



# The Small Print

October 2008

This is the Small Print that sets out the agreement between TalkTalk Business Group Limited (registered in England with number 5727462 whose registered office is Stanford House, Garrett Field, Birchwood, Warrington, WA3 7BH) ("we"; "our"; "us") and the Customer ("you"). If you are trading with us as Opal, then this is the right contract for you.

**By using the Services (as defined below) you agree to the following terms and conditions so you should read them carefully.**

## 1. Definitions

1.1 In the Contract the following words have the following meaning:

<b>"Acceptable Use Limit"</b>	means rules, limits or restrictions for the use of the Services as may be revised by us from time to time and which may be set out in any service literature or on Our Website.
<b>"Associates"</b>	means in relation to a party to the Contract (at the relevant time), any company which is a Subsidiary or a Holding Company or which is a Subsidiary of any such Holding Company from time to time (where 'Subsidiary' and 'Holding Company' have the meanings given in section 1159 and Schedule 6 of the Companies Act 2006).
<b>"Authorisation"</b>	means the authorisation to act as a public electronic communications network or service provider under the Legislation.
<b>"Basic Website Plan"</b>	means the basic website services available at no additional charge with your Broadband Plan (if applicable).
<b>"Billing Period"</b>	means any period in respect of which we will bill you from time to time for your use of the Services.
<b>"BlackBerry Device"</b>	means a BlackBerry handset terminal, including any relevant accessories.
<b>"Broadband Plan"</b>	means the monthly tariff which you select at the time you order the Broadband Service.
<b>"Broadband Service"</b>	means the direct high speed "always on" network access to the internet provided in accordance with the particular type of Broadband Plan chosen by you and supplied to your Premises via the Network at the best available Transmission Speed that we are reasonably able to make available to you according to the Broadband Plan you have selected and which is provided in accordance with the terms of the Contract.
<b>"BT"</b>	means British Telecommunications Plc of 81 Newgate Street, London, EC1A 7AJ.
<b>"Bundle"</b>	means the package of Services and Equipment chosen by you details of which are set out on the contract documentation that you sign and "Bundle Equipment" will be construed accordingly.
<b>"Call Charges"</b>	means a charge for units of time costed at the rates set out in the Price List.
<b>"Change in Control"</b>	means any material change in the exercise, control or holding of the voting shares in you (otherwise than solely for the purposes of a group re-organisation of a solvent group).
<b>"Charges"</b>	means the charges payable by you to us for the provision of the Services as set out in the Contract (which may include Call Charges, Connection Charges and, where applicable, the Domain Name Price and the charges for F-Secure) or any revised changes notified to you in accordance with clause 8.1.2, together with all applicable taxes and any interest due in accordance with clause 8. Full details can be obtained by calling Customer Services.
<b>"Charges Policy"</b>	means the policy stated from time to time on Our Website.
<b>"Committed Period"</b>	means, in respect of each Service (except Website Services), the minimum period of twelve (12) calendar months (or if longer the number of calendar months specified overleaf) for which a Contract for each Service will run commencing on the Connection Date. Website Services have no Committed Period.
<b>"Connection Charge"</b>	means the sum to be charged for connection to the Services as notified to you in the Price List.
<b>"Connection Date"</b>	means the date of the connection of the Services to the relevant Network.
<b>"Contract"</b>	means the terms and conditions in this document, the Other Legal Terms, together with the details set out in the contract document that you sign or agree over the telephone.
<b>"Cooling Off Period"</b>	means the period of ten (10) Working Days from the Start Date.
<b>"Credit Limit"</b>	means a monthly financial limit applied for Charges incurred under the Contract.
<b>"Customer Services"</b>	means the customer services facility provided by us for you to contact by phone, details of which are set out on Our Website. All calls may be monitored and recorded for training and security purposes.
<b>"Denial of Service Attacks"</b>	means any attacks to the Network on which the Broadband Service is provided or any other third party's network, the purpose of which are to attempt to prevent legitimate users from using or enjoying the benefit of the Broadband Service or any other similar service (as the case may be), including but not limited to, attempts to 'flood' the Network (or any other third party's network) or to disrupt users from connecting to, accessing or using the Broadband Service.
<b>"Domain Name"</b>	means such domain name as we may allocate to you under the Contract such

	allocation being subject to separate terms and conditions details of which can be found on Our Website or by contacting Customer Services.
<b>"Domain Name Price"</b>	means the retail price from time to time for a Domain Name lasting for a period of twenty four (24) months.
<b>"Early Termination Charges"</b>	means the charges in the termination policy on Our Website.
<b>"Equipment"</b>	means Handsets and any other telecommunications or other equipment recommended and approved by us and/or your Third Party Operator as an essential part of providing the Services (excluding SIM Cards) (as applicable). This may include (without limitation) modem, router cables. It does not include leads, batteries or other accessories or equipment you might purchase from any supplier we recommend or any alternative supplier. This other equipment is "Additional Equipment".
<b>"Fixed Line Plan"</b>	means the monthly tariff which you select at the time you order fixed line services.
<b>"Fixed Line Services"</b>	means the fixed line services provided to you by us under the terms of the Contract enabling you to make and receive calls over the Network.
<b>"Initial Domain Period"</b>	means the period of twenty four (24) months from the date of allocation of a Domain Name.
<b>"Free Period"</b>	means the period for which the Website Services may be offered free of charge as detailed in the Website Plan.
<b>"F-Secure"</b>	means the internet security software package which is fully described on Our Website and the licence for which is set out under Other Legal Terms.
<b>"Geek Squad Services"</b>	means the support services provided pursuant to the Geek Squad terms available via Our Website.
<b>"GSM Gateway"</b>	means a device containing one or more subscriber identity modules for one or more networks, which enable calls from fixed phones to networks to be routed directly via a GSM link into the relevant Network. GSM is the globally accepted standard for second generation digital cellular communication.
<b>"Handsets"</b>	means any mobile device or Blackberry Device supplied to you by us under this Agreement excluding the SIM Card. It does not include any mobile device acquired from someone else and used for obtaining the Mobile Service from us by obtaining a SIM Card only. This is an "Existing Handset".
<b>"Legislation"</b>	means any applicable legislation, authorisations, permissions, rules, regulations, orders and guidelines relating to the provision and/or marketing of the Services and includes without limitation the Communications Act 2003, the PhonepayPlus Code (formerly known as the ICSTIS Code) and/or any directives or other requirements issued by OFCOM from time to time.
<b>"Line Extras"</b>	means any extra facilities that we may agree to provide to you under the Contract (such as call divert).
<b>"Line Rental Service"</b>	means the service we may agree to provide you to allow you to rent access to the main telephone line and will include Line Extras where we agree to provide these to you.
<b>"Mobile Plan"</b>	means the monthly tariff which you select at the time you order the Mobile Service.
<b>"Mobile Service"</b>	means the mobile service provided to you by us under the trading name Opal under the terms of the Contract enabling you to make and receive calls using a Handset over the Network and any related Services.
<b>"Network"</b>	means the electronic communications networks over which we provide the Services.
<b>"OFCOM"</b>	means Office of Communications.
<b>"Other Legal Terms"</b>	means in addition to the terms set out in this document other terms and conditions apply to your use of the Services and the Equipment and which are published on Our Website. If there is ever any inconsistency between the Other Legal Terms and the terms in this document, the Other Legal Terms will apply.
<b>"Our Website"</b>	means the website located at <a href="http://www.opal.co.uk/connect">www.opal.co.uk/connect</a> or such other website as may be notified to you by us.
<b>"Premises"</b>	means the mainland UK premises that we agree with you where we will provide you with the Services.
<b>"Price List"</b>	means a list of our current prices including (but not limited to) details of Connection Charges, charges for monthly access and related services and calls which is available on Our Website.
<b>"Service Credits"</b>	means the credits due, if any, from us to you in accordance with clause 5 and the Contract.
<b>"Service Failures"</b>	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 to by your acts or omissions or third parties acting on your behalf 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.

<b>"Service Level"</b>	means in relation to a Service the performance standard, if any, set out in the Contract.
<b>"Services"</b>	means one or more of the services you order from us and any additional services that we agree to provide to you after the Start Date and "Service" will be construed accordingly.
<b>"SIM Card"</b>	means the card provided by the Third Party Operator which enables you to use the Mobile Services when inserted in a Handset.
<b>"Software"</b>	means the software provided by us to you for the purposes of enabling you to use the Services including all associated documentation.
<b>"Start Date"</b>	means either the date that you sign the contract documentation or, if you have ordered the Services over the telephone or via the internet, the date upon which you agree to the terms of the Contract.
<b>"Subsequent Contract Period"</b>	means successive periods each of twelve (12) calendar months beginning on the expiry of the Committed Period.
<b>"Term"</b>	means the Committed Period and each Subsequent Contract Period.
<b>"Third Party Operator"</b>	means the electronic communications network or services provider through which we may provide the Services.
<b>"Transmission Speed"</b>	means either the rate in Kbps or Mbps that data is transferred between the Equipment and the Broadband Service. The Transmission Speed available to you will be affected by the operational and technical characteristics of your telephone line, the Network and your chosen Equipment.
<b>"Website Services"</b>	means the provision of website hosting services in accordance with the particular type of Website Plan chosen by you.
<b>"Website Plan"</b>	means the monthly tariff which you select at the time you order Website Services.
<b>"Working Day"</b>	means a day which is not a Saturday, a Sunday or a bank or public holiday in London.
<b>"you" "your" or "Customer"</b>	means the person or entity with whom we are entering into the Contract and whose details are included in the contract application forming part of the Contract.
<b>"Your Website"</b>	means any website provided and which you use in connection with Website Services.

## 2. When the Contract Begins and How Long it Lasts

- 2.1 We will provide you with the Services and the Equipment subject to you complying with the terms of the Contract. Your obligations under the Contract will commence on the Start Date and will continue during the Term. Upon expiry of the Committed Period the Contract will automatically continue for the Subsequent Contract Period unless and until terminated under clause 11. Our obligations under the Contract will commence from the Connection Date.
- 2.2 You also agree that the Other Legal Terms apply to the Services and the Equipment and these are published on Our Website and may be updated from time to time. These Other Legal Terms include by way of example our "acceptable use policy" and "termination policy" will apply to your use of the Services and the Equipment therefore you should read these carefully. From time to time during the Contract we may also at our discretion make certain promotional offers available to you. If you accept any of these offers, any special conditions relating to such offers will apply in addition to the Contract.
- 2.3 The Connection Date and any other dates given in the Contract regarding our provision of the Services to you are estimates and are provided for planning purposes only. We have no liability to you if we do not meet the Connection Date or any other date as time is not of the essence in relation to our provision of the Services to you.

## 3. Your Right to Cancel the Contract

You may cancel your Contract for the Services at any time and cancellation will mean cancelling a Service, changing provider or closing your account. If you cancel any Service this clause will apply:

### 3.1 Before the Connection Date:

**For all Services Except Mobile:** If you order a Service over the telephone by law you may cancel your Contract within the Cooling Off Period. If you want to cancel your Contract, you must call Customer Services to confirm cancellation before the Cooling Off Period expires and you will incur no Charges from us. You will lose the right to cancel under this clause 3.1 on the earlier of us starting the provisioning of the Service or your use the Service. The later you contact us the more likely it is we may have started the provisioning process and therefore you should contact us as soon as possible. If we have already started the provisioning process when you contact us, you must still pay any Charges due.

**For Mobile Services Only:** In addition to your rights to cancel the Contract above, if you order a Mobile Service over the telephone by law you may cancel the Contract for Mobile Service, within the Cooling Off Period. If you want to cancel, you must contact your Third Party Operator in writing before the Cooling Off Period expires. If you do not do this, we will not be able to recognise or process your cancellation.

**For all Services and Equipment:** If we have provided you with any Bundle Equipment free of charge or any Equipment for which you have paid in full, and you cancel the Contract we may request that you return the Equipment in an "as new" condition and in the original packaging. If you have paid, we will refund to you in full. If you have not paid, no refund will be paid. If not returned in accordance with this clause a standard charge will be applied. Note that if you agree to renew your Contract following your Committed Period by taking one of our renewal options, the Cooling Off Period will not apply to you.

### 3.2 **After** the Connection Date:

**For all Services:** In addition to your rights to cancel under clause 10 and clause 11, you may cancel your Contract after the Connection Date by giving us thirty (30) days' notice, such notice not to expire before the end of the Committed Period or a Subsequent Contract Period. In the event you cancel the Contract you must pay for any Charges during this notice period.

**Early Termination Charge:** In the event you seek to cancel the Contract before the end of the Committed Period and notwithstanding any other remedy under the Contract or at law we reserve the right to charge you the Early Termination Charges. You agree that the Early Termination Charges are a fair assessment of the losses and damage that we will suffer as a result of your early termination.

You may terminate your licence to use the Domain Name by giving us thirty (30) days' notice, such notice not to expire before the end of a Domain Period.

You may terminate Website Services at any time provided always that should you terminate the Website Services during the Initial Domain Period we reserve the right to charge you an early termination charge being equal to the Domain Name Price as at the date of allocation.

### 3.3 **Consequences of Cancellation**

Upon cancellation or termination of the Contract any e-mail, data, e-mail addresses and any other features provided as part of the Services will be deleted and we will have no liability to you for this nor will we be able to retrieve this data for you. Under no circumstances will we have any liability for any Equipment purchased by you. You are solely responsible for safeguarding your data by taking backup copies, maintaining a disaster recovery process and through any other means you believe appropriate.

## 4. **Receiving our Services**

In order to receive our Services we will need some authorisations from you. There are also some things that you must do and some points for you to note and be aware of. These are set out below:

### 4.1 **General**

- 4.1.1 All calls to international, premium rate and other numbers indicated in the Price List as being automatically barred will be barred from the Equipment. This bar may be removed at our sole discretion and may be subject to credit and other checks as we may require.
- 4.1.2 We may select and at any time change any carrier or other service provider for the purposes of providing the Services, and you authorise us to give all notices, nominations and other authorisations that are necessary for us to provide the Services to you.
- 4.1.3 Whilst we provide the Services to you you authorise us to act on your behalf in all dealings with any Third Party Operator in connection with any matter that enables us to provide or to continue to provide you with the Services.
- 4.1.4 To enable us to perform our obligations under the Contract, you will obtain all requisite licences, consents and permissions and permit or procure permission for us or our agents to have access to your premises during our business hours and will provide such reasonable assistance and information as we request from time to time.

### 4.2 **Equipment**

- 4.2.1 Subject to clause 4.2.2, it is your responsibility to purchase and install the Equipment.
- 4.2.2 If you have chosen a Bundle we will notify you of the Bundle Equipment you will receive and (subject to availability) will provide this to you free of charge provided that you continue to receive the Bundle for the Committed Period. If you choose to cancel under clause 3.1 you must return the Bundle Equipment to us with fourteen (14) days. If you do not return the Bundle Equipment or wish to retain it you will be charged the standard charge for that Equipment. If you downgrade to a different Bundle during the Committed Period we reserve the right to charge the standard charge for that original Bundle Equipment.
- 4.2.3 In respect of all Services, if you buy new Equipment through us, it is sold with the benefit of and subject to the terms applicable to such warranty or guarantee as is given by the manufacturer of the Equipment. Equipment that is not new or is Additional Equipment is sold without any warranty or guarantee whatsoever.
- 4.2.4 If you wish to use Additional Equipment to receive any Services rather than that supplied or recommended by us or a Third Party Operator, we cannot guarantee compatibility with the Services nor will we provide any ongoing support. We will have no liability for a failure to provide the Services resulting from use by you of Additional Equipment. In addition you should note that use of Additional Equipment may result in unexpected Charges and we have no liability to you in respect of any costs or Charges incurred as a result of or related to your use of Additional Equipment. This limit is in addition to clause 15 and subject to clause 15.4.
- 4.2.5 Equipment supplied by us will be at your risk immediately on delivery to your premises (or into custody on your behalf, if sooner) and should be insured accordingly. Delivery will be evidenced by signature by you or an authorised person. The Equipment will be deemed to have been checked and accepted by you on the date of such signature. You must inspect and inform us of any damaged or missing items within seven (7) days by telephoning Customer Services. You are responsible for ensuring that an authorised person is available to accept delivery. We are not responsible for any delay in performing the Services and reserve the right to charge carriage if an authorised signatory is not available, or you refuse to accept delivery of Equipment. We accept no liability for any late delivery or deliveries that are lost in the post.

- 4.2.6 You may request an exchange or upgrade of any Handset within seven (7) days following delivery subject to (i) return to us at your cost the original Handsets in their original packaging and unused, (ii) payment by you of the costs of delivery and (iii) payment of our standard charge.
- 4.2.7 Equipment will remain our property until paid for in full by you. Until such time as the ownership of the Equipment has passed to you, you will hold it on our behalf and keep it safe, insured and identified as our property and we will be entitled to ask you to return the Equipment. During this time you will notify us immediately of any loss, theft or damage of any Equipment.
- 4.2.8 All SIM Cards supplied to you for use on the Network will at all times remain the property of the Third Party Operator and in the event of termination of the Contract must be returned to your Third Party Operator in good condition. You agree to notify the Third Party Operator immediately of any loss, theft or damage of to any SIM Card.
- 4.2.9 If it is necessary for a Third Party Operator to supply you with Equipment in order to access the Services then you agree that such Equipment will remain the sole property of that Third Party Operator and you will comply with all request and instructions of that Third Party Operator in relation to provision, installation, storage, maintenance and care of that Equipment.
- 4.2.10 You will comply with any reasonable instructions issued by us or the Third Party Operator which concern your use of the Services or SIM Card including, without limitation, any codes of conduct which apply in relation to the Equipment and Services (as amended from time to time).
- 4.2.11 You will ensure that the Equipment and any other equipment and/or hardware connected to or used with any Services is connected and used in accordance with any applicable instructions, safety or security procedures.

#### 4.3 Fixed Line Services

- 4.3.1 If you request Line Rental Services and already receive line rental services from another provider, the other services will continue until the transfer to our Fixed Line Services is complete unless your other provider agrees that it can be done earlier.
- 4.3.2 It is your responsibility to ensure the compatibility of the Fixed Line Services with any monitored alarm system you may have and you should check this with your monitored alarm system provider. We do not accept any liability in connection with your use of a monitored alarm system with the Services, save as set out at clause 15.5.
- 4.3.3 Certain services which are provided by Third Party Operators may not be compatible with the Fixed Line Services eg BT Surftime. You should be aware that such services may be automatically removed from your line during set up and may no longer be available to you.
- 4.3.4 If you instruct us, we will register your telephone number on the Telephone Preference Service registry.
- 4.3.5 In response to Ofcom's publication of its "Statement and Notification on Protecting Citizen's and Consumers from Mis-selling of Fixed-Line Telecoms Services", we have produced a Code of Practice to protect your rights in this area and this is available on Our Website.
- 4.3.6 You recognise that the Fixed Line Services may from time to time be adversely affected by local geography, topography and/or atmospheric conditions and other causes of interference and may fail or require maintenance without notice.

#### 4.4 Broadband and Website Services

- 4.4.1 In order for us to enable you to use the Broadband Service and/or Website Services you must have the following:
- an existing BT or any other non-cable network telephone line;
  - a personal computer of minimum specification; and
  - compatible cables and extension leads between your PC, modem and telephone socket. You will need to continue paying us or your existing telephone service provider for the rental of your line and all call charges and other relevant telecommunications services supplied to you.
- d. Our provision of the Broadband Service is subject to testing to our satisfaction of your telephone line to ensure that broadband is available in your area and can be activated. If any work needs to be done to your telephone line at your Premises to enable before we are able to provide the Broadband Service, you must arrange at your own cost for us, BT or, where applicable, the other non-cable network to do this work for you.
- e. you must cancel any other broadband access service supplied by another company through BT or, where applicable, other non-cable network telephone landline that you wish to use to receive our Broadband Service.
- 4.4.2 In certain limited circumstances, we may not be able to set up the Broadband Service and/or Website Services for technical reasons. If this happens we will notify you as soon as possible and the Contract between us will end. In such circumstances, we will provide you with a full refund for any Charges you have already paid us.
- 4.4.3 Upon activation of your Broadband Service you may experience a temporary loss of your BT or, where applicable, other non-cable network line for which we will have no liability to you.
- 4.4.4 You will be allocated a username and password in order to access the Broadband Service. You will be responsible for keeping this username and password confidential and agree to take all necessary steps to ensure their confidentiality and that they are not disclosed to any unauthorised third parties. You will inform

us if you become aware of or suspect any unauthorised use of your username and password and agree to take all necessary steps (or such steps as may be requested by us) to prevent such use.

- 4.4.5 To ensure that the Broadband Service remain secure, you must not change or attempt to change a username without our written permission.
- 4.4.6 If you move and want to access the Broadband Service at your new address you will need to set up a new account for that location by calling Customer Services. You will have to provide us with proof of your new address. If you do not, your existing account will not be terminated and you will be liable for any Charges that remain due relating to that account. You will also have to pay an administration fee for setting up a new account when you move and if you have purchased Equipment from us and such Equipment is lost or damaged when you move address you will have to purchase new Equipment from us.
- 4.4.7 When you have moved address, a telephone line test will need to be carried out. If it is not possible to connect you, you may terminate the Contract provided: (i) it is no earlier than the date you actually move; (ii) you give us ten (10) days' notice; and (iii) you send us proof of your change of address. Any Charges due in respect of your existing account to the date of cancellation will remain payable. If it is possible to connect you at your new address, we will try to ensure that your connection is at the same Transmission Speed as that at your old address prior to your move. However, if it is not possible, we will connect you at the Transmission Speed we determine is available and possible.
- 4.4.8 As part of the Broadband Service or Website Services you may set up your own Website(s). Domain Names are subject to availability and we cannot guarantee the availability of any specific domain name. The number of e-mail addresses and the amount of e-mail storage and website that we provide to you depends on your Broadband Plan or Website Plan. You agree to ensure that you save your e-mails in the event that your e-mail storage is approaching its limit. Only one free Domain Name may be allocated to you during the period of the Contract at no additional cost; any additional Domain Names will be charged at the Domain Price.
- 4.4.9 Where we provide you with one or more e-mail addresses and storage as part of providing the Broadband Service and/or Website Services you acknowledge that such e-mail addresses are not your property and that we are entitled to alter them in our sole discretion. We will only change your e-mail addresses where reasonably necessary after providing you with reasonable notice of such change. The number of e-mail addresses and the amount of e-mail storage that we provide to you will depend on the Broadband Plan/Website Plan you subscribe to.
- 4.4.10 You acknowledge that you have no right to sell (or to agree to transfer) or dispose of in any way, any e-mail addresses provided to you by us.
- 4.4.11 If we receive a complaint about Your Website we may suspend it immediately without notifying you beforehand. We may ask you to either agree with the person making the complaint that the material can remain or can be altered or ask you to agree to remove it permanently. However, if we believe that the material on Your Website is sufficiently harmful, unlawful or offensive, is illegal or we receive further complaints about Your Website after we have already issued you with a warning, we may end the Contract without further notice to you. In such circumstances we will be under no obligation to provide you with any refund.
- 4.4.12 You agree that you will enter into any licence or agreement reasonably required by the owner of any intellectual property rights in any software supplied to you for the purpose of accessing the Broadband Service or the Website Services. You also agree that all intellectual property rights in the Broadband Service or the Website Services (including the Equipment and any related software) are and will remain vested in us, our agents (including BT), the Equipment manufacturer or their licensors as applicable.
- 4.4.13 You acknowledge that as part of your wish to receive and enjoy the full benefits of the Broadband Service or the Website some minor modifications may need to be made to your computer. It is your responsibility to ensure that such modifications do not invalidate the terms of any warranty that you may have concerning your computer. We will not be liable for any claim that your warranty has been invalidated (if applicable) as a result of work carried out by you, us, our agents (including BT) in order to make your computer operate with the Broadband Service.
- 4.4.14 It is your responsibility to ensure the compatibility of the Broadband Service and Website Services with your personal computer; any hardware, software or any other equipment or services.
- 4.4.15 You recognise that the Broadband Service and Website Services may from time to time be adversely affected by failure of a server or other external causes and may fail or require maintenance without notice. You further acknowledge that we will have no liability for failure of the Broadband Service and Website Services unless and to the extent caused by our negligence or fraudulent misrepresentation.

#### 4.5 Mobile Service

In respect of the Mobile Service and subject to these terms and conditions we will arrange with the Third Party Operator for the connection of the applicable Equipment to the Network and we will use our reasonable endeavours to make the Services available to you.

#### 4.6 Additional Services

- 4.6.1 If you would like to receive any additional services such as Geek Squad or F-Secure, please contact Customer Services for further details and see Our Website for the terms of use under "Other Legal Terms".
- 4.6.2 In the event of any inconsistency between the Other Legal Terms and these terms, the Other Legal Terms will take precedence.

## 5. What Level of Service We Give to You

- 5.1 We will provide you with the Services in accordance with the terms of the Contract and with reasonable care and skill provided always that you acknowledge we are not the providers of the Mobile Service.
- 5.2 We do not guarantee that the Services will be continuously available to you or free from Service Failures.
- 5.3 Where you believe that you are experiencing a Service Failure you must immediately report this to us via Customer Services providing sufficient information to enable us to investigate the problem. We will log the time of receipt of all such reports. It is important that you call Customer Services, rather than use any other method of contacting us, because the duration of any Service Failure, for the purposes of calculating any Service Credits which may be due, will be measured from the time your fault report is logged with our Customer Services to the time we can demonstrate that the Service has been restored.
- 5.4 Where the parties agree, as a result of a Service Failure, an applicable Service Level specified in the Contract is not achieved we will, subject to clause 15.8, pay to you a Service Credit by issuing a credit note to you for a sum equivalent to the amount of the Service Credit. If we spend time investigating fault(s) which are persistently reported by you and conclude that there has been no Service Failure we reserve the right to charge you for all reasonable costs and expenses incurred in investigating the report and you agree to pay the standard charge.

## 6. Your obligations when using the Services and the Equipment

### 6.1 General

- 6.1.1 The Services are provided for use by you in the course of your business and on the condition that you do not resell or otherwise make the Services available to any other person. You must comply with any instructions we give you about the Services.
- 6.1.2 You agree that you will not use or allow others to use any of the Services or the Equipment to do the following acts:
  - a. Contravene or cause us to contravene any Legislation;
  - b. Contravene our Fair Use Policy;
  - c. Perform any improper, immoral or fraudulent or unlawful activity or use the Services in bad faith or so as to artificially increase or create revenues for electronic communications services supplied by you or any person connected with you;
  - d. Enable or permit unauthorised access by you or third parties to data stored on our Network;
  - e. Cause a degradation of service to any of our other customers;
  - f. Send unsolicited marketing or advertising materials;
  - g. Deliberately receive, own, use, send, publish or host any material of a pornographic, obscene, defamatory, menacing or offensive nature or material which causes a nuisance, annoyance, an intrusion, harassment of any third party (including Denial of Service Attacks);
  - h. Directly or indirectly perform or permit any hoax, abusive, racist or indecent act or omission which may result in the infringement of ours or any third party's trade marks, copyright or other intellectual property rights which may now or in the future exist in any part of the world, or misuse of any third party's confidential information or privacy (including without limitation any data protection legislation) by us or you;
  - i. Cause an overload of our Network or knowingly, recklessly or negligently act or omit to act in such a way that the operation of our Network may be jeopardised or impaired;
  - j. Injure or damage any persons, property or network or howsoever cause the quality of the Services to be impaired;
  - k. Cause us to lose or breach any Authorisation;
  - l. Reverse engineer, decompile or modify the Equipment or SIM Card or authorise any other person to do this;
  - m. In respect of the Mobile Service, use GSM Gateways or any other device to route third party traffic through the Network;
  - n. Do anything (or allow anything to be done) which we think in our reasonable opinion may damage or affect the operation of our Network or those of our agents (including BT);
  - o. Intrude, or attempt to intrude, into the equipment, software or systems of any third party or any aspect of the Services.
- 6.1.3 You will indemnify us against any claims, proceedings or threatened proceedings from third parties and against any loss or damage suffered by us arising from any breach of your obligations under the Contract, including this clause 6, and for all costs and expenses reasonably incurred by us in investigating and defending ourselves in relation to any such claims, proceedings or threatened proceedings.
- 6.1.4 You will give us not less than two (2) days' written notice of any advertising, promotion or other campaigns which may result in abnormal demands being placed on our Network.
- 6.1.5 You agree that the details that you provide to us are true, accurate and complete. If you choose to manage your account online, it is a condition of the Contract that you provide us with a current e-mail address for billing purposes and that you maintain this address and advise us promptly of any changes to it. We will have no responsibility for e-mails that are sent by us and not delivered to you for any reason whatsoever.
- 6.1.6 You agree to comply with any instructions that we and our agents (including BT) may give you from time to time which we or they believe are necessary for health, safety or the quality of other telecommunications services provided to you by us or BT.

## 6.2 Broadband Service

- 6.2.1 To prevent spam from entering and affecting the operation of our systems and the Broadband Service, we may take any reasonable measures or actions necessary to block access to or delivery of any e-mail which appears to be of an unsolicited nature and/or part of a bulk e-mail transmission. We may also use within our systems virus screening technology that may result in the deletion or alteration of e-mail and or e-mail attachments. However, we do not warrant that such technology will be effective against all virus attacks or unsolicited e-mails.
- 6.2.2 You acknowledge that the Broadband Service is provided to other users and we owe a duty to them as a whole to preserve Network integrity and to avoid Network degradation. If, in our reasonable opinion, we believe that your use of the Broadband Service has or may adversely affect such network integrity or may cause network degradation we may change your Transmission Speed or manage your use of our Broadband Service as we see fit in the circumstances. This includes, but is not limited to, any circumstances where you are running an application or program that places excessive bandwidth demands on the Broadband Service for continued periods. We may also impose a limit on your usage capacity at any time at our sole discretion, if your usage is affecting or may affect other users' enjoyment of the Broadband Service.
- 6.2.3 During the Term you may request a change to your Broadband Plan at any time provided that it is only once in every thirty (30) days. Changes to your Broadband Plan are subject to availability and payment of any applicable Charges (for details please see Our Website). We will use reasonable endeavours to complete the change as soon as possible but cannot guarantee how quickly this will be done. You will be responsible for all Charges on the existing Broadband Plan until the change is completed.

## 6.3 Website Services

- 6.3.1 In the event that you wish to port an existing URL which you wish to use in connection with the Website Services, you agree and understand there may be downtime associated with this process and we are not responsible for any costs or consequence of delay arising in connection with any such downtime, provided always that we reserve the right to reject such porting request at our sole discretion.
- 6.3.2 We may reject or remove names that we believe may infringe someone else's trade mark or other intellectual property rights or which we consider are offensive, abusive, defamatory or obscene.

## 7. Allocation and Use of Telephone Numbers

- 7.1 Where we or a Third Party Operator allocate you any telephone numbers or codes as part of the Services, you acknowledge that you will not acquire any legal, equitable or other rights in relation to any numbers or codes. We may withdraw or change any such numbers or codes and will give you as much notice as possible of this. You may not sell, encumber or transfer or seek to sell, encumber or transfer any numbers or codes allocated by us. You may port numbers to us and may also port numbers to other carriers with whom we have porting agreements. All intellectual property rights or other rights in any numbers or codes allocated by us will at all times, as between ourselves and you, remain vested in us.
- 7.2 We will not be obliged to comply with any porting request unless and until you have fully complied with all your obligations under the Contract (including the payment of all Charges due) which, in the event of cancellation within the Committed Period (if any) will include all Early Termination Charges.

## 8. How We Charge and How You Pay

### 8.1 All Services

- 8.1.1 You will pay us the Charges with effect from the date that each Service (or part) is first made available to you. The basis upon how we Charge you for the Services is set out in the Charges Policy.
- 8.1.2 We may vary our Charges at any time by posting the resulting changes on Our Website or otherwise giving you notice. The revised Charges will apply to all Services provided after the effective date of the notice of change.
- 8.1.3 All Charges are stated exclusive of value added tax (VAT) or other applicable taxes. You will be responsible for paying VAT and other applicable taxes which will be included in our invoices at the applicable rate(s).
- 8.1.4 We will issue invoices for the Services in accordance with the payment terms specified in the Contract.
- 8.1.5 You will, subject to clause 8.1.7 and unless otherwise agreed, pay invoices within fourteen (14) days of the date of the invoice.
- 8.1.6 Payments will be by Direct Debit only. If a direct debit is dishonoured or cancelled we will be entitled to pass on to you any administration fee which may include third party charges. We will also be entitled to charge you a monthly administration fee for each month in which your direct debit is dishonoured or not reinstated following cancellation. We may charge interest on all overdue amounts from time to time on a daily basis at a rate of 2% above the base rate of the Royal Bank of Scotland plc, to run from the due date of payment until receipt by us of the full amount (including any accrued interest) whether before or after judgement in respect of the overdue amount.
- 8.1.7 Any invoices which are disputed must be done so within fourteen (14) days of the date of issue otherwise the invoices will be deemed to be correct. If you wish to dispute an invoice you must contact Customer Services providing us with (i) nature and reason for dispute, (ii) amount in dispute, (iii) any evidence to support the disputed amount.

- 8.1.8 Where under the Contract a Service Credit or other sum of money becomes payable by us to you, we will be entitled to deduct that sum from Charges due from you to us from time to time. We will show any such deductions as a credit in the invoice issued by us following the due date for payment of the sum owed by us to you.
- 8.2 In addition for Broadband Service, we will send to you within thirty (30) days of the Start Date, an invoice which will include a pro-rated charge for the remainder of the initial Billing Period in which your account is activated and the charge for the following Billing Period and, if applicable any costs for Equipment you have purchased. Thereafter we will prepare and send to you at the end of every Billing Period an invoice detailing the charge for the following Billing Period.

## **9. Credit Limit/Security Payment**

- 9.1 We may at our sole discretion and at any time during the lifetime of the Contract impose a Credit Limit on your account. Any Credit Limit imposed can be amended without prior notice. If you exceed such Credit Limit (i) we may demand immediate payment of the Charges and/or suspend the Services; and (ii) you will still be responsible for all Charges incurred including those exceeding the Credit Limit.
- 9.2 We may require you to provide us with a deposit as a condition of providing the Services to you. We may suspend provision of the Services until we receive payment of the security deposit. We may hold this deposit until you have paid all sums due to us from you under the Contract. If you owe us money we may set off the deposit against any amount due to us. We will refund any deposit we are still holding on request upon termination of this Agreement or at our discretion after three (3) months of continuous on time bill payments. No interest is payable on any deposit held by us.

## **10. Changing the Contract**

- 10.1 This clause 10 applies to all changes to the Contract, except changes to Charges which are dealt with in clause 8.1.2 above.
- 10.2 Subject to clause 10.1 above, we may vary these terms and conditions at any time by posting the changes on Our Website and, where reasonably practicable, giving you prior notice. We may do this if we have a valid reason, for example to reflect changing arrangements with any Third Party Operator or changing legal, regulatory or business requirements. If any variation of these terms and conditions is likely to cause material detriment to you: (i) we will also notify you of the variation in writing or by your chosen method of contact; and (ii) you will have the right to cancel the Contract with immediate effect by giving us written notice. You agree that, if you continue to use the Services after any such variation(s), you will be bound by the terms and conditions as varied.

## **11. Ending the Contract**

- 11.1 We may end the Contract or any Service with immediate effect by notice in writing if:
- 11.1.1 you fail to pay any sums due to us within fourteen (14) days of receiving written notice from us indicting the sums due and demanding payment;
  - 11.1.2 you are in material breach of the Contract which breach is capable of remedy and fail to remedy that breach within thirty (30) days of receiving the notice specifying breach;
  - 11.1.3 you are in material breach of the Contract and that breach cannot be remedied;
  - 11.1.4 you commit persistent breaches of the Contract;
  - 11.1.5 you have any Authorisation under which you have the right to run your telecommunication system and connect it to our system removed, revoked or amended;
  - 11.1.6 (if applicable) you have a bankruptcy order made against you, you are convicted of any criminal offence, or (if applicable) you make any voluntary arrangements with your creditors or become subject to an administrative order or go into liquidation, whether voluntary or compulsory (other than for the purposes of reconstruction or amalgamation), or an encumbrancer takes possession of or a receiver is appointed in respect of any of your assets;
  - 11.1.7 you do or you allow to be done, anything which in our reasonable opinion will or may have the effect of impairing the operation of a particular Service;
  - 11.1.8 you have or propose a Change of Control;
  - 11.1.9 if any licence to operate or use the Network under the Legislation is revoked or terminated for any reason;
  - 11.1.10 if the operation of the Network is terminated or if the provision of the Mobile Service to us is discontinued for any reason;
  - 11.1.11 if we have reason to believe that information supplied to us by you is false or misleading;
  - 11.1.12 if at any time BT ceases to provide services to us such that we are unable to continue to provide any Service to you;
  - 11.1.13 we cease to be Authorised or if our Authorisation is revoked or modified in any way which has a material impact on our ability to provide the Services or any of them or if we are prohibited from providing or restricted in our entitlement to provide the whole or any part of the Services;
  - 11.1.14 if you raise a fault and for reasons beyond our control we are unable to rectify this fault within a reasonable time.
- 11.2 For the purposes of this clause 11.1.2 "material breach" will include any failure by you to pay the Charges (which is not remediable) and any failure to comply with your obligations under clause 6.1.
- 11.3 Where you cancel a Service or the Contract as a result of changes made to the Contract or to the Services by us in

accordance with clause 10, and where the changes have a material adverse effect on the relevant Services, you will not be liable for any charges arising as a direct result of such cancellation, but you will remain liable to pay any Charges due and payable.

- 11.4 If you are a Line Rental Services customer and you elect at any time to use another provider for some or all of your calls we may at our sole discretion and without prejudice to any other remedy under the Contract decide to (i) bar your use of indirect access codes, (ii) charge you a higher fee for your use of the Line Rental Service or (iii) disconnect the Line Rental Services.
- 11.5 In addition to our rights under clause 12, in the event that rental of your telephone line is terminated by BT or, where applicable, any other non-cable network or you change the services on your line such that the Broadband Service is unable to operate normally, the Broadband Service will automatically terminate and you will be liable to us for the Early Termination Charges.
- 11.6 On termination of the Contract:
  - 11.6.1 each party will return to the other party or destroy upon request any confidential information which it has in its possession;
  - 11.6.2 we will disconnect the Equipment and the SIM Card from the Network (if applicable);
  - 11.6.3 all outstanding Charges and other sums due to us will be paid by you immediately.
- 11.7 Termination of the Contract howsoever arising will be without prejudice to the rights, duties and liabilities of the parties accrued prior to termination. Those clauses in the Contract which are intended (expressly or by implication) to have effect after termination will remain binding on the parties notwithstanding termination.
- 11.8 In addition to our rights under this Contract we may terminate this Contract for any reason by giving you 30 days' notice in writing such notice to expire on or at any time after the Committed Period or during any Subsequent Contract Period

## 12. Our Rights to Suspend the Services

- 12.1 We may suspend the provision of any Services (and in the case of Mobile Service and at our discretion procure disconnection of the SIM Card from the Network) without prejudice to your liability to continue to pay the Monthly Charges without compensation if:
  - 12.1.1 you fail to meet any of your obligations under the Contract;
  - 12.1.2 technical limitations exist or arise which make the provision of the Services impossible or materially limit the functionality or performance of the Services;
  - 12.1.3 necessary for operational reasons such as repairs, upgrades to the Services or regular or emergency maintenance;
  - 12.1.4 we are obliged to comply with any Contract, instruction or request of a competent governmental regulatory or other authority;
  - 12.1.5 if and to the extent that in our opinion your conduct is likely to result in the breach of any law or is otherwise prejudicial to our interests;
  - 12.1.6 if the Credit Limit for the Contract is exceeded;
  - 12.1.7 if you allow to be done anything which in our reasonable opinion may have the effect of impairing the operation of the Services;
  - 12.1.8 during any period in which access to the Network is denied or restricted to us by the Third Party Operator;
  - 12.1.9 if we become aware or reasonably suspect or believe that the Equipment or SIM Card is being used for any fraudulent purpose;
  - 12.1.10 in the event of notification of loss or theft of the Equipment or SIM Card;
  - 12.1.11 if we become aware or reasonably suspect or believe that the Equipment or SIM Card have been reverse engineered, decompiled or modified;
  - 12.1.12 at the request of your representative appearing to us to have authority to make such request; or
  - 12.1.13 if we have reasonable cause to believe that you and any third party is acting in breach of the Acceptable Use Policy.
- 12.2 If we in our sole discretion reinstate the Services following suspension you may be liable for an administration fee if suspension is due to your default.
- 12.3 We will, where practical, give you notice of our intention to suspend the Services and, in relation to suspension for the reasons stated in clauses 12.1.2 to 12.1.5 above, will restore the Services as soon as we are reasonably able to do so. If we exercise our right to suspend the Services this will not restrict our rights to terminate the Contract.
- 12.5 If we exercise the right to suspend the Service this will not affect our right to terminate the Contract under clause 11.

## 13. Events Outside Our Reasonable Control

Neither party will be liable to the other for any delay in performing or failure to perform any of its obligations under the Contract (other than the obligation to pay the Charges) which occurs as a result of circumstances beyond a party's reasonable control. For the avoidance of doubt, circumstances beyond our reasonable control include but are not be limited to act of God, theft, war or riot, civil disobedience, national emergency, strikes and other labour disputes, fire, flood, act of terrorism, power failures, failures of technology, failure of third party suppliers, non-availability of any third party telecommunication services, breakdown of any equipment not supplied by us or acts of government or other competent authority.

## 14. Confidentiality

- 14.1 Neither party will disclose to any third party without the prior written consent of the other party any confidential information which is received from the other party as a result of the Contract. Both parties agree that any confidential information received from the other party will only be used for the purposes of providing or receiving Services. These restrictions will not apply to any information which:
- 14.1.1 is or becomes generally available to the public other than as a result of a breach of an obligation under this clause 14; or
  - 14.1.2 is acquired from a third party who owes no obligation of confidence in respect of the information; or
  - 14.1.3 is or has been independently developed by the recipient.
- 14.2 Notwithstanding clause 14.1, we will be entitled to disclose your confidential information to an Associate, a third party to the extent that this is required by any court of competent jurisdiction or by a governmental or regulatory authority, or where there is a legal right, duty or requirement to disclose such confidential information.

## 15. Our Liability to You

- 15.1 If you receive faulty Equipment within twenty eight (28) calendar days (the "Warranty Period") we will at no additional cost to you provide a "like for like" replacement provided that you return the faulty Equipment to us by registered post or special delivery, within fourteen (14) days of redelivery of the replacement Equipment. If you fail to return the faulty Equipment to us within fourteen (14) days, we reserve the right to charge you the full cost for the replacement Equipment. If the exact same Equipment is not in stock then we will provide you with a substantially similar product. We will have no liability under any this warranty if any Charges are due from you under the Contract. If a claim is made outside the Warranty Period, we may at our sole discretion replace or repair the Equipment subject to your payment of a standard charge.
- 15.2 If you return Equipment to us in accordance with clause 15.1 and have either failed to take reasonable care of the Equipment while it remained in your possession or fail to return all the relevant cables and appropriate ancillary equipment or software supplied to you with the Equipment, we will be entitled to debit your account (using the details that you provided to us) for the full replacement cost of such Equipment. We will not replace any Equipment that becomes faulty as a result of any damage caused to it through your negligence or wilful default and in such circumstances, you will be responsible for the cost of any replacement supplied by us.
- 15.3 Other than as set out above, we will be under no other obligation to exchange, repair or replace the Equipment or provide any refunds. You accept that you are solely responsible for backing up any important data stored on the Equipment prior to the commencement of any repairs and you hereby acknowledge that any such data may be lost during the repair and will be lost if the Equipment is exchanged. We are not liable for this.
- 15.4 In respect of any Equipment, no liability is accepted under any warranty or for any defect resulting from the following: fair wear and tear; rain, water or other liquid damage; accidental or wilful damage; negligence; abnormal working conditions; failure to follow the manufacturer's instructions (whether oral or in writing); or misuse or alteration or repair of the Equipment without the manufacturer's approval.
- 15.5 We accept liability without limit for death or personal injury arising from our own negligence or for any fraudulent pre-contractual misrepresentation on which you can be shown to have relied.
- 15.6 Our liability to pay any Service Credits in accordance with clause 5 will be the maximum extent of our liability and your sole remedy for any Service Failures or in respect of Equipment warranty claims outside the Warranty Period.
- 15.7 Subject to clause 15.5, we are not liable to you whether under the Contract, tort (including negligence), equity or otherwise for direct or indirect loss of profits, anticipated profits, business, goodwill or anticipated savings, or for any indirect or consequential loss or damage ("Loss"), and arising out of or in relation to or in connection with your access to or use of or inability to use the Services or any Equipment or Software or content supplied to you with the Services, or in connection with any failure of performance of the Services or otherwise, error, omission, interruption, defect, delay in operation or transmission, virus, line or system failure, claims against you from third parties and loss of or damage to your data, even if such Loss was reasonably foreseeable or we had been advised of the possibility of you incurring the Loss.
- 15.8 Subject to clause 15.5, our liability to you in contract, tort (including negligence) or otherwise in relation to or arising out of the Contract is limited to £500,000 for one single incident in any twelve (12) month period and £1,000,000 for a series of incidents in any twelve (12) month period for all events, claims, losses however arising during the term of the Contract. Service Credits paid or credited by us to you will be taken into account for the purposes of calculating the limitation amounts set out in this clause 15.8.
- 15.9 We are not liable to you in contract or tort (including negligence) for any acts or omissions, negligence or default of you or any party other than us, including other providers of telecommunications, computers or other equipment and/or hardware or services including internet services.
- 15.10 Each provision of the Contract excluding or limiting our liability operates separately. If any provision of the Contract is held to be invalid in whole or part such provision will be deemed not to form a part of the Contract. In any event the enforceability of the remainder of the Contract will not be affected.
- 15.11 You are responsible for the security of your use of the Services including, but not limited to, protecting all passwords, backing-up all data, employing appropriate security devices, including virus checking software, and having disaster recovery processes in place.

- 15.12 Where you are or become aware of any matters which you know or ought reasonably be expected to know constitute a threat to the security of the Services you will immediately advise us of such matters.
- 15.13 In respect of the Services and the Equipment you agree that you are solely responsible for the use of the Services and the Equipment and all content, information, data and results obtained from using the Services or the Equipment and that all warranties, terms and conditions, guarantees, undertakings, representations, or any other conditions or guarantees whether express or implied by law, custom or otherwise are excluded to the extent permissible by law.

## **16. Use and Disclosure of Your Personal Information**

- 16.1 Except in relation to clauses 16.7 below, this clause 16 applies to personal information held about individuals, sole traders and partnerships. It does not apply to information we hold about corporate bodies, and other organisations.
- 16.2 Information you provide or we hold about you (whether or not under our Contract(s) with you) may be used by us or our agents to:
- 16.2.1 identify you when you contact us;
  - 16.2.2 help identify accounts, services and products which you could have from us from time to time (we may do this using an automatic scoring system, which uses the information provided by you, any information we hold about you and information from other agencies, including credit-reference agencies);
  - 16.2.3 help run, any accounts, services and products we provided before now or in the future;
  - 16.2.4 carry out marketing analysis and customer profiling and create statistical and testing information;
  - 16.2.5 help to prevent and detect fraud or loss; and
  - 16.2.6 contact you in any way (including mail, e-mail, phone, visit, text or multimedia messages) about products and services offered by us. We will only contact you in this way if you have previously shown your consent.
- 16.3 We may allow other people and organisations to use information we hold about you:
- 16.3.1 to provide services you have asked for;
  - 16.3.2 as part of the process of selling one or more of our businesses;
  - 16.3.3 to provide information for legal or regulatory purposes; or
  - 16.3.4 as part of current or future legal proceedings.
- From time to time, these other people and organisations may be outside the European Economic Area in countries that do not have the same standards of protection for personal data as the UK.
- 16.4 We may also allow your information to be used by our Associates for them to carry out any of the above purposes.
- 16.5 We may monitor and record communications with you (including phone conversations and e-mails) for quality assurance and compliance.
- 16.6 We will hold information on your phone use, including the numbers called, date, time, duration and cost of calls, together with information about your location. We will use this information to manage the phone service and provide you with any other services you may ask for. Where you have previously shown your consent, we may use this information to provide you with information about other products and services that we believe will be of value or interest to you. We will keep information for as long as is necessary to provide services you have asked for and until charges for the Services cannot be lawfully challenged.
- 16.7 This clause 16.7 applies to personal information held about individuals (including, if the Customer is a corporate body, any key individuals involved in that body), sole traders and partnerships. We may check your details with one or more licensed credit-reference and fraud-prevention agencies. We and they may keep a record of this search and the payment details from your account, and share it with other organisations. If a person provides false or inaccurate information and we suspect fraud, this is also recorded. This information may be used by us, and other organisations may search these records to:
- 16.7.1 help make decisions about credit and credit-related services for you and members of your household;
  - 16.7.2 help make decisions on motor, household, credit, life and other insurance proposals and insurance claims for you and members of your household;
  - 16.7.3 trace debtors, recover debt, prevent fraud, and manage your accounts or insurance policies;
  - 16.7.4 check your identity to prevent money laundering, unless you give us other satisfactory proof of your identity; and
  - 16.7.5 carry out statistical analysis about credit, insurance and fraud.
- We, and other credit and insurance organisations, may also use technology to detect and prevent fraud. If you need details of those credit agencies and fraud-prevention agencies from which we get, and with which we record, information about you, please write to us at TalkTalk Business Group Limited, Stanford House, Garrett Field, Birchwood, Warrington, WA3 7BH ("Our Registered Office").
- 16.8 If you give us information on behalf of someone else, you confirm that you have given them the information set out in this clause, and that they have not objected to their personal information being used in the way described in this clause. If you give us sensitive information about yourself or others (such as special needs details for bills), you agree (and confirm that the relevant subject of the information has agreed) to us processing this information in the way set out in this clause.
- 16.9 If you are making a joint application or you have told us about some other financial association with someone else, a 'financial association' between you and that other person (or people) will be made at credit-reference agencies.

This will link your financial records with that other person (or people) so that both (or all) of your records will be taken into account in all future applications by either or both (or all) of you. This will continue until one of you successfully files a notice with the credit-reference agencies asking for the financial association with that person to be removed.

- 16.10 If you would like us to tell you what information we hold about you, please write to us c/o The Data Protection Manager, Stanford House, Garrett Field, Birchwood, Warrington, Cheshire WA3 7BH. We may charge a £10.00 administration fee; please quote your full name, address, phone number and account number on all requests. You can also call Customer Services to correct or update any inaccurate or incomplete information and to advise us of any preferences you may have concerning how you can be contacted for marketing purposes or to indicate your preferences for directory enquiries.

## **17. Security and Backup Services**

- 17.1 You are responsible for the security of your use of the Services including, but not limited to, protecting all passwords, backing-up all data, employing appropriate security devices, including virus checking software, and having disaster recovery processes in place.
- 17.2 Where you are or become aware of any matters which you know or ought reasonably be expected to know constitute a threat to the security of the Services you will immediately advise us of such matters.

## **18. Third Party Rights**

A third party which is not a party to the Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise to enforce any term of the Contract.

## **19. Assigning the Contract**

- 19.1 We may assign, sub-contract or otherwise transfer the Contract or any part of it to any third party in our absolute discretion.
- 19.2 You may not assign, sub-licence or otherwise transfer the Contract or any of your rights or obligations arising under it without our written consent.
- 19.3 We are a subsidiary company of The Carphone Warehouse Group plc whose registered office is at 1 Portal Way, London, W3 6RS and therefore the Contract may be administered in whole or part by any company within The Carphone Warehouse group of companies.

## **20. Entire Contract**

The Contract sets out the whole agreement between you and us for the provision of the Services and the Equipment and supersedes all prior arrangements, understandings and agreements between you and us relating to the subject matter of the Contract.

## **21. Notices**

- 21.1 Notices must be in writing and will be served by hand delivering it or sending it by pre-paid first class post, or registered post, or prepaid recorded delivery or prepaid international recorded airmail addressed to the other party at the address shown on the contract application or any other address as may be notified or fax to the number notified by each party to the other or e-mail to the address notified by each party to the other.
- 21.2 Any such notice will be deemed to have been received:
- 21.2.1 if hand delivered or sent by prepaid recorded or registered post or international recorded airmail at the time of delivery;
  - 21.2.2 if sent by post (other than by recorded or registered post) two (2) days from the date of posting;
  - 21.2.3 if sent by airmail (other than prepaid recorded airmail) five (5) days from the date of posting;
  - 21.2.4 in the case of fax, at the time of receiving a successful transmission report; and
  - 21.2.5 in the case of e-mail, a copy of the e-mail must also be sent by first class post.

## **22. Waiver**

The failure or delay by us in exercising any of our rights, powers or remedies under the Contract will not in any circumstances impair such right, power or remedy nor operate as a waiver of it. The single or partial exercise by us of any right, power or remedy under the Contract will not in any circumstances preclude any other or further exercise of it or the exercise of any other right, power or remedy. Any waiver of a breach of, or default under, any of the terms of the Contract will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.

## **23. Enforceability**

If any particular clause of the Contract will be or be held to be invalid or unenforceable by any court or other competent body or authority, the enforceability of any other clauses in the Contract will not be affected and they will continue in full force and effect.

## **24. Law**

- 24.1 The Contract will be construed in accordance with and governed by the laws of England.
- 24.2 In the event of any dispute relating to or arising from the Contract the parties agree to submit to the non-exclusive jurisdiction of the English Courts.



