



General Terms

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These General Terms cover any Service you buy from us. Some services have additional terms contained in Schedules specific to those services.

Where words and phrases are capitalised, they are explained in the Defined Terms section.

The words below have the following meanings:

‘FT’, ‘we’, ‘us’ and ‘our’ mean Fusion Telecom Limited, a company registered in England & Wales under Company Number 11608562

‘You’ and ‘your’ mean the Client.

Phrases that refer to ‘either’, ‘neither’, ‘each of us’, ‘both of us’, ‘we each’ or ‘we both’ mean one or both of FT and the Client, whichever makes sense in the context of the sentence.

The words ‘include’ or ‘including’ do not limit something to just those examples that follow.

Any time either of us has a right or obligation that we “may” exercise or perform, then whether either of us chooses to exercise or perform that right or obligation will be in that party’s sole discretion.

1. Order of Documents

- 1.1. In case of any conflict between any of the documents, the order of priority, highest first, is:
 - the Additional Order;
 - the Principal Order;
 - the Schedule (excluding Schedules ‘SLA’ and ‘AUP’);
 - the Schedules ‘SLA’ and ‘AUP’;
 - these General Terms;
 - if applicable to the Service, the FT Price List.

2. Basic Principles

- 2.1. We confirm that we are a legal company, authorised to agree the Contract and provide all the Services.
- 2.2. You confirm you are legally set up as a business, authorised to agree the Contract and carry out your responsibilities under it.

3. Start of Contract

- 3.1. The Contract starts on the date you sign the Order, or on the date we sign the Order, whichever is the later. If the Order has not been signed and you start using Services, the Contract starts on the date that you start using the Services.
- 3.2. We will use Reasonable Efforts to set up and configure Services by the Provisional Start Date as specified on the Order.
- 3.3. The supply of Services commences on the Actual Start Date and will carry on until they cease in a way that the contract allows.

4. The Order

- 4.1. An Order constitutes an agreement by you to purchase Services from us in accordance with these General Terms.
- 4.2. An Order shall only be deemed to be accepted when we sign the Order or, if earlier, we commence to provide the Services.
- 4.3. Each Service referred to in any Order may be treated by us as separate agreements. If the Contract related to a service terminates or expires for any reason other than for those reasons described in Sub Clause 3 of ‘Termination’, the rest of the Services and Orders in place will remain unaffected and we will continue to perform our obligations under them as agreed in the Contract.
- 4.4. Your use of our Services constitutes agreement with the Order and acceptance of the Contract.
- 4.5. Any prices agreed, and any discounts agreed, between us both on an Order are valid during the Initial Period and are not valid during the Extension Period. We reserve the right

in the Extension Period for Services supplied to you by us to apply charges as set out in the FT Price List.

- 4.6. During the Contract Period you may wish to order more Services and, where possible, link these Additional Services to your Principal Order. In such a case an Additional Order is raised and must be signed by you. Additional Orders and any Services linked to Additional Orders are subject to the same Contract, including any relevant Schedules, as the Principal Order, except where outlined in the Additional Order.

5. Our Obligations

5.1. We:

- 5.1.1. will provide each Service with the care and skill that would reasonably be expected in the circumstances;
 - 5.1.2. will comply with Applicable Law; and
 - 5.1.3. if applicable to a Service, will take reasonable steps to stop anyone getting unauthorised access to any part of the telecommunications and data network provided by us, and in doing so we will not be held responsible for any loss or damage caused by unauthorised access to any part of the communications network provided by us.
 - 5.1.4. will comply with all reasonable health and safety rules and regulations and reasonable security requirements that apply at a Site and are notified to us in writing. We will not be liable if, because of any such compliance, we are in breach of any of our obligations under this Contract;
 - 5.1.5. will provide you with a date on which delivery of the Services (or each part of the Service, including to each Site) is due to start, the Provisional Start Date, and will use commercially reasonable endeavours to meet any date, but will have no liability for a failure to do so;
 - 5.1.6. may reject an Order for a Service if any information you submit is illegible, inaccurate, incomplete or incorrect;
 - 5.1.7. will respond and use reasonable endeavours to remedy an Incident in accordance with the Schedule Service Level Agreement; and
 - 5.1.8. may, in the event of a security breach affecting the Services, require you to change any or all your passwords for Services. We do not guarantee the security of the Services against unauthorised or unlawful access or use.
- 5.2. We will provide you with basic support services during Normal Working Hours on Business Days. Any increased level of support may be subject to additional charges as notified by us.

Scheduled and Unscheduled Outages

- 5.3. To provide a robust service and Planned Maintenance, scheduled downtime may occur. We:
 - 5.3.1. will use our reasonable endeavours to provide you with notice of any scheduled downtime and keep all scheduled downtime to the quietest time of the Services; and

- 5.3.2. may occasionally suspend the Services for operational reasons (such as maintenance or Services upgrades) or because of an Emergency, but before doing so will give you as much notice as reasonably practicable and whenever practicable will agree with you, when the Services will be suspended.

6. Your Obligations

6.1. You will:

- 6.1.1. cooperate with us and comply with any reasonable requests we make to help us provide the Services;
- 6.1.2. comply with our Acceptable Use Policy and Applicable Law and make sure that your Users do as well;
- 6.1.3. ensure that terms agreed between us are recorded on the Order and any information in the Order is complete and accurate;
- 6.1.4. provide us with information, facilities and materials we ask for, within reason, as may reasonably be required in order to supply the Services;
- 6.1.5. complete any preparation activities that we may request to enable you to receive the Services promptly and in accordance with any reasonable timescales, including preparing your Premises for the supply of the Services, and you shall be responsible for providing all necessary hardware, software, network facilities and telecommunications services that are not supplied by us and are required to access and make use of the Services; and
- 6.1.6. provide us with the names and contact details of any individuals as Authorised Contact(s) authorised to act on your behalf for Services management matters. Only Authorised Contacts can add or remove Authorised Contacts, but we may also accept instructions from a person who we reasonably believe is acting with your authority.

6.2. You agree:

- 6.2.1. not to use the Services to communicate any material which is intended to be a hoax call to emergency services or is of a defamatory, offensive, abusive, obscene or menacing character; and
- 6.2.2. not to use the Services in a manner which constitutes or may constitute a violation or infringement of the rights of any other party, or fraudulently, or in connection with any criminal offence.

- 6.3. Checks on the functionality of Services are to be conducted by us, however, it is your sole responsibility to check that the Services are functioning correctly, in accordance with your expectations and as requested by you, and you endeavour to report promptly to us any issues, incorrect configurations, quality concerns or other concerns you may have.

- 6.4. If our ability to perform any of our obligations under the Contract is prevented or delayed by any act or omission by you or failure by you to perform any relevant obligation (hereinafter referred to as "Client Default"):

- 6.4.1. we shall, without limiting our other rights or remedies, have the right to suspend performance of the Services until you remedy the Client Default, and to rely on the Client Default to relieve us from the

- performance of any of our obligations to the extent that the Client Default prevents or delays our performance of any of our obligations;
- 6.4.2. we shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from the Client Default; and
- 6.4.3. you shall reimburse us on written demand for reasonable costs sustained or incurred by us arising directly from the Client Default.
- 6.5. You shall promptly report to us any Service Failures, giving sufficient information to enable us to investigate the claim. Should we receive three Service Failure reports or more from you in any three-month period where no Service Failure is found, after providing Notice to you we retain the right to charge you an amount equal to reasonable costs and expenses incurred in the investigation of further Service Failure reports made within the aforementioned three-month period.
- 6.6. We will provide you with Notice of the Actual Start Date. You commit to confirming in writing or via email that the Actual Start Date provided by us is accurate if you agree it is accurate, or, if you believe the Actual Start Date is incorrect, you must, within fourteen days of receiving Notice of the Actual Start Date, reply stating the reasoning for your belief and propose an alternative Actual Start Date you believe is accurate. If you do not reply to us within this timeframe you accept that the Actual Start Date is accurate.
- 6.7. You agree that we may use your logo, trademark, and/or name with respect to promotion or other marketing material.
- 6.8. You hereby indemnify us and undertake to keep us indemnified and held harmless from and against all demands, Liabilities, damages, losses, costs and claims (including reasonable legal fees) asserted against us or our agents, suppliers, officers and employees that arise or result from any material or information that you supply or load into the Service that infringes (or is alleged to infringe) the intellectual property rights of a third party.
- 6.9. You hereby indemnify us and undertake to keep us indemnified and held harmless from and against all demands, Liabilities, damages, losses, costs and claims (including reasonable legal fees) asserted against us or our agents, suppliers, officers and employees that arise or result from any erroneous information that is supplied by the Services or any reporting features of the Services that may be used by you to draw conclusions or make decisions that affect your business operations.
- 6.10. You will:
- 6.10.1. maintain any Client equipment connected to the Services or used in connection with Services;
- 6.10.2. ensure that any Client equipment and require your Users to ensure that any equipment (whether supplied by us or not) that is connected to the Service or that you use, directly or indirectly, in relation to the Service is:
- 6.10.2.1. used in accordance with any instructions, standards and safety and security procedures applicable to the use of that Client equipment;
- 6.10.2.2. adequately protected against viruses and other breaches of security;
- 6.10.2.3. technically compatible with Services and will not harm or damage Services or any of our supplier's or subcontractor's network or equipment or any other equipment; and
- 6.10.2.4. approved and used in accordance with relevant instructions and Applicable Law;
- 6.10.3. immediately disconnect any Client equipment or require the Users to disconnect any User equipment, if such equipment does not meet any relevant instructions, standards or Applicable Law;
- 6.10.4. maintain a list of current Users and immediately terminate access for any person who ceases to be an authorised User;
- 6.10.5. ensure the security and proper use of all valid User access profiles, passwords and other systems administration information used in connection with the Services and take all reasonable steps to prevent unauthorised access to the Service;
- 6.10.6. adopt instructions which we believe are necessary for reasons of health, safety or the quality of the Services or the quality of any other telecommunications services we provide to you; and
- Notification of Incidents**
- 6.11. Where you become aware of an Incident:
- 6.11.1. if you cannot resolve the issue then your accredited personnel will report it to us according to the procedures in the SLA.
- 6.11.2. we will give you a unique reference number for the Incident ("Case");
- 6.11.3. you will ensure that your accredited personnel will be available for all subsequent Incident management communications;
- 6.11.4. we will inform you when we believe the Incident is cleared, and will close the Case when:
- 6.11.4.1. you confirm that the Incident is cleared within twenty-four hours of being informed; or
- 6.11.4.2. we have attempted unsuccessfully to contact you, in the way agreed between both of us, in relation to the Incident and you have not responded within four Business Days of our attempt to contact you; and
- 6.11.5. if you confirm that the Incident is not cleared within twenty-four hours of being informed, the Case will remain open, and we will continue to work to resolve the Incident.

7. Our Liability

- 7.1. We will not be liable if we fail to do or do not do something that we are supposed to under the Contract (including not carrying out any of our responsibilities, carrying them out late or not meeting any Service Levels), whether or not there is a Force Majeure Event (in which case the 'Force Majeure Event' clause applies), to the extent our failure is due to:

- 7.1.1. anyone other than us, our Affiliates or our subcontractors doing something, or not doing something they need to do; or
- 7.1.2. Applicable Law or a regulatory body restricting or preventing us from providing you with the Service.
- 7.2. Our SLA exists as a schedule to our General Terms which applies to any service we provide. The parties agree that Service Credits shall be our sole liability and your sole and exclusive remedy for any failure to meet the Service Levels.

8. Non-Urgent Support

- 8.1. At your request we may agree to carry out Non-Urgent Support outside Normal Working Hours and you shall pay our Charges as specified in the relevant Order.

9. Warranty

- 9.1. Subject to obligation to comply with the SLA, we are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over our network or public communications networks and facilities, including the internet, and you acknowledge that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 9.2. We warrant that we have and will maintain all necessary licences, consents and permissions necessary for the performance of our obligations under this Contract and that we have (or in the case of our future client activities, will obtain) and will maintain all necessary licences, consents and permissions necessary for us, our contractors and agents to perform their obligations under this Contract.

10. Payment

- 10.1. In consideration of us providing the Services, you shall pay us:
 - 10.1.1. the Initial Charges;
 - 10.1.2. the Fixed Charges;
 - 10.1.3. the Variable Charges; and
 - 10.1.4. other charges;
 as set out in an Order for the duration of the Initial Period.
 - 10.1.5. We may invoice you for any of the following Charges in addition to those set out in the Order:
 - 10.1.5.1. Charges relating to Service Failure investigation as described in Clause 6.5; and
 - 10.1.5.2. any other Charges as agreed between both of us.
 (hereinafter referred to as "Charges")
- 10.2. On each anniversary of the Actual Start Date the Charges as detailed in the Order will be increased by the greater of the rate of inflation in line with the Retail Price Index published by the Office for National Statistics in the month immediately preceding the anniversary, or five percent.

- 10.3. We shall invoice you by e-mail after the end of each calendar month. The invoice will include any Initial Charges outstanding, Fixed Charges for the month in which the invoice is issued, Variable Charges incurred during the month immediately prior to the month in which the invoice is issued, and Other Charges as may be applicable at that time. You will pay us in pounds sterling.
- 10.4. Should you require invoices to be received by any method other than e-mail, you shall pay to us an administration fee of twenty pounds per month.
- 10.5. Except where you are disputing an invoice, as allowed for within these General Terms, you will pay the full amount in cleared funds of each invoice we send you by direct debit, or by bank transfer if this has been agreed, into our bank account within twenty-one days of the date of issue as shown on the invoice, without any set-off, counterclaim, deduction or withholding, unless you legally have to take such an action.
- 10.6. The Initial Charges are payable when you have signed the Order, or when we have signed the Order, whichever is the later, or in the event that the Order has not been signed, when you begin using the Services.
- 10.7. Charges do not include any Transaction Taxes. If we give you a valid tax invoice, you will pay all of the Transaction Taxes due, including those we have paid or have to pay that we are allowed by Applicable Law to pass on to you. We will not charge any Transaction Taxes if you have given us a valid exemption certificate beforehand for those Transaction Taxes.
- 10.8. So that the net amount we receive is not less than the amount you owe us, despite any deductions you are required to make (like Withholding Tax), you will compensate us for all deductions by grossing up your payments or indemnifying us for these amounts.
- 10.9. If you ask for any change to be made to the agreed billing arrangements for any Services, and that change results in additional Transaction Tax and/or Withholding Tax to us and/or our Affiliates that we or they are unable to fully recover, then, regardless of what it may say elsewhere in this Contract, we may modify our Charges to reflect the impact of the change and you will pay us any additional amounts.
- 10.10. If you make a payment covering more than one invoice, we may apply the payment to any unpaid invoices, at our discretion.
- 10.11. The amount of Variable Charges payable by you each month during the Contract Period shall be determined with reference to the Services provided in accordance with the Order, and if not specified on the Order, in accordance with applicable rates specified in the FT Price List.
- 10.12. We shall have the right to alter Charges, and/or the charges in FT Price List to reflect any increase in the cost of supplying the Services that is due to any factor beyond our control (including increases in taxes and duties, and increases in the Charges payable by us to any third party engaged by us to provide goods and/or services in connection with the Services) or to reflect any request by you to change the Provisional Start Date, or the quantity or types of Services supplied, or any delay caused by any instructions you issue or your failure to give us adequate or accurate information or instructions in due time.

- 10.13. We may agree, at our absolute discretion, to accept payment from you of any sums due under the Contract by payment methods other than direct debit, subject to you paying us an administration fee of twenty pounds per month for the duration of the alternative payment arrangements.
- 10.14. Your use of the Services shall be determined by reference to data recorded or logged by or on behalf of, us, and not by reference to any data recorded or logged by you. You agree that we may invoice you for any use made of the Services at any time up to thirty-six months following the date on which the use occurred.
- 10.15. If any Service Credits have accrued, we will set them against the next appropriate invoice in accordance with the SLA.
- 10.16. We shall be entitled to increase the Charges at any time during an Extension Period upon twenty-eight days prior Notice to you.
- 10.17. Charges may also be imposed in the event that you request a change to any Service.
- 10.18. If we have applied a discount or agreed a price reduction that is based on commitments you have made, as specified in the Order, we reserve the right to annul the discount or revert the price to the FT Price List rate should you fail to meet your discount or reduced-price commitments as set out in the Order. In such a case we will notify you of your failure to meet the minimum requirements and will specify a date on which the discount or special pricing will cease.

Credit vetting

- 10.19. You are subject to our policy for credit vetting and security deposits.
- 10.20. We reserve the right to withdraw credit facilities at any time and to demand an upfront payment of up to the equivalent of two months estimated monthly revenue. Where there is no credit facility we also reserve the right to insist that a positive account balance is maintained for the duration of the contract. Should you refuse to make such payment within three days we have the right to suspend Services immediately without any liability to you.

11. Non-Payment

- 11.1. If you do not pay an invoice by the date it is due and you are not disputing the invoice, we may:
 - 11.1.1. charge you a late payment fee of thirty pounds; and
 - 11.1.2. charge you interest on the unpaid amounts at the monthly rate of four percent above the Bank of England's base lending rate current at the date of calculation, or at the maximum rate allowed by Applicable Law, whichever is less. The interest will build up and be compounded each day, from the date the invoice was due to the date you pay us; and
 - 11.1.3. after a period of 30 days after the date that payment is due, restrict or suspend any Services relating directly to the unpaid amounts, without any liability to us, until you have paid in full.
- 11.2. You will pay us any reasonable costs we have incurred recovering any amount you owe us, including debt collection agency and legal costs.

- 11.3. In the event that any attempt made by us to collect payment by direct debit, as allowed for within these General Terms, fails for any reason (other than our negligence or wilful misconduct) and you have failed to provide us with prior written notice that the failure will occur, then we shall be entitled to charge you an administration fee of thirty pounds which shall be payable by you in addition to the payment which we have been unable to collect.

12. Disputing an Invoice

- 12.1. You will always pay the Undisputed Amount of an invoice, and any disputed amount that is less than five percent of the total invoice.
- 12.2. If you do not agree with an element of an invoice we send you, you can give us Notice of that dispute within twenty-eight days of the date of the invoice, failing which the Client shall be deemed to have accepted the accuracy of the invoice. That Notice needs to set out exactly what you are disputing, why, the amount and all other relevant information.
- 12.3. If you dispute an invoice and you are paying by direct debit, we will reduce the direct debit by the disputed amount while the dispute is investigated.
- 12.4. You commit to pay the amount we both finally agree on to resolve an invoice dispute within seven days of both of us agreeing the amount.

13. Intellectual Property Rights

- 13.1. Intellectual Property Rights will carry on being their original owner's property whether the rights existed before the Contract or came after it.
- 13.2. If we need to provide some Software so you can use the Services, we will give you a non-transferable and non-exclusive licence to use it for the purposes we have agreed only (in object code form only). As well as any terms of the Contract, you will also comply with any third party terms that apply to the use of the Software.
- 13.3. You will not copy, decompile, modify or reverse engineer any Software, or knowingly let anyone else do that, unless it is allowed by law or one of our Company Directors has given you written permission to do so.
- 13.4. The licence we give you in this section will last if we provide you with the relevant Service.
- 13.5. If using the Services infringes someone else's Intellectual Property Rights, we will compensate you for any third-party Claims or proceedings through an indemnity, as long as you:
 - 13.5.1. Providing Notice to us about the Claim within fourteen days of being made aware of the Claim;
 - 13.5.2. give us complete control of the Claim after providing the Notice in the clause above;
 - 13.5.3. do not say anything publicly about the Claim, or do anything that harms our defence of it; and
 - 13.5.4. provide assistance where requested by us in order to help us with the Claim.

- 13.6. Any amounts incurred or recovered in negotiations, litigation, or settlements in relation to the clause above will be paid for or kept by us.
- 13.7. The indemnity in his section will not apply if a Claim results from or relates to:
 - 13.7.1. your modification of the Services without our permission;
 - 13.7.2. any content, designs or specifications that have not been supplied by us or on our behalf.
- 13.8. You will compensate us for any Claims, losses, costs or liabilities arising from the matters in the clause above, through an indemnity. You will stop any activity that led to the Claim as soon as we give you Notice or you become aware that your activity was causing a Claim.
- 13.9. If using a Service leads to a Claim, or we think it is likely to lead to one, we may, at our own expense:
 - 13.9.1. get you the right to carry on using the Service; or
 - 13.9.2. modify or replace the relevant parts of the Service so that using it no longer infringes another person's rights, as long as the performance of the relevant parts of the Service are not materially affected.
- 13.10. The indemnity, and subsequent actions, described in this section are the only remedies you will have for Claims for infringement of someone else's Intellectual Property Rights.
- 13.11. Except for IP Addresses and Domain Names expressly registered in your name, all IP Addresses and Domain Names made available with the Service will always remain our property or the property of our suppliers and will be non-transferable. All your rights to use such IP Addresses and/or Domain Names will cease on termination or expiration of the Service.
- 13.12. Telephone numbers made available with the Services will always remain our property and will be non-transferable, and all of your rights to use Telephone Numbers will cease on termination or expiration of the Services.
- 13.13. You acknowledge and agree that we and/or our licensors own all Intellectual Property Rights in the Service and the Documentation. Except as expressly stated, this Contract does not grant you any rights to, or in, such Intellectual Property Rights.
- 14.1.3. it is or becomes publicly known other than through any act or omission of the receiving party; or
- 14.1.4. it was in the other party's lawful possession before the disclosure; or
- 14.1.5. it is lawfully disclosed to the receiving party by a third party without restriction on disclosure.
- 14.2. Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 14.3. Each of us will return or destroy any of the other's Confidential Information within a reasonable time when the other provides a Notice to do so.
- 14.4. 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 Contract.
- 14.5. We may use data in an anonymous format derived from Client Data. We shall take precautions such that neither you or your customers can be identified from the descriptions of the anonymous data.
- 14.6. You will:
 - 14.6.1. notify us, to the extent lawfully possible, of any request under the Freedom of Information Act 2000 which encompasses any information you hold provided by us in connection with the Contract; and
 - 14.6.2. allow us not less than fifteen Business Days in which to make representations.
- 14.7. This clause will stay in place for a period of two years following the end of this Contract.
- 14.8. We both acknowledge that for the purposes of Data Protection Legislation, you are the Data Controller and we are the Data Processor in respect of Client Personal Data.
- 14.9. The Order sets out the scope, nature and purpose of processing by us, the duration of processing and the types of Client Personal Data and categories of Data Subject.
- 14.10. You will ensure that you have all necessary appropriate consents and notices in place to enable lawful transfer of Client Personal Data to us and continued processing by us for the duration and purposes of the Contract.
- 14.11. We will Process Client Personal Data in accordance with applicable Data Protection Legislation. We process Client Personal Data only in accordance with your use of the Services and with your consent, except where we are required by the laws of any member of the European Union or by the laws of the European Union applicable to us to process Personal Data (Applicable EU Laws). Where we are relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, we shall promptly notify you of this before performing the processing required by the Applicable EU Laws unless those Applicable EU Laws prohibit us from so notifying you. Following any exit by the United Kingdom from the EU, Applicable EU Laws shall be deemed to include applicable UK laws to the extent that this is permitted by and consistent with applicable Data Protection Legislation.
- 14.12. We will ensure that we have in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Client Personal Data and against accidental loss or destruction of, or damage to,

14. Confidentiality, Data Protection & the GDPR

- 14.1. We will both keep all Confidential Information confidential and neither of us will disclose it, unless:
 - 14.1.1. one of us needs to do that to meet our responsibilities or to receive any benefit under the Contract, and then only to each of our employees, agents, Affiliates, officers, directors, advisers and for use only, to our subcontractors and suppliers, who need to know. The one of us disclosing the Confidential Information will ensure that the people receiving it comply with this clause; or
 - 14.1.2. any Applicable Law, government or regulatory authority, or court of competent jurisdiction says we have to; or

Client Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Client Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Client Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by us).

- 14.13. We will ensure that all our employees and contractors who have access to and/or process Client Personal Data are obliged to keep Client Personal Data confidential.
- 14.14. We will not transfer Client Personal Data outside of the European Economic Area or to an International Organisation unless your prior written consent has been obtained and the following conditions are fulfilled:
 - 14.14.1. you or us have provided appropriate safeguards in relation to the transfer (or the country or territory or international organisation (as applicable) to which Client Personal Data is transferred is the subject of a positive decision of adequacy, that is, the European Commission has determined that it ensures an adequate level of protection);
 - 14.14.2. the data subject has enforceable rights and effective legal remedies;
 - 14.14.3. we comply with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Client Personal Data that is transferred; and
 - 14.14.4. we comply with documented instructions notified to us in advance by the you with respect to the processing of Client Personal Data;
- 14.15. We will assist you, at your cost, in responding to any request from a Data Subject and in ensuring compliance with our obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators.
- 14.16. We will notify you without undue delay on becoming aware of a Client Personal Data breach relating to Client Personal Data.
- 14.17. We will, at your written direction, delete or return Client Personal Data and copies thereof to you on termination of the Contract unless required by Applicable Laws to store Client Personal Data.
- 14.18. We will maintain complete and accurate records and information to demonstrate our compliance with Data Protection Legislation and allow for audits by you or your designated auditor.
- 14.19. Any appointment of Sub-processor by us pursuant to the Contract is subject to your prior written consent and provided that we have entered into an agreement with the relevant Sub-processor imposing the same data protection obligations on the Sub-processor as set out in this clause.
- 14.20. We may, from time to time, contact you, or other network or procurement managers involved in the procurement or management of the Service, to provide additional information concerning the Service, or other related services. If this information includes marketing materials, we

will provide a mechanism for you to elect not to receive such communications in the future.

- 14.21. You and your Customers will comply with all applicable Data Protection Legislation and will ensure that all criteria necessary for the provision of the Service by us (for example notifications, consents etc.) are fulfilled before sharing such Client Personal Data with us.
- 14.22. You will disclose to us only the Client Personal Data that we require in order to perform the Service.
- 14.23. We may use your Client Personal Data to run credit checks to help us decide whether or not to grant you credit, and if so, to what amount.

15. Service Restriction or Suspension

- 15.1. We may restrict or suspend any Service or a part of a Service, without liability to you:
 - 15.1.1. as allowed for in the clauses within the Contract; or
 - 15.1.2. if you are in breach of this Contract; or
 - 15.1.3. if we have reasonable cause to believe that you or any third party is acting in breach of the Acceptable Use Policy and the evidence related to our reasonable cause is provided to you; or
 - 15.1.4. we reasonably think we need to in order to protect the integrity or security of our network in an emergency; or
 - 15.1.5. if you have exceeded any usage limit that has been applied; or
 - 15.1.6. if we are entitled to suspend the provision of any other Service under the terms of any other agreement with you; or
 - 15.1.7. if we are obliged to comply with an order, instruction or request, of the Government, an emergency services organisation, regulator, OfCom or other competent administrative authority; or
 - 15.1.8. if technical limitations exist or arise which make the provision of Services impossible or that materially limit the functionality or performance of the Services; or
 - 15.1.9. if we consider, in our reasonable opinion that it is necessary to do so for the purposes of undertaking Planned Maintenance or Emergency Maintenance provided always that we shall use our reasonable endeavours to ensure that any such suspension shall cause the minimum amount of disruption to the Services as is reasonably practicable in the circumstances.
- 15.2. If we decide to restrict or suspend the Service for any of the above reasons, we will let you know as soon as we reasonably can.
- 15.3. You shall remain liable for all charges during any period of suspension or disconnection attributable to Client Default, your actions or omissions and for any subsequent reinstatement or re-connection.

16. Termination

- 16.1. Either of us can terminate the Contract, a Service or an Order, as follows:
- 16.1.1. if you are considered to be a small business by OfCom and have ten employees or fewer, then termination can happen at any time after the Initial Period by giving the other thirty days' Notice; or
- 16.1.2. if not considered a small business by OfCom then termination can happen at any time after the Initial Period by giving the other six calendar months' Notice;
- and we will each have to pay the other the Termination Charges.
- 16.2. Should you request to terminate part of the Services of the Contract, whether ordered initially as recorded on the Principal Order or ordered subsequently as recorded on an Additional Order, and such termination is due to be effective before the Initial Period is complete, without limiting our other rights or remedies we may agree at our discretion to enforce the Early Termination Charge or not.
- 16.3. At the end of the Initial Period an Extension Period will begin. During the Extension Period we will continue to provide Services and both of us will continue to perform each of our obligations in accordance with the Contract until such a time as either:
- 16.3.1. The Contract is terminated in accordance with this clause a new Principal Order is signed that includes provision for the Services provided under this Contract, at which time a new Initial Period will begin, and this Contract will terminate without limiting the rights or remedies of either party.
- 16.4. Without limiting other rights or remedies, either of us can terminate the Contract or an affected Service straightaway by giving the other Notice if:
- 16.4.1. the other materially breaches the Contract and, where it is possible, they do not put the situation right within thirty days after Notice of their breach; or
- 16.4.2. the other materially breaches the Contract and the situation cannot be put right; or
- 16.4.3. an Insolvency Event applies to the other.
- 16.5. Without limiting our other rights or remedies, we may terminate the Contract with immediate effect by giving you written notice if any licence or general authorisation under which we have the right to provide the Services is revoked, amended or otherwise ceases to be valid.
- 16.6. If a particular Service is cancelled, terminated or expires, any other Services will carry on as normal, and the rights and responsibilities that go with them will still apply.
- 16.7. If the Contract, a Service or any Order is cancelled, terminated or expires, it will not affect any rights that either of us have up to that point.
- 16.8. If the Contract, a Service or any Order is terminated, cancelled or expires, for any reason, each of us will immediately pay the other any money and interest that is due, including any Termination Charges.
- 16.9. We may terminate the Contract or the Service at any time on Notice to comply with a direction from OfCom or any

competent authority to suspend or cease the provision of Services or any part of Services.

17. Early Termination Charge

- 17.1. If Notice of termination of the Contract, a Service or an Order is given within six calendar months' of the end of the Initial Period, or during the Extension Period, then you will have no Early Termination Charge, unless you are a small business as defined by OfCom in which case if Notice of termination of the Contract, a Service or an Order is given within thirty days' of the end of the Initial Period, or during the Extension Period, then there is no Early Termination Charge.
- 17.2. Without limiting our other rights or remedies, we will add a charge to your Termination Charges called the Early Termination Charge if the Contract, a Service or an Order is terminated pursuant to the clause 'Termination' and there is an Early Termination Charge applicable, as set out in this clause 'Early Termination Charge'.
- 17.3. The Early Termination Charge is payable by way of compensation and therefore will not be subject to VAT, and is calculated as follows:
- 17.3.1. a sum equal to all Fixed Charges that would have been payable to us under the Contract during the period from the date of termination (the end of the Notice Period) until the end of the Initial Period; and
- 17.3.2. a sum equal to sixty percent of the average monthly Variable Charge (calculated as the average of Variable Charges over the preceding three months) multiplied by the total number of whole months from the date of termination (the end of the Notice Period) until the end of the Initial Period; and
- 17.3.3. a sum equal to the average monthly Revenue Share (calculated as the average of Revenue Share over the preceding three months) we received from our suppliers relating to Services less Revenue Share paid to you, then multiplied by the total number of whole months from the date of termination (the end of the Notice Period) until the end of the Initial Period.
- 17.4. You may terminate the Contract without paying an Early Termination Charge if we notify you of any change to the Contract which is likely to be of material detriment to you. In this instance you must give us thirty days' notice of your termination within two months from the date that we notified you of the change.

18. Force Majeure Event

- 18.1. If a Force Majeure Event means a Service is completely and continuously unavailable for more than thirty days, either of us can terminate the Service straightaway by giving the other Notice, as long as the Force Majeure Event is still having an effect when the Notice is received.
- 18.2. If the Force Majeure Event has ceased before any Notice to terminate is received by one of us, the Notice will have no effect.

18.3. If there is a Force Majeure Event we shall have no liability to you under this Contract if we are prevented from, or delayed in, performing our obligations under this Contract.

19. If something goes wrong

19.1. The Contract excludes, as far as the law allows, any warranties, conditions or other terms that might be implied by statute or common law.

19.2. Nothing in the Contract excludes or limits the liability of either of us for:

19.2.1. death or personal injury caused by either of us being negligent;

19.2.2. fraud or fraudulent misrepresentation; or

19.2.3. any other liability that cannot be excluded or limited under Applicable Law.

19.3. Other than for those matters in the clause above, neither of us will be held liable, regardless of how that liability arose, under or in connection with the Contract, and whether in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution, or in any other way, for:

19.3.1. any of the following losses, no matter if those losses are direct or indirect:

19.3.1.1. loss of profit, revenue or anticipated savings;

19.3.1.2. loss of business or contracts;

19.3.1.3. loss of goodwill;

19.3.1.4. loss from wasted expenditure, wasted time or business interruption;

19.3.1.5. loss, destruction or corruption of data;

19.3.1.6. liability to any third parties; and

19.3.2. any special, indirect or consequential loss or damage.

19.4. In relation to each Service, the total liability of each of us, regardless of how that liability arose, under or in connection with the Contract, and whether in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution, or in any other way, will be limited to ten thousand pounds for any one incident or series of connected incidents, and ten thousand pounds in total.

19.5. Your obligations to pay any Charges, including interest under the Contract, refund any Service Credits or pay any Termination Charges are in addition to, and will not be counted towards, the limitations in these clauses 'If Something Goes Wrong'.

19.6. Regardless of what it may say elsewhere in the Contract, both of us are always obliged to take reasonable steps to mitigate each of our losses, even where that loss occurs as a result of anything that may give rise to a Claim under an indemnity.

19.7. If we fail to meet a Service Level and this means that you are entitled to Service Credits, the only remedy available to you for that failure will be to receive those Service Credits, except when our failure amounts to material breach of the Service. If this happens, we will take the value of any Service

Credits given from the amount of damages awarded by a court of competent jurisdiction.

19.8. You shall indemnify us against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by us arising out of or in connection with your breach or negligent performance or non-performance of the Contract and/or any use made by you of the Services.

20. Settling disputes

20.1. We will both do what we reasonably can to settle any dispute or Claim that occurs under or in relation to this Contract, and to avoid having to get the courts or regulatory authorities involved.

20.2. We will both use the following dispute resolution process:

20.2.1. whichever of us is affected will provide Notice of our complaint that clearly sets out the full facts and includes relevant supporting documents;

20.2.2. we will both use reasonable endeavours to settle the dispute within fourteen days of getting the complaint and will make sure to give regular updates to the other during the fourteen days;

20.2.3. if the dispute is not settled after fourteen days (or any other period agreed by both of us in writing), the dispute can be escalated to a senior executive of either of us;

20.2.4. if the dispute still is not settled fourteen days after it is escalated, we will both consider mediation.

20.3. After complying with Clause 20.2, either of us may start mediation by giving Notice to the other, in which case:

20.3.1. unless we both agree to another date, it will start no later than fifteen days after the date of the Notice;

20.3.2. unless we both agree otherwise, any mediation will happen in London, in English; and

20.3.3. we will both share the costs of mediation equally, unless the relevant mediator or a later court of competent jurisdiction decides something else.

20.4. Nothing in this Clause 20 stops either of us:

20.4.1. seeking interlocutory or other immediate relief if one of us is at risk of imminent harm, unless something in the Contract already provides an adequate remedy;

20.4.2. going to a court of competent jurisdiction if either of us considers it reasonable; or

20.4.3. doing anything else this Contract lets us do.

21. Sending Notices

21.1. If one of us needs to give the other Notice, they will do so in writing, in English and send it by email, deliver it by hand, or send it by first class post, recorded delivery or courier. Each of us will send it to:

- 21.1.1. the recipient's address or email address set out in the Contract;
 - 21.1.2. the recipient's current registered address; or
 - 21.1.3. any other address or email address the recipient gives in a Notice to the sender.
- 21.2. If either of our contact details change, we will both tell the other straightaway by giving Notice.
- 21.3. The recipient is deemed to have received the Notice on the date (or if the date is not a Business Day, then on the next Business Day) that:
- 21.3.1. the recipient acknowledges it by manual reply or an automatic read receipt, if it is an email;
 - 21.3.2. the Notice is left at the address or someone signs for it on behalf of the addressee, if it is delivered by hand or sent by courier; or
 - 21.3.3. is three days after posting, if it is sent recorded delivery.
- 21.4. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 21.5. In addition to the above, we may provide Notices relating to Services availability, maintenance, features and faults using the FT Website.

22. Transferring to another party

- 22.1. Where your name or, if applicable, your company registered number, on the Order is incorrect or incomplete, you agree that we may treat as being you the individual or organisation that paid the Initial Charges for the Services.
- 22.2. We may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of our rights or obligations under the Contract.
- 22.3. You may not assign, transfer, charge, subcontract or deal in any other manner with all or any of your rights or obligations under the Contract without our prior written consent.
- 22.4. Where consent to transfer is given by us, you may transfer your rights and obligations by way of a novation to an eligible Affiliate subject to our policy for credit vetting and the signing of a novation agreement in such format as we reasonably require.
- 22.5. You will pay any reasonable charges notified to you in writing associated with the administration of:
- 22.5.1. your name changes; and/or
 - 22.5.2. your contract novation.
- 22.6. Where two or more persons or companies constitute you, your liability is joint and several.

23. General

- 23.1. Any quotation or proposal given by us shall not constitute an offer and is only valid for a period of thirty Business Days from its date of issue.

- 23.2. No delay or failure by us to exercise any of our rights under the General Terms, or grant concessions, shall prevent subsequent enforcement of those rights, or constitute an agreement to provide the same concessions again.
- 23.3. At the end of the Contract, provisions in the Contract that are expected to remain in place.
- 23.4. The parties indicate their intention to be bound to the Terms of the Contract by causing their respective authorised representatives to sign in the place indicated on the Order, or in the event that a valid Order cannot be found or is not signed by both parties, on the supply of Services by us to you, and of the use of any Service by you.

Third parties' rights

- 23.5. Except where specified in the Contract a person who is not a party to the Contract will not have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract, even if a term seems to give the party a particular benefit.

No partnership or agency arrangement:

- 23.6. Unless a Clause in the Contract says something different, the Contract does not:
- 23.6.1. set up any partnership, exclusive arrangement or joint venture between us;
 - 23.6.2. make one of us the agent of the other; or
 - 23.6.3. authorise either of us to enter into any commitments for, or on the behalf of, the other.

No waiver

- 23.7. If either of us does not do, or delays doing, something that this Contract allows, they will not have waived their right to do it, unless a Clause in the Contract says something different.

If part of Contract is illegal, invalid or unenforceable

- 23.8. If any court or competent jurisdiction finds that any part of the Contract is illegal, invalid or unenforceable, that part will be considered removed, but no other part of the Contract will be affected.
- 23.9. If any illegal, invalid or unenforceable part of the Contract would be legal, valid or enforceable if part of it were removed, we both will negotiate in good faith to change the Contract so it reflects what we both originally intended as much as possible.

Making changes to the Contract

- 23.10. Changes to the Contract will only be effective if they are in writing and signed by both of us. This clause shall not apply to changes which we may make unilaterally under these General Terms.
- 23.11. We may change this Contract at any time by giving at least thirty days' Notice before the change takes effect to:

- 23.11.1. comply with any legal or regulatory obligation (except where our compliance with that legal or regulatory obligation requires a shorter period of Notice);
- 23.11.2. protect the use of the FT company brand, in which case we must supply the reasons for this to you;
- 23.11.3. introduce new or improved Service Levels;
- 23.11.4. introduce new Services features;
- 23.11.5. withdraw or change Services features;
- 23.11.6. introduce process changes or change the technical specification of the Service (including Service upgrades);
- 23.11.7. maintain the integrity or security of the Services;
- 23.11.8. improve clarity, or make corrections to typographical errors;

providing that the changes in these last five will not unreasonably affect the Services and are they are not to your material detriment.

- 23.12. We will not require the signature of a new contract for the changes set out in clause and the changes will take effect at the expiration of the Notice or as otherwise set out in this clause.
- 23.13. We may propose changes to the Contract at any time by giving you thirty days' written Notice before the date the changes are proposed to take effect ("Notice to Amend").
- 23.14. Within fourteen days of any Notice to Amend, you may provide us Notice:
 - 23.14.1. agreeing to the changes we proposed, in which case those changes will apply immediately; or
 - 23.14.2. stating your objections to the proposed changes in which case both of us will enter into good faith negotiations and, if agreement is reached, the agreed changes will apply immediately or any other date as may be agreed between both of us.
- 23.15. If both of us have not reached agreement within fourteen days of your Notice of objection either of us may terminate the Contract or Service or any part of the Service by giving the other thirty days' Notice of termination.
- 23.16. If:
 - 23.16.1. you do not serve a Notice within the period set out in this section; or
 - 23.16.2. both of us have not reached agreement within fourteen days of your Notice of objection under this section and neither of us has terminated the Contract or Service or any part of the Service in accordance with clauses in this section,
 you will be deemed to have accepted the changes and the changes will take effect immediately.

Rights and Remedies

- 23.17. A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any

other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

The Contract stands on its own

- 23.18. The Contract sets out the whole agreement between both of us and replaces any communication we have had before.
- 23.19. Your own standard terms are not part of the Contract even if you provided them to us before signing the Contract, or if you send them to us or refer to them in an Order.
- 23.20. By agreeing the Contract, each of us acknowledges they have not relied on any representation, warranty, collateral contract or other assurance (made negligently or innocently) except for the ones in the Contract. You acknowledge that you have not relied on any statement, promise or representation made or given by, or on behalf of, us which is not set out in the Contract. Any samples, drawings, descriptive matter or advertising issued by us, and any descriptions or illustrations contained in our brochures or catalogues, are issued or published for the sole purpose of giving an approximate idea of the Services described in them and they shall not form part of the Contract between us and you for the supply of Services. Each of us also waives all rights and legal remedies they might have had if it were not for these Clauses 23.12, 23.13 and 23.14.

Choice of law and courts

- 23.21. The laws of England and Wales will apply to the Contract and any disputes or Claims in connection with it or our relationship, including non-contractual ones.
- 23.22. Only the Courts of England and Wales will be able to rule on any disputes or Claims in connection with the Contract or our relationship, including non-contractual ones.

Counterparts

- 23.23. The Contract can be signed on one or more copies. Any single counterpart, or a set of counterparts signed, in either case, by both of us will constitute a full original of the Contract for all purposes.

Non-Contractual Documents

- 23.24. Unless specifically stated otherwise in the Contract the following documents (if applicable) do not contractually form part of the Contract:
 - 23.24.1. proposals or executive proposals;
 - 23.24.2. quotes or commitments made that are not specified on an Order;
 - 23.24.3. online help or help access via a Service; and
 - 23.24.4. Service manuals.
- 23.25. We may refer to these documents in relation to our provision of the relevant Service but any such reference will be for guidance only.

23.26. We may amend these non-contractual documents from time to time at our discretion and without any liability to you.

24. Defined Terms

“AUP” or “Acceptable Use Policy” means the Schedule ‘Acceptable Use Policy’ which defines the specific rules that you and your Users have to follow when using the Services. You can find the policy at www.fusion-telecom.co.uk/acceptableusepolicy (or any other online address that we may advise of).

“Actual Start Date” means the date we first make a Service, or the Services, available to you which shall be subject to, where applicable, the commencement of supply of goods and/or services in connection with the Services, from any relevant third party engaged by us.

“Additional Order” means any order you give to us that is accepted by us for one or more Services, where the order is linked to an existing Principal Order or Contract.

“Additional Services” means Services ordered by you after the Principal Order has been signed, and are therefore documented as an Additional Order. They must be ordered by one of your Authorised Contacts. Additional Services are subject to the General Terms of this Contract and may include Schedules that may not have been relevant to the Contract under the Principal Order, but that become relevant and for part of the Contract once the Additional Order comes into effect.

“Affiliate” means any entity that directly or indirectly controls or is controlled by either one of us, or is jointly controlled with either you or us.

“Annex” means any annex to a Schedule that describes a Service or sets out the specific terms that apply to it.

“Applicable Law” means the laws of England and Wales and any other laws and regulations that apply to providing or receiving a Service, including but not limited to:

- a) the Bribery Act 2010 and the Foreign Corrupt Practices Act of 1977 of the United States of America; and
- b) any relevant export laws and regulations.

“Authorised Contact”: The member(s) of the Client identified on the Order who have authority to agree changes to the scope, or configuration, of the Services and the Charges, and have the authority to notify us of additional Authorised Contact(s).

“Business Day” means any day generally seen locally in the place where a Service is provided as a working day and excluding national, public and bank holidays. If one of us is supposed to do something on a day that is not a Business Day, then they will need to do it on the next Business Day.

“Call” means a signal, message or communication which can be silent, visual or spoken, and includes telephone calls and text messages.

“Charges” means the fees that you pay for a Service which include Initial Charges, Fixed Charges, Variable Charges (including Call Charges) and other Charges.

“Claim” means any legal claims, actions or proceedings against one of us, whether threatened or actual, whether by a third party or the other party to this Contract.

“Client” means the person, firm or company specified on the Order (and if absent on the Order, the person or company that paid the Initial Charges) and includes, where relevant, the Client’s permitted assigns, employees and agents.

“Client Data” means the data inputted by you, any of your end customers, or us on your behalf for the purpose of using the Services or facilitating your use of the Services.

“Client Equipment” means any equipment including any CPE and any software, other than our equipment, used by you in connection with the Service.

“Client Network” means the communications network owned or leased by you and which is not supplied by us and to which we deliver Calls, emails and other data, and may or may not be used by you to facilitate your operation of the Service as required by you.

“Client Personal Data” means only the proportion of Personal Data of which only you are the Data Controller and which we need to Process on your behalf, as a Data Processor in providing Services to you under the Contract.

“Confidential Information” means confidential information either of us (or each of our officers, employees, agents, subcontractors, advisers or Affiliates) gives the other after the date of the Contract, no matter how it is recorded, stored or disclosed and includes:

- a) the Contract;
- b) information about technical or commercial know-how, specifications, inventions, processes or initiatives; and
- c) any information a reasonable business person would see as confidential about
 - i. the business, affairs, Clients, suppliers, plans or strategy of either of us or our Affiliates; and
 - ii. the operations, processes, product information, know-how, designs, trade secrets or software of either of us or our Affiliates; and
 - iii. details of Services, and the results of any performance tests of the Services,

but it does not include:

- a) information that is available to the public, or becomes available, unless it is because one of us breaches the Contract;
- b) information that was already available on a non-confidential basis;
- c) information we both agree in writing is not confidential information; or
- d) information that was developed by or for the receiving party independently of the information disclosed by whoever disclosed it.

“Contract” means the agreement between you and us that is made up of these General Terms, the Schedules and the Orders.

“Contract Period” means the term of the Contract which, unless otherwise explicitly stated on the Order, will commence according to Clause 2.2, and continues to the end of the Initial Period, and, after that, shall continue during the Extension Period until the Contract is terminated in accordance with the termination clauses of this Contract.

“CPE” means ‘client premises and equipment’ and refers to equipment on your premises that is not supplied by us and that is used by you in conjunction with, or connected to directly or indirectly with, Services.

“Data Controller”, “Data Processor” and “Data Subject” each has the meaning given to it in the Data Protection Legislation.

“Data Protection Legislation” means GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the United Kingdom, as well as any successor legislation to GDPR and the Data Protection Act 1998.

“Early Termination Charge” is a Charge that is made by us when you terminate the contract, a Service or an Order as set out in Clause 19.

“Emergency Maintenance” means any work we must carry out immediately, and usually without prior warning, in order to maintain, or repair, our network or any Services.

“Extension Period” starts immediately at the end of the Initial Period and finishes when the Contract is terminated in accordance with the termination clauses of this Contract.

“Fixed Charges” mean the fixed charges payable by you to us according to the Contract, as further detailed in the Orders (subject to variation from time to time under clauses in this Contract) including, without limitation, connection fees, licenses, service and number rental fees.

“Force Majeure Event” means any event that neither of us can control and that stops or delays one of us from doing something, including:

- a) acts of God, like a flood, a storm, lightning, a drought, an earthquake, seismic activity or any other natural disaster;
- b) an epidemic or a pandemic, a terrorist attack, civil war, civil commotion or riots, war, the threat of war, preparation for war, an armed conflict, an imposition of sanctions, an embargo or a breaking-off of diplomatic relations;
- c) any law made or any action taken by a government or public authority, including not granting or revoking a licence or a consent;
- d) collapsing buildings, a fire, explosion or accident; or any labour or trade dispute, a strike, industrial action or lockouts.

“General Terms” means this document.

“Initial Charges” means the Initial Charges payable by you to us according to the Contract, as further detailed in the Orders, and include charges relating to the connection, installation and configuration of Services.

“Initial Period” means the period starting on the Actual Start Date and continuing for a term equal to the Initial Period Duration.

“Initial Period Duration” is an amount of time defined on the Order, and in the event it is not defined on the Order or the Order is not clear, for an amount of time equal to thirty-six months.

“Insolvency Event” means any of the following events that occurs where:

- a) you suspend, or threaten to suspend, payment of your debts, are unable to pay your debts as they fall due, admit inability to pay your debts or (being a company) are deemed unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986 or (being a natural person) are deemed either unable to pay your debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; or
- b) you commence negotiations with all, or any class of, your creditors with a view to rescheduling any of your debts, or make a proposal for, or enter into any compromise or arrangement with, your creditor other than for the sole purpose of a scheme for your solvent amalgamation with one or more other companies, or your solvent reconstruction; or
- c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with your winding up other than for the sole purpose of a scheme for your solvent amalgamation with one or more other companies, or the solvent reconstruction of that party; or
- d) an application is made to court, or an order is made, for the appointment of an administrator, a notice of intention to appoint an administrator is given, or an administrator is appointed over you; or
- e) a floating charge holder over your assets has become entitled to appoint, or has appointed, an administrative receiver; or a person becomes entitled to appoint a receiver over your assets, or a receiver is appointed over your assets; or
- f) your creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of your assets and such attachment or process is not discharged within fourteen days; or
- g) any event occurs, or proceeding is taken, with respect to you in any jurisdiction to which you are subject that has an effect equivalent or similar to any of the events mentioned in clauses of this definition; or you suspend or cease, or threaten to suspend or cease, to carry on all or a substantial part of your business;

“Intellectual Property Rights” means any patents, petty patents, utility models, copyright and related rights, rights to inventions, database right, design right, rights in computer software, rights to use and protect the confidentiality of confidential information and know-how, moral rights, trademarks and service marks, business names and domain names, goodwill and the right to sue for passing off or unfair competition, community design right, semiconductor topography right, registered design, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world. Any applications for registering any of these rights that can be registered in any part of the world are also included.

“Minimum Amount” is the minimum monthly amount of Variable Charges (if any) specified in the Order;

“Non-Urgent Support” means support for Services which we deem, in our sole but reasonable discretion, to be of a non-urgent nature;

“Normal Working Hours” means between 08.30 and 17.30 on any Business Day;

“Notice” means any notice to be given by one of us to the other under the Contract in accordance with Clause 21.

“Notice to Amend” has the meaning given to it in section 23.

“OfCom” means the Office of Communications as empowered by the Communications Act 2003, or any other competent successor body or authority.

“Order” means any order you give to us that is accepted by us for one or more Services and includes the Principal Order and Additional Orders.

“Other Charges” means the other charges payable by you to us according to the contract, as further detailed in the Order.

“Personal Data” has the meaning given to it in the Data Protection Legislation.

“Personal Data Breach” has the meaning given to it in the Data Protection Legislation.

“Planned Maintenance” means any work we have planned to do in advance, including to maintain, repair or improve the performance of our network or any Services.

“Principal Order” means any order you give to us that is accepted by us for one or more Services where the order is not linked to an existing Contract.

“Process” and “Processing” have the meanings given to them in the Data Protection Legislation.

“Provisional Start Date” means the date upon which the Client wishes the supply of the Services to commence as detailed on the Order;

“FT Price List” means the document containing a list of our charges and terms that can be accessed at: www.fusion-telecom.com/pricelist (or any other online address that we may advise you).

“FT Website” means the website located at URL www.fusion-telecom.co.uk or such other website or URL as we may notify you from time to time.

“Purchased Equipment” means any equipment, including any Software, that we sell or license to you.

“Reasonable Efforts” means the effort that a reasonable person in the position of the promisor would use so as to achieve that goal as expeditiously as possible.

“Revenue Share” means revenue share payments (if any) payable by us to you, typically associated with 08 non-geographic number services where the caller pays a premium, and revenue share is paid to us by our supplier, and in some cases a portion of this revenue share is passed to you.

“Schedule” means any schedule that describes a Service, and sets out the specific terms that apply to that Service, and includes the Schedules

Service Level Agreement and Acceptable Use Policy. Schedules applicable to Services ordered by you are marked on the Order for those Services.

“Service” or “Services” means any product, service or services that we provide under the Contract. If relevant, it includes a service for a particular Site, or a part or component of a Service and may also include Purchased Equipment.

“Service Credit” means any agreed remedy for failure by us to meet a Service Level in accordance with the SLA.

“Service Failure” means any failure, error or defect in the provision of the Services by us but excludes failures, errors or defects arising from, caused by or contributed by your acts or omissions or by third parties including other providers of telecommunications, computers, or other equipment or services including internet services, or any failure, error or defect arising as a result of causes beyond our reasonable control;

“Service Level” means the agreed minimum level of performance we will provide for a Service as set out in the SLA.

“Site” means any location, either identified in a Schedule or Order, or not, from or to which we provide a Service.

“SLA” means the Schedule ‘Service Level Agreement’.

“Software” means any software, other than any open source software, and instructions that we provide to you as part of a Service. It includes any embedded software.

“Sub-processor” means any person (excluding any of our employees or any employees of any of our sub-contractors) appointed by or on behalf of us to process Personal Data on our behalf.

“Termination Charges” means any charges payable by you to us on termination of the Contract, Service or Order, which may include, but are not limited to, Early Termination Charge and/or Charges for Services you need us to perform to assist the successful migration of Services to another supplier. Schedules may contain further details of Termination Charges specific to some Services.

“Transaction Taxes” mean value added tax (VAT), goods and services tax (GST), sales, consumption, use or other similar taxes, customs duties, excise taxes, and regulatory and other fees or surcharges relating to the provision of the Services.

“Undisputed Amount” means the charges made in an invoice that are not disputed by you and include amounts that you agree to and that may be lower than detailed in the invoice.

“User” means any person you allow to use a Service.

“Variable Charges” are any charges payable by you to us under the Contract, as further detailed in the Orders (subject to variation from under clauses in these General Terms);

“Withholding Tax” means any tax, deduction, levy or similar payment obligation that is required to be deducted or withheld from a payment under Applicable Law.

End of General Terms