or upload files that contain a virus or corrupt data;
  - 14.2.6. falsify the true ownership of software or other material or information contained in a file that the Client, any User or Additional User makes available via the OUTSOURCE TELECOM Network;
  - 14.2.7. "spam" or otherwise deliberately abuse any part of the OUTSOURCE TELECOM's or THE CARRIER's Network;
  - 14.2.8. obtain access, through whatever means, to notified restricted areas of OUTSOURCE TELECOM's or THE CARRIER's Network.
- 14.3. If the Client becomes aware that any User or Additional User is using the OUTSOURCE TELECOM Network to perform any of the activities listed in Clause 4.3 it shall enforce the applicable terms in its agreement with its User(s) and shall use all best

endeavours to stop such User from doing so. In the event that OUTSOURCE TELECOM becomes aware that a User or any Additional User is performing any of the activities listed in Clause 4.3, OUTSOURCE TELECOM shall bring the breach to the attention of the Client in writing. If OUTSOURCE TELECOM have not received, within one (1) Business Day of dispatch of such a message, a satisfactory response from the Client detailing the actions that have been taken to stop a User or Additional User performing in this way, which actions may include restricting the access of the User or Additional User to the OUTSOURCE TELECOM Network or disconnecting the User or Additional User from the OUTSOURCE TELECOM Network, then OUTSOURCE TELECOM shall have the right to restrict the access of and/or disconnect the User(s) or Additional User(s) in question, and if necessary the entire Service, from the OUTSOURCE TELECOM Network. If OUTSOURCE TELECOM exercises its rights to disconnect a User or Additional it will notify the Client as soon as reasonably practicable in the circumstances.

- 14.4. Each Party shall provide the other with all reasonably necessary co-operation, information and support to prevent and/or stop any misuse of OUTSOURCE TELECOM Network by Users.

## **15. Limitation of Liability**

- 15.1. Nothing in this Agreement shall exclude or restrict either Party's liability for fraud, death or personal injury resulting from that Party's negligence.

- 15.2. Neither Party shall be liable to the other under or in connection with this Agreement, whether in contract, tort (including negligence), misrepresentation (other than where made fraudulently), breach of statutory duty or otherwise for:

15.2.1. any loss of business, contracts, profits, anticipated savings, goodwill, or revenue;

15.2.2. any loss or corruption of data; and/or

15.2.3. for any indirect or consequential loss whatsoever incurred by either Party, whether or not the Party relying on this Clause 15.2 was advised in advance of the possibility of any such loss.

- 15.3. Except in relation to Clauses 15.3 and 15.4 and the indemnity in Clause 16.2, the total aggregate liability of either Party to the other under or in connection with this Agreement shall not exceed the lesser of one hundred thousand pounds (£100,000) or the Charges due to OUTSOURCE TELECOM in the previous 12 month period for any one event or series of events.

- 15.4. In relation to Clause 15.3 and 15.4 only, the total aggregate liability of the Client to OUTSOURCE TELECOM shall not exceed two hundred thousand pounds (£200,000) for any one event or series of events.

- 15.5. The Client shall be liable to OUTSOURCE TELECOM for all liabilities, claims and costs arising directly from the acts and omissions of any third parties (including Users) using the Service through the Client, relating to the Client's use of the Services except where such liabilities, claims and costs arise from OUTSOURCE TELECOM's negligence or breach of this Agreement.

- 15.6. The Client agrees to indemnify defend and hold harmless OUTSOURCE TELECOM against all liabilities claims, liabilities, losses and costs (including reasonable and properly incurred legal costs) arising directly in connection with the Client's use of the Service by the Client's Users or any third party using the Service through the Client except where such claims arise from OUTSOURCE TELECOM's negligence or breach of this Agreement.

## **16. Termination**

- 16.1. This Agreement may be terminated without penalty:
- 16.1.1. by OUTSOURCE TELECOM providing thirty (30) days notice in writing provided that such notice shall not expire before the end of the Minimum Period; or
  - 16.1.2. by the Client providing thirty (30) days notice in writing no later than (30) days prior to the expiry of the Minimum Period or any subsequent renewal.
- 16.2. Notwithstanding the termination of this Agreement the terms of this Agreement shall remain in force in respect of any Order until the expiry of the Minimum Period for the provision of Services in that Order. For the avoidance of doubt, the termination of this Agreement shall not be effective until the Minimum Period for any existing Order has expired.
- 16.3. Notwithstanding any other rights under this Agreement, either Party may terminate this Agreement immediately in the event that:
- 16.3.1. the other Party holds any meeting with or proposes to enter into or has proposed to it any arrangement or composition with its creditors (including any voluntary arrangement as described in the Insolvency Act 1986); has a receiver, administrator, or other encumbrancer take possession of or appointed over or has any distress, execution or other process levied or enforced (and not discharged within 7 days) upon the whole or substantially all of its assets; ceases or threatens to cease to carry on business or becomes unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; or
  - 16.3.2. if either Party commits a material breach or other persistent breach of this Agreement which in the case of a breach capable of being remedied, is not remedied within thirty (30) days of a written request by the other Party to remedy the same.
- 16.4. OUTSOURCE TELECOM may immediately terminate or suspend all or any part of this Agreement or the Services if:
- 16.4.1. Ofcom determine, or OUTSOURCE TELECOM reasonably considers, that use of the Services by the Client or any User or Additional User (i) does not constitute Appropriate Use (ii) is in breach or may be in breach of the Code or any other relevant statutory or regulatory act, regulation, code or similar (iii) is fraudulent or illegal or may be fraudulent or illegal; or
  - 16.4.2. if Ofcom or any other authority of competent jurisdiction revokes the supplier's authorisation as Public Electronic Communications Network under the Act and as a result OUTSOURCE TELECOM can no longer legally comply with its material obligations under this Agreement and the Service Agreements.

## **17. Consequences of Termination**

- 17.1. In the event of a customer terminating their service prior to the contractual period purchased, the customer agrees to pay any remaining rental charges from the date of cancellation to the date the contractual period finishes. OUTSOURCE TELECOM reserve the right to levy a charge on the remaining period. For example, should three months remain on the contractual period and the service ceases prior to this final date, OUTSOURCE TELECOM reserve the right to levy a single charge of three months collectively.
- 17.2. In the event of you cancelling the order once it has been placed, you agree to pay any charges levied by our carriers to us.
- 17.2.1. Prior to Site Survey a £500 Administration Fee Applies\*,

17.2.2. Post Site Survey / Pre-Go-Live a £500 Administration Fee, any Construction Costs and 25% of Full Term Contract Rental Applies\*\*

17.2.3. Post Go-Live Full-Term Contract Rental Applies.

\* At the discretion of Outsource Telecom

\*\* Exception being where ECC's (excess construction charge) are identified where the client has the option to cancel without charge