

“Midland Telecom”, “Midland Telecom and IT” or “The Company” or “us” or “we” is Midland Telecommunications Management Limited, Company Registration number 03655811 registered in England at 14 Edward Street, Birmingham B1 2RX.

1. STRUCTURE OF THE AGREEMENT

The sections of this Agreement that will apply to the Customer will depend on what the Customer has ordered from Midland Telecom as follows:

- Pages 1- 17 The General Conditions for Business Customers will always apply;
- Pages 17 -20 The Mobile Equipment Terms will apply if the Customer has ordered Mobile Equipment directly from Midland Telecom
- Pages 21 – 26 The Mobile Terms will apply if the Customer has ordered any of the Mobile Services, together with such Service Schedules relating to the particular Mobile Service(s) the Customer has ordered; and

GENERAL CONDITIONS FOR BUSINESS CUSTOMERS

1 DEFINITIONS AND INTERPRETATION

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

TERM / EXPRESSION MEANING

“**Airtime Account**” means a notional account set up by Midland Telecom to accrue credits owing to the Customer from which Network capacity (e.g. calls) can be purchased from Midland Telecom by the Customer;

“**Affiliate**” means any undertaking which is a subsidiary undertaking or parent undertaking (including the ultimate parent undertaking) of the relevant party and any company which is a subsidiary undertaking of such parent undertaking (the terms subsidiary undertaking and parent undertaking company having the meanings set out in Section 1162 of the Companies Act 2006);

“**Agreement**” means this agreement between the Customer and Midland Telecom recorded in the documents described in clause 28 of these General Conditions;

“**Charges**” means the monies payable by the Customer to Midland Telecom under this Agreement;

“**Commencement Date**” means the date upon which this Agreement has been signed by the Customer;

“**Confidential Information**” means proprietary information and/or any information obtained from the other party in connection with this Agreement (including for the avoidance of doubt details of the Customer’s employees) which is: reasonably identified by either party as commercially sensitive or confidential; obviously confidential in nature; or given in circumstances giving rise to an obligation of confidence;

“**Customer**” has the meaning set out in the Mobile Services Order & Rental Agreement;

“**Customer Employee**” means any employee, consultant, agent or sub-contractor (or an employee or consultant thereof) engaged or employed by the Customer or any Third Party to provide a Service or services similar to a Service or any part of a Service;

“**Customer Service Charter**” means Midland Telecom’s standard customer service charter as amended by Midland Telecom from time to time and which is non-binding;

“**Employee Liability Information**” shall have the meaning ascribed to it in the TUPE Regulations, as amended from time to time;

“**End User Licensed Software**” means any software, the license terms of which are governed by a separate agreement with the licensor of such software, typically by means of a “click wrap” or “shrink wrap” license agreement;

“**General Conditions**” means this document entitled “General Conditions for Business Customers”;

“Internet” means the global data network comprising interconnected networks using the TCP/IP protocol suite;

“Line Rental Charge” means the monthly non-usage dependent part of the Charges for the Services, as specified in the Mobile Services Order & Rental Agreement;

“Minimum Holding” means the minimum number of instances of a Service (e.g. SIM cards, or landlines) which must remain connected to a particular Service as specified in the Mobile Services Order & Rental Agreement (if any);

“Minimum Holding Period” means the number of months from the Service Commencement Date within which the Customer is required to connect the Minimum Holding(s), as specified in the Mobile Services Order & Rental Agreement (if any);

“Minimum Period” means the minimum number of months or quarters a particular Service must be in operation for (as set out in the relevant Mobile Services Order & Rental Agreement (and if not specified in the Mobile Services Order & Rental Agreement the Minimum Period shall be 24 months) from the Service Commencement Date, during which, if the Service is terminated (whether individually or by termination of this Agreement) by the Customer, Termination Fees may be payable;

“Minimum Term” means the minimum period of this Agreement as specified in the Mobile Services Order & Rental Agreement and if not specified shall be the period from the Service Commencement Date until the expiry of the last Minimum Period;

“Mobile Equipment” means the equipment described in the document entitled “Mobile Equipment Terms”;

“Mobile Network Operator” means an authorised provider of mobile network services that supplies Midland Telecom with your mobile network service. Midland Telecom uses all of the authorised mobile network service providers in the UK and your service may be provided by any one or combination of these Mobile Network Operators hereafter described as “MNO”.

“Mobile Services Order & Rental Agreements” means the Mobile Services Order & Rental Agreement document forming part of this Agreement;

“Network” means the mobile network operator’s telecommunications network as supplied by any authorised MNO in the UK or abroad. Network and the network of any Third Party used by Midland Telecom to supply the Services, as applicable;

“Midland Telecom” has the meaning set out in the Mobile Services Order & Rental Agreement;

“Mobile network Employee” means any employee or other staff of a mobile network operator or a mobile network operator affiliate or any direct or indirect sub-contractor of a mobile network operator or a mobile network operator affiliate who provides the services on behalf of Midland Telecom;

“Midland Telecom Price List” means the notes, descriptions and definitions of, criteria for use of, and the list of prices and tariffs for out of bundle charges which are charged to customers for services which may be amended by Midland Telecom from time to time. The Midland Telecom Price List is available at <http://www.midlandtelecom.co.uk> ;

“Overage” means usage in excess of the contracted plan allowances;

“Replacement Services” means all or part of the services or services substantially similar to all or part of the services which are provided by an entity other than a services provider following the termination of this agreement (or the relevant part of this agreement) or the termination of any or all of the services;

“Service Transfer” means the provision of a Service (or any part of a Service) pursuant to this Agreement;

“Service Commencement Date” in respect of a Service means the date on which a particular service is first provided to the Customer;

“Service(s)” means the service(s) identified in the Mobile Services Order & Rental Agreement as such service(s) are described in the Terms and/or Service Schedules as applicable and any other services agreed by the parties from time to time;

“**Services Provider**” means Midland Telecom or a Midland Telecom affiliate or any direct or indirect supplier of Midland Telecom or a Midland Telecom Affiliate;

“**Service Schedule**” means the document entitled “Service Schedule” containing additional terms relating to a particular Service which schedule shall form part of this Agreement;

“**Software**” means any software, excluding end user licensed software, supplied to the customer by Midland Telecom under this Agreement;

“**Successor Supplier**” means any entity (including the Customer where relevant) which provides the Replacement Services;

“**Target Delivery Date**” in respect of a Service means the date for the commencement of the provision of the relevant service as specified by the MNO;

“**Termination Fee**” in respect of a Service, means the termination fee set out in the Mobile Services Order & Rental Agreement, or if not specified, the fee calculated by multiplying the remaining number of months of the Minimum Period by the applicable Line Rental Charge for each Service as at the date of termination less any expenses Midland Telecom will no longer incur.

“**Terms**” means a document entitled “Terms” containing additional terms relating to particular Services or equipment which shall form part of this Agreement;

“**Third Party**” means a person other than Midland Telecom or the Customer;

“**TUPE Regulations**” means the Transfer of Undertakings (Protection of Employment) Regulations 2006;

“**User**” means anyone who is permitted by the Customer to use the Service; and

“**Working Day**” means Monday to Friday (excluding UK bank and public holidays).

1.2 The headings in this Agreement are for ease of reference only and shall not affect its construction.

1.3 References in this Agreement to any statute or statutory instrument shall include any re-enactment, modifications or amendments thereto for the time being in force.

1.4 References to clauses, sub-clauses, paragraphs, Terms and Service Schedules refer, unless otherwise stated, to clauses and sub-clauses of, and schedules to, this Agreement, and paragraphs to the Service Schedules.

1.5 Unless the context otherwise requires, the singular shall include the plural and vice versa.

1.6 Any obligation (including an obligation to “procure” or “ensure”) assumed by an obligor under this Agreement takes effect as a primary obligation.

1.7 References in this Agreement to a Service shall include any instance of such Service as applicable (for example, reference to a landline Service shall include both all landline Services provided to the Customer and/or each individual landline, as the context requires).

2 COMMENCEMENT AND TERM

This Agreement shall commence on the Commencement Date and shall continue for the Minimum Term and thereafter until the last remaining Service is terminated in accordance with this Agreement.

3 SUPPLY OF SERVICES

3.1 In consideration of the Customer paying the Charges and fulfilling all of its commitments as set out in this Agreement, Midland Telecom shall supply the Services in accordance with the terms of the Agreement.

3.2 Midland Telecom shall commence supplying a Service on the relevant Service Commencement Date and shall supply those Services for the relevant Minimum Period and thereafter until terminated by either party in accordance with the provisions of this Agreement.

4 SERVICE STANDARDS

4.1 Midland Telecom will supply the Services with the reasonable skill and care of a competent telecommunications service provider.

4.2 Midland Telecom does not guarantee that the Services will be continuously available and/or fault-free. The Customer acknowledges that faults may occur from time to time.

4.3 Midland Telecom will use reasonable endeavours to provide the Services subject to technical and commercial feasibility.

4.4 Midland Telecom shall be entitled to change the way it provides a Service, provided that any change to the way it provides such Service does not have a materially detrimental effect on the Customer.

4.5 Midland Telecom shall use reasonable endeavours to provide the Services within any time periods and/or by any date indicated to the Customer, but all time periods and dates (including the Target Delivery Date) are estimates and except where explicitly stated Midland Telecom shall have no liability for any failure to meet any date or perform any of its obligations within the time period indicated.

5 THE CHARGES

5.1 The Customer shall pay the Charges for:

- (a) Each Service (whether or not the Service is used by the Customer);
- (b) Where applicable, the Mobile Equipment and/or fixed hardware; and
- (c) Any other products or services agreed between the parties from time to time, in accordance with this clause 5.

5.2 Most Charges are set out in the Mobile Services Order & Rental Agreement. Where a Charge is not set out in the Mobile Services Order & Rental Agreement, the Charge shall be:

- (a) As set out in the Midland Telecom Price List at the time the Mobile Equipment, fixed hardware, Service or other agreed product or service was supplied; or
- (b) As notified to the Customer by Midland Telecom.

5.3 All Charges shall be based upon call and billing data recorded by or on behalf of Midland Telecom where applicable.

5.4 The Charges are exclusive of value added tax which will be charged at the prevailing rate.

5.5 Unless otherwise stated in the Mobile Services Order & Rental Agreement or the Midland Telecom Price List, the following apply to UK domestic calls:

- (a) Call prices are quoted by the minute;
- (b) The duration of each call shall be measured in whole seconds, any part thereof will be rounded up to the next whole minute;
- (c) Each call shall be charged excluding VAT, based on the duration, the ex VAT cost of each call is then calculated and the result rounded up to the nearest penny. VAT is then added where applicable to the total of all charges on the Customer's invoice;
- (d) Peak rate call Charges for Mobile Voice Services apply from 07:00 to 19:00, Monday to Friday;
- (e) Peak rate call Charges for Fixed Services - Calls Service apply from 08:00 to 18:00, Monday to Friday;
- (f) Weekend rate call Charges apply from midnight on Friday to midnight on Sunday;
- (g) Off peak rate call Charges apply at all times when peak rate or weekend rate call Charges do not apply; and
- (h) All calls are subject to a minimum Charge.

5.6 Full details of international and roaming call Charges (including rounding policies) are available at www.midlandtelecom.co.uk

6 INVOICING AND PAYMENT

6.1 Unless otherwise agreed with the Customer, Midland Telecom may issue to the Customer on a monthly basis one

or more invoice(s) which shall set out the Charges due in accordance with this Agreement.

6.2 Unless otherwise stated in the Mobile Services Order & Rental Agreement, the Customer shall pay:

(a) In advance for subscription, rental and other recurring Charges (including inclusive usage Charges); and

(b) In arrears for usage (excluding inclusive usage Charges), connection and other nonrecurring Charges.

6.3 The Customer shall pay each invoice issued by Midland Telecom under this Agreement (including any invoice relating to Termination Fees) within 14 days of the date of invoice unless stipulated in a framework agreement or in a written agreement between Midland Telecom and the customer.

6.4 The Customer shall pay the Charges (including any Termination Fees) in full without any deduction or set off.

6.5 If MIDLAND TELECOM and the Customer agree in writing that Midland Telecom will issue individual invoices for certain Services for all or some of the Customer's Users, the Customer will ensure that each User pays Midland Telecom within 14 days of the invoice date either by direct debit or by BACS/cheque.

6.6 To avoid doubt, the Customer remains liable to Midland Telecom for all Charges whether or not invoiced to Users in accordance with clause 6.6. If Users do not pay their individual invoices within 14 days of the invoice date, the Customer must pay them within 7 days thereafter.

6.7 If the Customer, in breach of clause 6.6, does not ensure that all Users pay by direct debit or by BACS, Midland Telecom may charge the Customer for the additional cost of processing non-electronic payments from Users.

LATE PAYMENT

6.8 Midland Telecom reserves the right to charge an administrative fee of £25 in respect of chasing debts which exceed 60 days past their due date.

6.9 Without prejudice to any other rights of Midland Telecom in the event of the Customer failing to pay any sums due

to Midland Telecom on time or at all, notwithstanding notification by Midland Telecom of the overdue debt to the Customer, Midland Telecom shall be entitled to:

(a) Charge interest (both before and after any judgment) on amounts overdue from the Customer under this Agreement from the due date until the payment is actually made at the rate of 4% per annum over the base rate of HSBC Bank plc for the time being during the relevant period; and

(b) Suspend the provision of the relevant Service(s) until such time as all payments due including all interest accrued has been paid and satisfied in full.

Credit security

6.10 Midland Telecom reserves the right to set a credit limit on the Charges that can be accrued under this Agreement and Midland Telecom can review any such credit limit at any time.

7 NEW SERVICES

New services on the terms of the Midland Telecom Price List

7.1 The Customer may request new services on the terms set out in the Midland Telecom Price List by placing a new service order under this Agreement. Midland Telecom shall be entitled to accept or reject a new service order.

Once a new service order is accepted by Midland Telecom:

(a) The new Service shall be deemed added to the Agreement (including for the avoidance of doubt, the terms of the Midland Telecom Price List applicable to the Service as well the applicable Service Schedules where applicable);

and (b) Midland Telecom shall supply to the Customer the Services requested in that new service order on the terms and conditions of this Agreement and any alternative terms appearing on or referred to in any other communication, (whether oral, in writing or by electronic means) by the Customer for the purpose of placing orders shall be ineffective.

New services on bespoke terms

7.2 The Customer may request a new service at any time on terms other than those set out on the Midland Telecom Price List. In the event that Midland Telecom and the Customer agree the terms that would apply to such new services, those terms will be added to this Agreement by execution of a formal variation.

8 MOVES, ADDS AND CHANGES

8.1 Subject to any specific procedures otherwise set out in this Agreement, the Customer may request a change to the Services by submitting a request in writing, including, but not limited to the following types of changes:

- (a) Additional instances of a Service (e.g. additional landlines);
- (b) The termination of certain instances of a Service (e.g. disconnection of landlines);
- (c) A change from one Service specification to another Service specification; or
- (d) A change to the location or site where a Service is supplied.

The change request shall contain sufficient information to enable Midland Telecom to submit a response.

8.2 Midland Telecom shall supply to the Customer a written response confirming whether or not Midland Telecom would be prepared to accept the changes and may specify in such notice:

- (a) Any additional Charges that would result from the change (e.g. Termination Fees in the case of termination of an instance of a Service) and/or any changes to existing Charges;
- (b) Any Customer dependencies relating to the change; and
- (c) The timescales for the delivery of the change which shall, unless otherwise stated in Midland Telecom's written response run from the date on which the Customer notifies Midland Telecom that it wishes to proceed with the change.

8.3 The Customer shall notify Midland Telecom in writing within 14 days of the date that it receives Midland Telecom's response whether or not it would like to proceed with the change.

9 OTHER CUSTOMER OBLIGATIONS

9.1 The Customer shall and shall procure that Users (or anyone having access to the Services), shall:

- (a) Comply with any instructions from Midland Telecom relating to the use of the Services;
- (b) Not use the Services in a manner which is inconsistent with a reasonable customer's good faith use of the Services or the Network;
- (c) Not use the Services in a manner which, in Midland Telecom's opinion, will (or is likely to) adversely affect the provision of the Services to the Customer, Midland Telecom's other customers or users of the Network;
- (d) Not use the Services fraudulently or in connection with a criminal offence;
- (e) Not make nuisance calls;
- (f) Not use the Services to send, knowingly receive, store or communicate any material which is unlawful, offensive, abusive, indecent, defamatory, obscene or menacing, a nuisance or a hoax;
- (g) Not use the Services in a way that contravenes any license, code of practice, instructions or guidelines issued by a relevant regulatory authority;
- (h) Not use the Services in a way that is in contravention of a Third Party's rights (including but not limited to intellectual property rights);
- (i) Not use the Services to spam or to send unsolicited advertising or promotional material;
- (j) Not use the Services in any way which causes annoyance, inconvenience or needless anxiety as set out in the Communications Act 2003;

- (k) Not use the Services in a manner which may damage the reputation of Midland Telecom the reputation of the Services or otherwise bring Midland Telecom AND THE MNO into disrepute;
- (l) Hold and will continue to hold any licenses, consents and/or notifications required under any applicable legislation, regulation and/or administrative order to receive and use the Services and/or to connect to the Network;
- (m) Notify Midland Telecom of any methods of doing business which may affect the Customer's use of the Services or the Customer's ability to comply with the terms of this Agreement;
- (n) Comply with Midland Telecom's reasonable instructions relating to health, safety, security and use of the Network;
- (o) Comply with all applicable laws and regulatory provisions; and
- (p) Comply with any applicable fair use policy that Midland Telecom may issue from time to time.

9.2 Subject to clause 11 of these General Conditions, the Customer agrees that it is procuring the Services solely for its own use and that it will not re-sell or otherwise act as any form of distributor in respect of the Services.

9.3 The Customer shall provide Midland Telecom with any and all information and/or assistance that Midland Telecom may require in order to perform the Services. The Customer shall ensure the information is complete and accurate. Midland Telecom shall not be responsible for any failure and/or delay to provide the Services if such failure and/or delay is a result of the Customer's failure to provide Midland Telecom with the required information and/or assistance. The Customer shall reimburse Midland Telecom for any administrative charges that it incurs as a result of information that it receives in accordance with this clause 9.3 that is incomplete or inaccurate.

9.4 The Customer shall notify Midland Telecom immediately (and confirm in writing) on becoming aware that any person is making improper or illegal use of the Services.

9.5 The Customer agrees and acknowledges that Midland Telecom and/or a supplier of Midland Telecom and the MNO may monitor and record:

- (a) Calls to 999 and 112 services; and
- (b) Calls or other communications relating to Midland Telecom and the MNO's customer services and telemarketing.

9.6 The Customer acknowledges that some of the Services enable access to the Internet and that use of the Internet is solely at the Customer's risk and subject to all applicable laws. Midland Telecom and the MNO has no responsibility for any information, software, services, goods or other materials obtained by the Customer using the Internet.

9.7 The Customer warrants to Midland Telecom and the MNO that it will take all reasonable steps (including testing with the latest commercially available virus detection software) to ensure that any software used with or in connection with the Services that is not provided by Midland Telecom and the MNO under this Agreement is not infected by viruses and/or logic bombs, worms, Trojan horses and any other types of disruptive, destructive or nuisance programs.

10 NUMBERS AND CODES

10.1 MIDLAND TELECOM AND THE MNO may allocate the Customer numbers, IP addresses and other codes in accordance with the Terms and Service Schedules.

10.2 Nothing in this Agreement shall be construed as to transfer from MIDLAND TELECOM AND THE MNO to the Customer ownership of any numbers, IP addresses or other codes or to grant the Customer the right to sell or dispose of a number, IP address or other code. All the Customer's rights to use such IP addresses or other codes will cease upon termination of this Agreement or the relevant Service.

10.3 The Customer acknowledges that MIDLAND TELECOM AND THE MNO may change the numbers, IP addresses or other codes it has allocated to the Customer. MIDLAND TELECOM AND THE MNO shall (where reasonably practicable) provide the Customer with reasonable notice of such a change.

10.4 The Customer will comply with any and all instructions for use of any number, IP address or other code issued by the Third Party provider of that number, IP address or other code. MIDLAND

TELECOM shall (where reasonably practicable) provide the Customer with reasonable notice of such instructions.

11 CUSTOMER AFFILIATES

11.1 MIDLAND TELECOM acknowledges that the Customer may permit a Customer Affiliate to use the Services supplied by MIDLAND TELECOM to the Customer under this Agreement. The Customer will procure that its Affiliates are aware of and comply with the terms of this Agreement. The Customer shall be liable to MIDLAND TELECOM for any and all:

- (a) claims, losses and expenses suffered or incurred by MIDLAND TELECOM as a result of a breach of a term of this Agreement resulting from a Customer Affiliate's use of the Services; and
- (b) losses, costs and expenses resulting from any claims against MIDLAND TELECOM made by any of the Customer's Affiliates (or any other Third Party whom the Customer has permitted to use a Service or related equipment) to the extent that such claims exceed the financial caps and other limitations on liability as set out in this Agreement. The foregoing liabilities shall remain in full force and effect notwithstanding any termination of this Agreement.

12 VARIATIONS TO THE AGREEMENT

12.1 MIDLAND TELECOM reserves the right from time to time to vary the Agreement as follows:

- (a) MIDLAND TELECOM shall be entitled to vary the Customer Service Charter and/or the MIDLAND TELECOM Price List (including the prices and tariffs set out in the MIDLAND TELECOM Price List). Such variations shall be published at <http://www.midlandtelecom.co.uk> and/or on your preceding invoices at least 28 days before such changes come into effect or, where the variation arises due to changes imposed by Third Party manufacturers, Third Party suppliers or a regulatory body, as much notice as is reasonably practicable; and
- (b) MIDLAND TELECOM shall be entitled to vary the provisions of this Agreement (including for the avoidance of doubt, the Mobile Services Order & Rental Agreement). MIDLAND TELECOM will provide to the Customer 28 days' notice in writing of any such variation or, where the variation arises due to changes imposed by Third Party manufacturers, Third Party suppliers or a regulatory body, as much notice as is reasonably practicable. (For the avoidance of doubt this will be published on your invoices before the increase)
- c) Midland Telecom shall increase the cost of all rentals due under this agreement or added to it during its minimum term and thereafter, by the prevailing retail price index plus 3.9% (deemed to be that at the end of March each year) for the remaining term of the contract and beyond. It is expected there will be two such increases during the term of the contract and other increases may follow if the agreement is not terminated. There will be no increase in the same year of connection of the services within this contract.

13 SUSPENSION

Maintenance and emergencies

13.1 MIDLAND TELECOM may, from time to time and without notice, suspend the Services in any of the following circumstances:

- (a) during any technical failure, modification or maintenance of the telecommunications systems by which the Services are provided; or
- (b) because of an emergency or upon instruction by emergency services or any government or appropriate authority or for the Customer's or Users' own security.

13.2 MIDLAND TELECOM shall use reasonable endeavours to restore the Services suspended in accordance with clause

13.1 of these General Conditions as soon as reasonably practicable.

13.3 The Customer shall remain liable for all Charges levied in accordance with this Agreement during any period of suspension arising from the circumstances described in clause 13.1 of these General Conditions.

Actions of the Customer

13.4 MIDLAND TELECOM may, without prejudice to its other rights hereunder, suspend or disconnect the Services without notice in any of the following circumstances:

- (a) if the Customer fails to comply with the terms of this Agreement after being given written notice of its failure (including but not limited to failure to pay any Charges due hereunder); or
- (b) if the Customer allows anything to be done which in MIDLAND TELECOM 's reasonable opinion may have the effect of jeopardising the operation of the Network or the Services, or if the Services are being used in a manner prejudicial to the interests of MIDLAND TELECOM and/or a supplier of MIDLAND TELECOM .

13.5 If MIDLAND TELECOM has suspended the Services in accordance with clause 13.4 of these General Conditions, MIDLAND TELECOM shall restore the Services when the circumstance described in clause 13.4 of these General Conditions is remedied.

13.6 The Customer shall remain liable for:

- (a) all Charges levied in accordance with this Agreement during any period of suspension; and
- (b) all reasonable costs and expenses incurred by MIDLAND TELECOM in the implementation of such suspension or disconnection, where such suspension or disconnection arises from the circumstances described in clause 13.4 of these General Conditions.

14 TERMINATION

Termination for convenience

14.1 The Customer may terminate this Agreement (in whole or in relation to a particular Service) by:

- (a) providing to MIDLAND TELECOM 30 days' notice in writing; and
- (b) paying MIDLAND TELECOM the applicable Termination Fees in respect of the Service or Services being terminated. For the avoidance of doubt, Termination Fees may be payable in accordance with the Mobile Services Order & Rental Agreement if the Customer terminates an order for Services prior to the Service Commencement Date or during the applicable Minimum Period.
- (c) Termination charges are computed as remaining unbilled contracted rentals plus a charge of normal expected overage based upon the last three month's average overage less 10% discount computed for the remaining unbilled term. Porting administration charges may also apply depending on the nature of the early termination in accordance with 14.9.

14.2 MIDLAND TELECOM may terminate this Agreement (in whole or in relation to a particular Service) by providing to the Customer 30 days' notice and, in this event, the Customer shall not be liable for any Termination Fees.

Termination resulting from changes to the Agreement

14.3 Subject to clause 14.4 of these General Conditions, the Customer shall be entitled to terminate a Service by providing 30 days' notice in writing if:

- (a) MIDLAND TELECOM increases the prices and/or tariffs set out in the MIDLAND TELECOM Price List and/or the Schedule in respect of that Service pursuant to clause 12 of these General Conditions and that increase is to the material disadvantage of the Customer (for the avoidance of doubt an increase in prices and/or tariffs of 10% or less in any 12 month period shall not constitute a material disadvantage of the Customer); or
- (b) Midland Telecom substantially varies the terms of this Agreement that relate to that Service pursuant to clause 12 of these General Conditions (including the Mobile Services Order & Rental Agreement) and that variation is to the Customer's material disadvantage, provided that such notice is provided to MIDLAND TELECOM within 30 days of the date that the change comes into effect.

14.4 The right to terminate a Service in clause 14.3 above shall not apply where the increases in prices or tariffs or the variation of the terms of the Agreement arises as a consequence of a change

in prices, tariffs, terms or otherwise made by Third Party manufacturers, Third Party suppliers or a regulatory body.

14.5 Termination of a Service in accordance with clause 14.3 of these General Conditions will not affect the Customer's requirement to pay the Charges relating to that Service incurred prior to the date of termination, but, in this event, the Customer shall not be liable for any Termination Fees.

Termination for cause

14.6 The Customer may terminate this Agreement by providing to Midland Telecom 30 days' notice in writing in the event that Midland Telecom:

- (a) Has committed a material breach of this Agreement that is incapable of remedy; or
- (b) Has committed a material breach of this Agreement that is capable of remedy and Midland Telecom has failed to remedy that breach within 30 days of the Customer supplying written notice specifying the breach and requiring its remedy.

14.7 Midland Telecom may terminate this Agreement (in whole or in relation to a particular Service) by providing 30 days' notice in writing:

- (a) In the event that the Customer has committed a material breach of this Agreement that is incapable of remedy;
- (b) In the event that the Customer has committed a material breach of this Agreement that is capable of remedy and the Customer has failed to remedy that breach within 30 days of Midland Telecom supplying written notice specifying the breach and requiring its remedy; or
- (c) If any of the events described in clause 13.4(b) of these General Conditions occurs.

Insolvency

14.8 A party to this Agreement may terminate this Agreement by providing 30 days' notice in writing in the event that bankruptcy or insolvency proceedings are brought against the other party, or if an arrangement with creditors is made, or a receiver or administrator is appointed over any of the other party's assets, or the other party goes into liquidation.

Consequences of termination

14.9 If this Agreement is terminated and the Customer wishes to transfer to another service provider, Midland Telecom will provide reasonable assistance to the Customer in respect of the transfer of the Customer's service in accordance with standard telecommunications industry practice. In this case the customer will be charged an administration charge in relation to facilitating the porting which is capped at £35 per connection.

14.10 Termination or expiry of this Agreement for whatever reason shall not affect:

- (a) The rights and obligations of the parties which have accrued prior to such termination or expiry; or
- (b) Any provisions of this Agreement which are of a continuing nature and any other provisions of this Agreement necessary for their interpretation or enforcement.

14.11 On termination or expiry of this Agreement:

- (a) Any sums properly due from one party to the other will become payable within 30 days of termination (including Termination Fees);
- (b) The Customer shall cease using the Services; and
- (c) Each party will, on request, promptly return to the other all Confidential Information and other property belonging to the other which is in its custody or control or will destroy such Confidential Information and certify such destruction to the other party.

15 INTELLECTUAL PROPERTY

15.1 Title to, and all intellectual property rights in the Software, associated documents and all parts thereof will be and remain vested in and be the absolute property of the owner of the copyright in the Software or associated documents as appropriate, which owner shall be entitled to enforce any

of the terms of this Agreement relating to the Customer's use of that Software, associated documents and all parts thereof, directly against the Customer.

15.2 All information or materials exchanged between Midland Telecom and the Customer in connection with the Agreement, together with the copyright therein, will remain the property of Midland Telecom Midland Telecom's suppliers or the Customer as applicable and will be returned to the owning party on termination of the Agreement, if requested by such party.

15.3 Midland Telecom grants to the Customer a non-exclusive, non-transferable license to use, in object code form, any Software provided by Midland Telecom or its suppliers solely in the United Kingdom in connection with the proper use of the Services. The Customer undertakes not to copy, alter, adapt, translate, software develop, decompile, license, sub-license, reverse engineer or resell any Software (or any part of the Software), unless expressly permitted to do so by MIDLAND TELECOM or by relevant law. This license will terminate on the termination of this Agreement (or any relevant part of this Agreement).

15.4 Midland Telecom grants to the Customer a non-exclusive, non-transferable royalty free licence for the term of this Agreement to use copy and reproduce any information or materials provided by Midland Telecom to the Customer under this Agreement to the extent necessary for the Customer to receive the benefit of the Services. The Customer must not alter, adapt, translate, develop, decompile, licence, sub-licence, reverse engineer or resell any such information or materials (or any part thereof), unless expressly permitted to do so by Midland Telecom or relevant law.

15.5 In the event that the Customer is subject to a claim by a Third Party in respect of any alleged infringement of any trademark, patent, registered design or copyright arising from its normal use or possession of the Mobile Equipment, fixed hardware, Software, information or materials provided by Midland Telecom then Midland Telecom will indemnify the Customer in relation to such claim provided that the Customer promptly notifies Midland Telecom of such claim, makes no admission in respect of such claim, the Customer seeks to mitigate the loss where it can do so without unreasonable inconvenience or cost, allows Midland Telecom or its licensor to conduct all negotiations and proceedings (providing MIDLAND TELECOM or its licensor with all reasonable assistance) and allows Midland Telecom at Midland Telecom's own discretion and expense to modify or replace the Mobile Equipment, fixed hardware, Software, information or materials so as to avoid any continuing infringement. This indemnity does not apply to any such infringements caused by the Customer's own breach of the terms of this Agreement or the operation or use of the Mobile Equipment, fixed hardware, Software, information or materials in conjunction with other equipment and software or Services not supplied by Midland Telecom pursuant to this Agreement in which event the Customer shall indemnify Midland Telecom in respect of any claims, proceedings and expenses arising from any such infringement by the Customer.

15.6 The Customer will not be entitled to and agrees not to:

- (a) Use in the course of trade or otherwise in relation to any goods or services of the Customer any registered or unregistered trademark, logotype or abbreviation of the name of Midland Telecom (or any of its suppliers) or any part thereof so that any person might reasonably import a connection between those goods or services and Midland Telecom (or any of its suppliers) or any part thereof;
- (b) Register or attempt to register as a trademark anything referred to in clause 15.6(a) of these General Conditions; and/or
- (c) Authorize any Third Party to do anything referred to in clause 15.6(a) of these General Conditions.

The Customer further agrees not to infringe any copyright or registered or unregistered trademark rights belonging to any Third Party in respect of any fixed hardware or Mobile Equipment.

End User Licenced Software

15.7 The Customer recognises that the Services may be dependent upon End-User Licenced Software and if the Customer does not accept the licence terms relating to any End-User Licenced Software, Midland Telecom shall have no liability whatsoever for any failure to provide the Services to the Customer where the Services depend on the use of End-User Licenced Software.

15.8 Where the Customer accepts the terms of a license in respect of any End-User Licenced Software, then those licence terms shall take precedence over any terms within this Agreement relating to End-User Licenced Software and shall exclusively comprise the Customer's sole rights and remedies in respect of such End-User Licenced Software.

15.9 The Customer shall accept and comply with all licence terms required from time to time by any Third Party provider of any Software or materials as agreed between the relevant Third Party and Midland Telecom.

16 CONFIDENTIALITY

16.1 Neither party will divulge Confidential Information to any Third Party except such of its contractors, suppliers and agents as may need to know the same for the purposes of the implementation and/or performance of this Agreement and in each case who agree to be bound by the provisions of this clause 16.1.

16.2 The obligation of confidence set out in clause 16.1 of these General Conditions shall not apply to any material or information which is:

- (a) In the public domain (other than as a result of a breach of this Agreement);
- (b) Already known to the receiving party prior to the Commencement Date;
- (c) Lawfully received from a Third Party; or
- (d) Required to be disclosed pursuant to the order of a court or other tribunal or regulatory authority of competent jurisdiction.

16.3 The obligation of confidence set out in this clause 16 shall apply in the period commencing on the Commencement Date and ending three years after the termination or expiry of this Agreement.

17 LIMITATION OF LIABILITY

17.1 Subject to clauses 17.3 and 17.4 of these General Conditions, neither party shall be liable to the other in respect of any matter arising out of or in connection with this Agreement in contract or tort (including negligence) or otherwise for any loss (whether direct or indirect) of profit, business, revenue, anticipated savings, goodwill, business interruption, from wasted expenditure or any loss or corruption of data, or for any indirect or consequential loss or damage whatsoever.

17.2 Subject to clauses 17.1, 17.3 and 17.4 of these General Conditions, MIDLAND TELECOM 's aggregate liability of any sort resulting from breach of contract or negligence, under any indemnity or otherwise arising in connection with this Agreement (whether to the Customer, any Customer Affiliate, Users or otherwise) shall be limited in respect of all claims arising in a Year to the greater of:

- (a) the sum of £5,000; or
- (b) an amount equal to 25% of the Annual Agreement Value, where the "Annual Agreement Value" means the total Charges paid or payable by the Customer in the year prior to the year in which any claim arises (or where a claim arises during the first year of this Agreement, the Charges paid or payable up to the date on which the Customer's right to take action in respect of the claim arose); and "Year" means the first, and each subsequent, consecutive period of 12 months of this Agreement commencing on the Commencement Date.

17.3 Nothing in this Agreement shall exclude or restrict the liability of either party for:

- (a) Death or personal injury resulting from that party's negligence;
- (b) Claims in respect of the Customer's liability under clause 11 of these General Conditions;
- (c) Any and all damage to any equipment belonging to Midland Telecom (including SIM cards) or the Network caused by the Customer's breach of this Agreement;
- (d) For breach of any implied term as to title or quiet enjoyment arising out of section 12 of the Sale of Goods Act 1979; or
- (e) Fraud or fraudulent misrepresentation.

17.4 Nothing in this Agreement shall exclude or restrict the liability of either party in respect of any liability which cannot be excluded or restricted by law.

17.5 Nothing in this clause 17 shall apply to the payment of the Charges.

17.6 Subject to clauses 17.3 and 17.4 of these General Conditions, the express terms of this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law.

Liability for third parties

17.7 MIDLAND TELECOM shall not be liable for the acts or omissions of other providers of telecommunication services unless such other providers have been specifically engaged by Midland Telecom as subcontractors or assignees in respect of the performance of Midland Telecom's obligations under this Agreement.

18 ASSIGNMENT

18.1 The Customer shall not assign or transfer this Agreement to any Third Party, provided that the Customer may assign or transfer this agreement to a Customer Affiliate with the prior written consent of MIDLAND TELECOM (such consent not to be unreasonably withheld or delayed).

18.2 Midland Telecom may assign or transfer this Agreement to any Affiliate and may subcontract the performance of all or part of the same, provided that Midland Telecom shall remain liable for the acts and omissions of its subcontractors.

19 ENTIRE AGREEMENT

19.1 This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, representations, proposals, understandings and agreements whether written or oral relating to the subject matter of this Agreement.

19.2 Each of the parties acknowledges and agrees that in entering into this Agreement, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement. Nothing in this clause 19.2 shall, however, operate to limit or exclude any liability for fraudulent misrepresentation.

20 INVALIDITY

If any of the provisions of this Agreement become invalid, illegal or unenforceable, the validity or enforceability of the remaining provisions shall not in any way be affected or impaired. In such circumstances, the parties shall negotiate in good faith in order to agree the terms of a mutual satisfactory provision, achieving as nearly as possible the same commercial effect, to be substituted for the provision which is found to be invalid, illegal or unenforceable.

21 WAIVER

The failure or delay by either party to this Agreement to exercise or enforce any right, power or remedy under this Agreement shall not be deemed to operate as a waiver of any such right, power or remedy; nor shall any single or partial exercise by any party operate so as to bar the exercise or enforcement thereof or of any right, power or remedy on any later occasion.

22 DATA PROTECTION & GDPR

22.1 Midland Telecom operates in accordance with the Data Protection Act 2018 and the General Data Protection Regulations (GDPR) as updated or amended from time to time. The Customer agrees that its details, or those of its Users may be used and disclosed by Midland Telecom for the purposes of this Agreement and for marketing purposes including informing the Customer and its Users from time to time about other services or associated technologies. If the Customer or a User does not want its details, or, in the case of the Customer those details of its Users to be used for direct marketing purposes in this way then the Customer should contact the Midland Telecom Data Controller at Midland Telecom 14 Edward Street, Birmingham B1 2RX.

22.2 The Customer will ensure that its Users have consented to the use of their details in accordance with clause 22.1 of these General Conditions.

22.3 Without prejudice to clause 22.1 of these General Conditions, in so far as Midland Telecom processes any personal data on behalf of the Customer, Midland Telecom shall not transfer personal data outside the European Economic Area without complying with the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 2018 by providing an adequate level of protection to any personal data that is transferred.

22.4 As set out in Midland Telecom's privacy policy at www.midlandtelecom.co.uk/privacy-policy all personal data is held in accordance GDPR principles.

23 MATTERS BEYOND THE PARTIES' REASONABLE CONTROL

Neither party shall be deemed in default or liable to the other party for any matter whatsoever for any delays in performance or from failure to perform or comply with the terms of this Agreement due to any cause beyond that party's reasonable control including, without limitation, acts of God, acts of Government or other competent regulatory authority, telecommunications network operators, war or national emergency, riots, civil commotion, fire, explosion, flood, lightning, extremely severe weather, epidemic, lock-outs, strikes and other industrial disputes (in each case, whether or not relating to that party's workforce).

24 EXPORT CONTROL

24.1 The Mobile Equipment, fixed hardware and/or End-User Licensed Software (as applicable) may be subject to export control law and regulations in the event the Customer wishes to export it outside the United Kingdom. Midland Telecom does not represent that any necessary approvals and licenses have been obtained or will be granted.

24.2 The Customer agrees to comply with any applicable export or re-export laws, regulations, prohibitions or embargoes of any country, including obtaining written authority from any relevant licensing authority where necessary.

24.3 In the event that the Customer procures Mobile Equipment, including Smart Phone devices or similar computer technology from Midland Telecom the Customer agrees that in entering into this Agreement the Customer accepts the terms of the following end-user undertaking: The Customer certifies that it or will be the end-user of the Mobile Equipment and further certifies that it shall use the Mobile Equipment only for the purposes of allowing its employees to send, receive, store and process data and voice Mobile Services in order to perform their everyday contractual duties; that the Mobile Equipment will not be used for any purpose connected with chemical, biological or nuclear weapons, or missiles capable of delivering such weapons; that the Mobile Equipment will not be re-exported or otherwise re-sold or transferred if it is known or suspected that they are intended or likely to be used for such purposes; and that the Mobile Equipment, or any replica of them, will not be used in any nuclear explosive activity or un-safeguarded nuclear fuel cycle activity; and agrees to sign a formal "End-User Undertaking" in a format specified by the United Kingdom Department of Trade and Industry if requested to do so by Midland Telecom.

25 RELATIONSHIP OF THE PARTIES

Nothing in this Agreement shall create, or be deemed to create, a partnership or joint venture between the parties and nothing in this Agreement shall be construed to appoint one party as the distributor, dealer or agent of the other.

26 NOTICES

Any notice or other communication required or permitted under this Agreement to be given in writing shall be given in writing to the address of the recipient stipulated in this Agreement or as notified from time to time and will be deemed to have been given or made: when delivered personally; or, if properly addressed and posted by first class mail in the United Kingdom within two Working Days of posting; or, if sent by facsimile upon being sent; or, if sent by e-mail or other electronic means upon such communication being acknowledged as having been received.

27 NO THIRD PARTY RIGHTS

Except as otherwise explicitly set out in this Agreement, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. For the avoidance of doubt, Customer Affiliates shall have no rights to enforce any term of this Agreement.

28 PRIORITY OF DOCUMENTS FORMING THIS AGREEMENT

28.1 This Agreement is recorded in the following documents:

- (a) The Mobile Services Order & Rental Agreement;
- (b) These General Conditions;
- (c) The applicable Terms;
- (d) The applicable Service Schedule(s);
- (e) The MIDLAND TELECOM Price List; and
- (f) Any other documentation explicitly referred to in this Agreement.

28.2 In the event of any conflict between provisions of the documents making up this Agreement, the order of precedence shall be as set out in clause 28.1 of these General Conditions (in order of decreasing precedence) unless explicitly stated otherwise.

29 TUPE

29.1 The parties intend that no Customer Employee's employment shall transfer from the Customer or any Third Party to a Services Provider pursuant to the TUPE Regulations as a result of a Service Transfer, however and whenever such Service Transfer takes effect.

29.2 If, notwithstanding the intention of the parties stated in clause 29.1 of these General Conditions, as a result of a Service Transfer, any Customer Employee claims or it is determined that his contract of employment has been transferred from the Customer or any Third Party to a Services Provider pursuant to the TUPE Regulations or otherwise or any Customer Employee claims or it is determined that any liability regarding his employment has so transferred then:

- (a) The Services Provider may terminate any such contract forthwith; and
- (b) The Customer shall indemnify and hold harmless the Services Provider against any costs, claims, liabilities and expenses of any nature (including legal costs on an indemnity basis) arising out of such termination and against sums payable to or on behalf of such employee in respect of his employment whether arising before or after the transfer of his employment (or alleged transfer of employment) to the Services Provider (including for the avoidance of doubt any liability arising from a failure to comply with any information or consultation requirements under the TUPE Regulations).

29.3 Midland Telecom warrants that no Services Provider shall bring any claim under the TUPE Regulations arising out of or in connection with any actual or alleged failure of the Customer or any Third Party to provide Employee Liability Information in accordance with the TUPE Regulations.

29.4 Midland Telecom will indemnify and keep indemnified the Customer against any costs, claims, liabilities and expenses of any nature (including legal costs on an indemnity basis) which the Customer or its incumbent supplier may suffer or incur arising out of any breach of clause 29.3 of these General Conditions.

29.5 The parties intend that no Midland Telecom Employee's employment shall transfer from a Services Provider to the Successor Supplier pursuant to the TUPE Regulations as a result of the

commencement of the provision of the Replacement Services by a Successor Supplier, however and whenever such commencement takes effect.

29.6 If, notwithstanding the intention of the parties stated in clause 29.5 of these General Conditions, as a result of the commencement of the provision of the Replacement Services by the Successor Supplier, any Midland Telecom Employee claims or it is determined that his contract of employment has been transferred from a Services Provider to the Successor Supplier pursuant to the TUPE Regulations or otherwise or any Midland Telecom Employee claims or it is determined that any liability regarding his employment has so transferred then:

- (a) The Successor Supplier may terminate any such contract forthwith; and
- (b) Midland Telecom shall indemnify and hold harmless the Customer against any costs, claims, liabilities and expenses of any nature (including legal costs on an indemnity basis) incurred or suffered by the Successor Supplier arising out of such termination and against sums payable to or on behalf of such employee in respect of his employment whether arising before or after the transfer of his employment (or alleged transfer of employment) to the Successor Supplier (including for the avoidance of doubt any liability arising from a failure to comply with any information or consultation requirements under the TUPE Regulations).

29.7 The Customer warrants that no Successor Supplier shall bring any claim under the TUPE Regulations arising out of or in connection with any actual or alleged failure of the Services Provider to provide Employee Liability Information in accordance with the TUPE Regulations.

29.8 The Customer will indemnify and keep indemnified Midland Telecom against any costs, claims, liabilities and expenses of any nature (including legal costs on an indemnity basis) which the Services Provider may suffer or incur arising out of any breach of clause 29.7 of these General Conditions.

29.9 The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to this clause 29 to the extent necessary to ensure that:

- (a) Any Services Provider shall have the right to enforce the obligations owed to, and indemnities given to, Midland Telecom by the Customer under this clause 29; and
- (b) Any Successor Supplier shall have the right to enforce the obligations owed to, and indemnities given to, the Customer by Midland Telecom under this clause 29, in its own right pursuant to section 1(1) of the Contracts (Rights of Third Parties) Act 1999.

30 CREDIT CHECKS AND FRAUD PREVENTION

30.1 When the Customer applies for Services, Midland Telecom may check the following records about the Customer and the Customer's business partners:

- (a) Midland Telecom's own records;
- (b) Business records at credit reference agencies ("CRAs") including both public (including the electoral register) and fraud prevention information. When CRAs receive a search from Midland Telecom they will place a search footprint on the Customer's business credit file that may be seen by other lenders;
- (c) Records held by fraud prevention agencies ("FPAs"); and
- (d) If the Customer contact is a director, Midland Telecom may seek confirmation, from CRAs that the residential address that is provided is the same as that shown on the restricted register of directors' usual addresses at Companies House.

30.2 Midland Telecom may also make checks such as assessing the Customer's application for Services and verifying identities to prevent and detect crime and money laundering. Midland Telecom may also make periodic searches at CRAs and FPAs to manage the Customer's Midland Telecom account.

30.3 Midland Telecom will send information on the Customer's applications, Midland Telecom account and how the Customer manages its account to CRAs which may record such information, including information on the Customer's business and its proprietors. The CRAs may create a record of the name and address of the Customer and its proprietors if there is not one already.

30.4 If the Customer does not pay the Charges when they become due and payable, CRAs will record the outstanding debt which shall remain on file for six years after they are closed (whether by settlement or default). Such records may be supplied to other organizations by CRAs and FPAs to perform similar checks and to trace the Customer's whereabouts and recover debts owed by the Customer.

30.5 If the Customer gives Midland Telecom false or inaccurate information and Midland Telecom suspect or identify fraud Midland Telecom will record this and may also pass this information to FPAs and other organizations involved in crime and fraud prevention.

30.6 Midland Telecom and other organizations may access and use from other countries the information recorded by fraud prevention agencies.

30.7 Customer data may also be used for other purposes for which the Customer or any User gives its specific permission or, in very limited circumstances, when required by law or where permitted under the terms of the Data Protection Act 2018 or GDPR. To read the full details of how data may be used please visit our website at www.midlandtelecom.co.uk/privacy-policy

30.8 The Customer can contact the CRAs currently operating in the UK, including Transunion (One Park Lane, Leeds, West Yorkshire, LS3 1EP; 0330 024 7574; www.transunion.co.uk); Equifax PLC, (Customer Service Centre, PO Box 10036, Leicester, LE3 4FS; 0333 321 4043 ; www.equifax.co.uk); and Experian (Consumer Help Service, PO Box 8000, Nottingham NG80 7WF; 0800 013 8888; www.experian.co.uk). The information they hold may not be the same. They will charge a small statutory fee for access to their Records. Details of the relevant fraud prevention agencies are available from Midland Telecom on request.

31 GOVERNING LAW

This Agreement, and any issues or disputes of whatever nature arising out of or in any way relating to it or its formation (whether such disputes are contractual or non-contractual in nature, such as claims in tort, for breach of statute or regulation, or otherwise) shall be governed by and construed in accordance with the laws of England and Wales. The Parties submit to the exclusive jurisdiction of the courts of England and Wales.

MOBILE EQUIPMENT TERMS

The following additional terms and conditions apply to the provision by Midland Telecom of Mobile Equipment.

1. DEFINITIONS

In these Mobile Equipment Terms, in addition to those terms set out in the General Conditions, the following terms and expressions apply:

TERM / EXPRESSION MEANING

“Mobile Equipment” means any wireless devices, handsets and related items (including, but not limited to BlackBerry devices and USB modems) or other equipment provided by Midland Telecom to the Customer under this Agreement for use in connection with the Mobile Services;

“Mobile Equipment Account” means a notional account set up by Midland Telecom to accrue credits owing to the Customer from which Mobile Equipment can be purchased from Midland Telecom by the Customer; and

“Mobile Equipment Terms” means this document entitled “Mobile Equipment Terms”.

2. SALE AND PURCHASE OF MOBILE EQUIPMENT

The following additional terms and conditions shall apply to the sale by Midland Telecom and purchase by the Customer of Mobile Equipment specified in the Mobile Services Order & Rental Agreement as well as any Mobile Equipment ordered pursuant to an order placed pursuant to this Agreement.

3. ORDERS

3.1 The Customer shall be entitled to place with Midland Telecom an order for any Mobile Equipment identified by Midland Telecom from time to time.

3.2 Midland Telecom’s acceptance of an order is subject to availability and Midland Telecom may reject any order without any

liability to the Customer. In the event that Midland Telecom an order, that order will be processed accordingly. Any order, once accepted by Midland Telecom may not be revoked by the Customer.

3.3 Midland Telecom reserves the right to add to, substitute, or to discontinue any item of Mobile Equipment at any

time. Midland Telecom does not guarantee the continuing availability of any particular item of Mobile Equipment.

4. DELIVERY, ACCEPTANCE AND RISK

4.1 MIDLAND TELECOM will deliver the Mobile Equipment to the address specified on the completed order provided that

address is within the United Kingdom.

4.2 The Customer shall be deemed to have accepted an item of Mobile Equipment:

(a) when that item of Mobile Equipment has been delivered, if Midland Telecom is to deliver the item of Mobile Equipment; or

(b) if the item of Mobile Equipment is to be collected by the Customer, when the Customer takes possession of that item of Mobile Equipment.

4.3 Risk in an item of Mobile Equipment will pass to the Customer when the item of Mobile Equipment is accepted by the Customer. The Customer shall not be liable for any loss or damage to the item of Mobile Equipment to the extent that such loss or damage is caused by the negligence of Midland Telecom or its suppliers.

4.4 Where there is a discrepancy between the contents listed in the consignment note enclosed with the delivery and the Customers contents of the consignment, upon acceptance by the Customer; the Customer must notify Midland Telecom immediately and in all cases not exceeding 1 business day. hours. No claims for damaged missing contents will be accepted after this time.

5. TITLE IN THE MOBILE EQUIPMENT

5.1 Title to an item of Mobile Equipment shall not pass to the Customer, except that title to accessory items shall pass to the Customer upon payment in full for such accessory items.

5.2 The Customer undertakes in respect of Mobile Equipment in which Midland Telecom retains title pursuant to clause 5.1 of these Mobile Equipment Terms not to sell, transfer, lease, charge, assign by way of security or otherwise deal in or encumber the same in any way and that it shall keep such Mobile Equipment in good working order allowing for fair wear and tear during the period of use by the Customer.

5.3 Following any upgrade or replacement of Mobile Equipment or disconnection of Mobile Equipment from the Mobile Services, Midland Telecom reserves the right to request the safe return of any such Mobile Equipment in which Midland Telecom retains title pursuant to clause 5.1 of these Mobile Equipment Terms from the Customer at the Customer's expense.

5.4 MIDLAND TELECOM reserves the right to charge the Customer the price set out in the Replacement section of the Midland Telecom Price List from time to time for any Mobile Equipment that is not returned to Midland Telecom in accordance with the provisions of clause 5.3 of these Mobile Equipment Terms or where the Customer fails to fulfil its obligations under clause 5.2 of these Mobile Equipment Terms.

5.5 Without prejudice to the remainder clause 5.4 of these Mobile Equipment Terms, in the event that the Customer sells any Mobile Equipment in breach of clause 5.2 of these Mobile Equipment Terms, the Customer agrees that liquidated damages equal to the price set out in the Replacement section of the Midland Telecom Price List for such Mobile Equipment on the date on which Midland Telecom invokes its right to recover liquidated damages, shall immediately be due and payable from the Customer to Midland Telecom.

6. OBLIGATIONS OF THE CUSTOMER

6.1 The Customer will, and shall take all reasonable steps to ensure that its employees will:

- (a) pay the standard charges levied by Midland Telecom from time to time applicable to repair work on Mobile Equipment which is outside (in scope or time) the warranty provided under this Agreement; and
- (b) use the Mobile Equipment and any End-User Licensed Software in accordance with any user guide or other reasonable instruction of any manufacturer or supplier of the same or reasonable instruction of Midland Telecom and not copy, reverse engineer or modify any Software or End- User Licensed Software in any way save as permitted by law.

6.2 Midland Telecom reserves the right to bar service to any Mobile Equipment supplied under this Agreement to which Midland Telecom retains title pursuant to clause 5.1 of these Mobile Equipment Terms where in Midland Telecom's reasonable opinion that Mobile Equipment is not being used in a manner which Midland Telecom would expect including but not limited to where the Mobile Equipment is:

- (a) Used in conjunction with a SIM Card connected to a tariff other than one which the Customer has ordered under this Agreement;
- (b) Used in conjunction with a SIM Card allocated to any other Midland Telecom customer's account;
- (c) Used solely or predominantly on a roaming basis; or
- (d) (or the SIM Card supplied in conjunction with such Mobile Equipment is) not used on the Network within 45 days from the date of dispatch by Midland Telecom or during any other period of 30 consecutive days; unless Midland Telecom and the Customer have agreed otherwise.

6.3 The Customer, at the Customer's expense, shall return to Midland Telecom any Mobile Equipment supplied by Midland Telecom to which Midland Telecom retains title pursuant to clause 5.1 of these Mobile Equipment Terms, which Mobile Equipment has been barred pursuant to clause 6.2 of these Mobile Equipment Terms and in the event that the Customer fails to return any such Mobile Equipment within two (2) weeks of written notice from Midland Telecom to do so, then the Customer agrees to pay Midland Telecom the price set out in the Replacement section of the Midland Telecom Price List from time to time for such Mobile Equipment.

7. WARRANTIES

7.1 Midland Telecom warrants that each item of Mobile Equipment will conform in all material respects to the manufacturer's specification for a period of 12 months from the date on which each item of Mobile Equipment is dispatched to the Customer by Midland Telecom (a "**Warranty Period**") unless special conditions associated with certain Mobile Equipment apply.

7.2 Midland Telecom warrants that any Software will conform in all material respects to the manufacturer's specification for a period of three months from the date on such Software is dispatched to the Customer by Midland Telecom (a "**Warranty Period**") unless special conditions associated with certain Software apply.

7.3 Following the expiry of the Warranty Period of Mobile Equipment provided under this Agreement in which Midland Telecom retains title, Midland Telecom may offer to extend the Warranty Period in respect of such Mobile Equipment until the end of the Minimum Term in return for an extended warranty fee to be advised at the expiry of the warranty period. ("**Extended Warranty Period**"). Upon expiry of the Minimum Term, or termination of this Agreement, the Extended Warranty Period shall cease.

7.4 If, within the relevant Warranty Period or Extended Warranty Period, the Customer notifies Midland Telecom of any defect or fault in the Mobile Equipment or Software arising under normal use in consequence of which it fails to conform in any material respect with the manufacturer's specification Midland Telecom shall, at Midland Telecom's option either: repair the faulty Mobile Equipment or Software; or, replace the faulty Mobile Equipment or Software with the same or an equivalent item of Mobile Equipment or Software which may be a new or refurbished item. In the event that Mobile Equipment or Software is provided to replace Mobile Equipment or Software which has failed during its Warranty Period, the replacement Mobile Equipment or Software will be provided with its own Warranty Period which shall last for the greater of: a) three months from the date on which the replacement Mobile Equipment or Software is dispatched to the Customer; or b) the outstanding period of the original Warranty Period.

7.5 The warranty obligations set out in clause 7.4 of these Mobile Equipment Terms shall not apply in the event that a person has amended or damaged the Mobile Equipment or Software, or used it for a purpose or in a context, other than in accordance with Midland Telecom's or the manufacturer's instructions and advice.

8. CREDITS

8.1 Any credits accrued in the Mobile Equipment Account may be used solely for the purposes of offsetting Charges for Mobile Equipment. Credits do not have any monetary value and the Customer is not entitled to:

- (a) Use any credits accrued in the Mobile Equipment Account to offset Charges for Mobile Services or vice versa;
- (b) Offset any credits accrued in the Mobile Equipment Account against any outstanding debt;
- (c) Any payments from any credits accrued in the Mobile Equipment Account; or
- (d) Any future use of credits accrued in the Mobile Equipment Account upon termination of this Agreement.

9. EXTENDED SUPPORT COVER Packages

9.1 If the Customer has purchased any of the Midland Telecom Extended Support Cover Packages, Midland Telecom will offer increased support and warranties in conjunction with the terms and conditions of the support cover package which may exceed the terms offered herein. Please see these terms and conditions for details.

MOBILE TERMS

(including terms for the Voice Services and/or Data Services)

The following additional terms and conditions apply to the provision of the Mobile Services.

1 DEFINITIONS

In these Mobile Terms, in addition to those terms set out in the General Conditions, the following terms and expressions apply:

TERM / EXPRESSION MEANING

“Airtime” means mobile airtime and Network capacity;

“Aggregate Minimum Spend” means the minimum total expenditure incurred by all SIM Cards consisting of voice rental Charges and Voice Service Charges only (specifically excluding Mobile Equipment Charges and BlackBerry and data Charges) which must be incurred by the Customer prior to the expiry of the Minimum Term, in relation to a particular Mobile Service, as set out in the Mobile Services Order & Rental Agreement (if any);

“AIT” means artificially inflated traffic which occurs when the flow of calls to any particular revenue share service is, as a result of any activity on or behalf of the entity operating that revenue share service, disproportionate to the flow of calls which would be expected from good faith usage of the Network;

“Average Minimum Spend” means the average monthly minimum expenditure per SIM Card for the Voice Services (and for the avoidance of doubt excluding any expenditure relating to Mobile Equipment Charges and BlackBerry and data charges) which must be incurred by the Customer during the Minimum Period, as set out in the Mobile Services Order & Rental Agreement (if any);

“Data Services” means the Mobile Services under which MIDLAND TELECOM supplies the Customer with Airtime enabling the Customer to transfer data on the Network;

“Device” means a mobile device or other Mobile Equipment incorporating a SIM Card;

“Gateway” means any equipment containing a SIM Card which enables the routing of calls from fixed apparatus to mobile equipment by establishing a mobile to mobile call or data connection;

“Mobile Equipment” has the meaning set out in the Mobile Equipment Terms;

“Mobile Services” means those Services identified as a “Mobile Service” in these Mobile Terms and the Service Schedules;

“Mobile Terms” means this document entitled “Mobile Terms”;

“New Connection” (including New SIM-Only Connections and new Non SIM-Only Connections) means a new SIM Card which connects to the Network under this Agreement which was not immediately prior to this Agreement connected to the Network except where the SIM Cards were formerly provided to the Customer by means of a Reseller;

“New Non SIM-Only Connection” means a New Connection in conjunction with which Midland Telecom is providing a Device at the New Connection rate for Mobile Equipment specified in the Midland Telecom Price List;

“New SIM Only Connection” means a New Connection in conjunction with which Midland Telecom is not providing a Device at the New Connection rate for Mobile Equipment specified in the Midland Telecom Price List;

“Reseller” means any third party acting as an agent or distributor on behalf of Midland Telecom;

“Re-Sign Non SIM Only Connection” means the transfer of a SIM Card which was, immediately prior to this Agreement, connected under an agreement between Midland Telecom (directly, and not via a third party) and the Customer and in conjunction with which Midland Telecom is providing Mobile Equipment;

“Re-Sign SIM Only Connection” means the transfer of a SIM Card which was, immediately prior to this Agreement, connected under an agreement between Midland Telecom (directly, and not via a third party) and the Customer, and in conjunction with which Midland Telecom is not providing a Device at the New Connection rate for Mobile Equipment specified in the Midland Telecom Price List;

“SIM Card” means a subscriber identity module supplied to the Customer by Midland Telecom;

“SMS” and / or “MMS” means the short message service and multimedia message service which allows text messages and/or pictures to be sent and received from Mobile Equipment;

“Value Added Mobile Services” means the value added services in relation to Mobile Services such as, installation, insurance, repair etc. as may be made generally available from time to time by Midland Telecom to business customers, the details of which appear on the Midland Telecom Price List; and

“Voice Services” means the Mobile Services under which Midland Telecom supplies the Customer with Airtime enabling the Customer to make and receive mobile voice calls and SMS texts on the Network.

2. MOBILE SERVICE STANDARDS

The Customer acknowledges that provision of the Mobile Services is subject to the geographic extent of airtime coverage and local geography, topography and/or atmospheric conditions and/or other physical or electromagnetic interference and/or the number of users trying to access the Mobile Services in any particular location that may from time to time adversely affect the provision of the Mobile Services in terms of availability, line clarity and call interference.

3. SIM CARDS AND NUMBERS

3.1 Where the Customer is not already a Midland Telecom customer, Midland Telecom will supply to the Customer such number of SIM Cards as is necessary for the Customer to receive the Mobile Services to be provided under the relevant order. Title to the SIM Cards shall remain with Midland Telecom.

3.2 Midland Telecom shall:

- (a) Provide to the Customer such mobile numbers as are necessary for the Customer to receive the Mobile Services; or
- (b) Port mobile numbers from another mobile network in accordance with standard porting procedures between mobile networks in the United Kingdom. Nothing in this Agreement shall be construed as to grant the Customer any right in relation to the mobile numbers other than to receive the Mobile Services as describe in this Agreement.

4. CHARGES

4.1 The Charges for Mobile Services detailed in the Mobile Services Order & Rental Agreement are available, subject to the Customer fulfilling all of its commitments as set out in this Agreement (for example, the Aggregate Minimum Spend, Average Minimum Spend, Minimum Holding, Minimum Holding Period and Minimum Periods as applicable).

4.2 The Customer acknowledges that roaming calls may take longer to be billed than other types of calls.

4.3 MIDLAND TELECOM may monitor the Customer’s usage of the Mobile Services for the purpose of controlling MIDLAND TELECOM Midland Telecom ’s credit risk and the Customer’s exposure to fraudulent usage.

4.4 The Customer will be liable for any Charges incurred as a result of unauthorized use of the Mobile Services until MIDLAND TELECOM has received a request from the Customer to suspend the provision of such Mobile Services.

4.5 Any credits accrued in the Airtime Account may be used solely for the purposes of offsetting Charges for Airtime, do not have any monetary value, and the Customer is not entitled to:

- (a) Use any credits accrued in the Airtime Account to offset Charges for Services other than Airtime or vice versa;
- (b) Offset any credits accrued in the Airtime Account against any outstanding debt;
- (c) Any payments from any credits accrued in the Airtime Account; or
- (d) Any future use of credits accrued in the Airtime Account upon termination of this Agreement.

5. DISCONNECTION OF SIM CARDS

5.1 The Customer may serve on Midland Telecom a disconnection notice in respect of a SIM Card at any time.

5.2 Midland Telecom will, within 30 days from receipt of a disconnection notice, disconnect the relevant SIM Card or SIM Cards from the Mobile Services.

5.3 In the event that the Customer gives a disconnection notice resulting in disconnection of a SIM Card prior to the expiry of its Minimum Period (as set out in the Mobile Services Order & Rental Agreement), the Customer will pay to Midland Telecom any applicable Termination Fee.

6. OBLIGATIONS OF THE CUSTOMER

6.1 The Customer shall notify Midland Telecom immediately (and confirm in writing) on becoming aware that any SIM Card has been lost or stolen or that any person is making improper or illegal use of a SIM Card.

6.2 The Customer will be responsible for any Charges incurred as a result of unauthorized use of any SIM Card, or the information contained within a SIM Card, until Midland Telecom has received a request from the Customer to suspend the provision of Mobile Services to that SIM Card.

6.3 The Customer shall, and shall take all reasonable steps to ensure that its employees will:

(a) Not use the Mobile Services in any way to generate AIT; and

(b) Not, without the prior written consent of Midland Telecom which may be withheld at Midland Telecom's absolute discretion, establish, install or use a Gateway so that telecommunication services are provided via the Gateway;

6.4 The Customer agrees not to use SMS or MMS for the purpose of marketing or advertising anything to users of Mobile Services without the consent of those users.

6.5 The Customer agrees that in respect of SMS and MMS, Midland Telecom is acting as a network operator and as such has no knowledge of, involvement with, or liability for the specific content of any text messages sent to the Customer's SIM Cards, which do not originate from Midland Telecom.

6.6 The Customer shall not be permitted to transfer a SIM Card from the tariff which that SIM Card was originally connected to under this Agreement to another tariff except where Midland Telecom at Midland Telecom's absolute discretion agrees to do so and confirms such a change in writing to the Customer.

6.7 Midland Telecom can at its discretion suspend any SIM Card from making calls (other than to emergency services) and disconnect any SIM Card from the Mobile Services if Midland Telecom has reasonable cause to suspect fraudulent use of the SIM Card or relevant Mobile Equipment, or either are identified as being stolen. The Customer shall remain liable for all Charges levied in accordance with this Agreement during any period of suspension.

7 VALUE ADDED SERVICES

7.1 The Customer may order Value Added Mobile Services and Midland Telecom may accept or decline such orders.

7.2 Midland Telecom reserves the right to add to, substitute, or to discontinue any Value Added Mobile Service at any time. Midland Telecom does not guarantee the continuing availability of any particular Value Added Mobile Service.

8 CUSTOMER EQUIPMENT

8.1 Certain elements of the Mobile Services are dependent on the Customer having suitable customer equipment available and in the event that the Customer is unable to provide such customer equipment, then:

(a) Some of the Mobile Services may not function correctly (the "**Affected Services**");

(b) Midland Telecom may choose not to provide the Customer with the Affected Services; and

(c) Midland Telecom shall have no liability for the Customer's inability to receive those Affected Services.

8.2 Any customer equipment must be:

- (a) technically compatible with the Network and the relevant Mobile Service and shall not harm the Network or equipment belonging to another customer;
- (b) connected to the Network strictly in accordance with the instructions of Midland Telecom; and
- (c) used by the Customer in compliance with any relevant instructions, standards and laws.

MOBILE SERVICE SCHEDULE

MOBILE BROADBAND

The following additional terms and conditions apply to the provision of Mobile Broadband.

1. DEFINITIONS

In this Service Schedule, in addition to those terms defined in the General Conditions, the Mobile Terms and the Mobile Equipment Terms, the following terms and expressions apply:

TERM / EXPRESSION MEANING

“**Mobile Broadband**” means the Mobile Service under which MIDLAND TELECOM enables the Customer to use the internet to send and receive data over the Network using approved Mobile Equipment containing a MIDLAND TELECOM SIM Card; and

“**Mobile Terms**” means the Terms applicable to Mobile Services which form part of this Agreement.

2. MOBILE SERVICE

Mobile Broadband is a “Mobile Service” and the Mobile Terms will apply to this Service.

3. SERVICE STANDARDS

3.1 Connection speeds are subject to various factors including network coverage and signal strength and therefore Midland Telecom cannot guarantee that the Customer’s connection will reach any specific speeds.

3.2 Use of Mobile Broadband is subject to the Customer using a compatible laptop or mobile handheld device. The Customer is responsible for ensuring they meet minimum system requirements, as specified by Midland Telecom in order to use the service.

3.3 Data usage can be monitored through the “Connection Manager” software. Data usage is displayed by calendar month and may not match the Customer’s billing period so must be used as guidance only.

4. CUSTOMER OBLIGATIONS

4.1 The Customer must tell Midland Telecom immediately upon becoming aware of any improper disclosure of security information or unauthorized use of Mobile Broadband through the Customer’s account.

4.2 An excessive usage policy operates and the Customer shall ensure the Mobile Broadband is not used:

- (a) in, or connected to, any other device excluding a USB modem or data card; or
- (b) to allow the continuous streaming of any audio/video content, to enable Voice over Internet Protocol (VoIP), to use Peer to Peer (P2P) software or for file sharing. If Midland Telecom reasonably suspects the Customer is not acting in accordance with this policy Midland Telecom shall contact the Customer with its concerns and reserves the right to impose further Charges and/or impose network protection controls which may reduce the Customer’s speed of transmission.

MOBILE SERVICE SCHEDULE

MOBILE BROADBAND WITH LAPTOP OR TABLET COMPUTER

The following additional terms and conditions apply to the provision of Mobile Broadband with Laptop.

1. DEFINITIONS

In this Service Schedule, in addition to those terms defined in the General Conditions and, the Mobile Terms and the Mobile Equipment Terms, the following terms and expressions apply:

TERM / EXPRESSION MEANING

“Mobile Broadband with Laptop” means the Mobile Service under which Midland Telecom enables the Customer to use the internet to send and receive data over the Network using approved Mobile Equipment containing an Midland Telecom Card and provides the Customer with laptop(s) and/or mini-laptop(s) or Tablet Computer (s); and

“Mobile Terms” means the Terms applicable to Mobile Services which form part of this Agreement.

2. MOBILE SERVICE

Mobile Broadband with Laptop or Tablet Computer is a “Mobile Service” and the Mobile Terms will apply to this Service.

3. SERVICE STANDARDS

3.1 Connection speeds are subject to various factors including network coverage and signal strength and Midland Telecom cannot guarantee the Customer’s connection to the internet using Mobile Broadband with Laptop/Tablet will reach any specific speeds.

3.2 Use of Mobile Broadband is subject to a compatible laptop or mobile handheld device. Customers are responsible for ensuring they meet minimum system requirements in order to use the service.

3.3 Any laptop or mini-laptop/Tablet supplied by Midland Telecom as part of the Mobile Broadband with Laptop may be provided with pre-installed software. This may include, but is not limited to, a Microsoft operating system, an Apple operating system, a virus checker, word processing and similar software and a manufacturer’s recovery program. The Customer is responsible for registering these services upon first use of the laptop. Failure to do so may result in full services not being provisioned.

3.4 The Mobile Equipment Terms shall apply to the sale by MIDLAND TELECOM and purchase by the Customer of laptops/Tablets and USB modems under this Service Schedule.

4. CUSTOMER OBLIGATIONS

4.1 The Customer must tell Midland Telecom immediately upon becoming aware of any improper disclosure of security information or unauthorised use of Mobile Broadband with Laptop/Tablet through the Customer’s account.

4.2 An excessive usage policy operates and the Customer shall ensure Mobile Broadband with Laptop/Tablet is not used:

4.1.1. In, or connected to, any other device excluding a USB modem or data card; or

4.1.2. To allow the continuous streaming of any audio/video content, to enable Voice over Internet Protocol (VoIP), to use Peer to Peer (P2P) software or for file sharing. If Midland Telecom reasonably suspects the Customer is not acting in accordance with this policy Midland Telecom shall contact the Customer with its concerns and reserves the right to impose further Charges and/or impose network protection controls which may reduce the Customer’s speed of transmission.

4.3 The Customer shall ensure that the “Midland Telecom Assistant” and “Midland Telecom Connection Manager” tools and Midland Telecom approved virus checker software are retained on all laptops or mini-laptops/Tablets provided as part of the Mobile Broadband with Laptop for the Minimum Period and any additional period during which the Mobile Services are provided by Midland Telecom in order to continue to be able to receive a full support service from Midland Telecom.

FORMAL VARIATIONS TO THE ABOVE TERMS AND CONDITIONS: