



Aerial Direct Ltd Standard Business Telephony Terms and Conditions of Sale
THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO CLAUSE 11

1. Interpretation

1.1 Definitions. In these Conditions the following definitions apply:

Agreement: the agreement between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions following acceptance of the Quote.

Commencement Date: has the meaning set out in clause 2.1(b)

Conditions: these terms and conditions as amended from time to time in accordance with clause 15.7

Customer: the person or firm who purchases the Goods and/or Services from the Supplier

Deadlock Letter: Means a formal letter issued by the Supplier confirming that a dispute with a small business Customer (with 10 or fewer employees) has not been resolved, enabling the Customer to escalate the matter to an ADR scheme such as the Communications Ombudsman.

Delivery Location: has the meaning set out in clause 4.1

Force Majeure Event: has the meaning given to it in clause 14

Goods: the goods (or any part of them) set out in the Quote.

Goods Specification: any specification for the Goods, including any relevant plans or drawings, that is agreed by the Customer and the Supplier.

Hire Agreement: A hire agreement for the Goods either with or without Services entered into between the Customer and Propel Finance No1 Limited ("Propel") or such other leasing company as may be approved by the Supplier

Inflation-Linked Price Increase: Means an adjustment to the Customer's recurring charges based on a pre-defined inflation index, such as the **Retail Prices Index (RPI)**, as specified in the Customer's Quote and Contract Summary.

Large Business Customer: Means a business Customer that has 11 or more employees, for whom the dispute escalation process set out in Clause 15.10.2 applies.

Maintain: means to reasonable endeavours to achieve the functioning and operation of apparatus in accordance with its specifications

Price Guarantee: Means a contractual commitment that prevents inflation-linked price increases or other price adjustments for a specified period, as expressly stated in the Quote.

Quote: the Customer's order for the supply of Goods and/or Services, as set out [the Customer's purchase order form.

Services: the maintenance services, supplied by the Supplier to the Customer as set out in the schedule hereto and the Service Specification below

Service Specification: the description or specification for the Services prepared by the Supplier to the Customer as detailed on the Quote;

Service Charges: the charges for providing the Services.

Service Levels: as described in The Schedule to this Agreement

Small Business Customer: Means a business Customer that has 10 or fewer employees, as determined by Ofcom's General Conditions, and is eligible to raise disputes via the Communications Ombudsman under Clause 15.10.1.

Supplier: Aerial Direct Ltd (a company formed in England & Wales (company number: 08043921) registered office: 1 Barnes Wallis Road, Fareham, Hampshire, PO15 5UA, England.

Supplier Materials: has the meaning set out in clause 8.1(e)

1.2 Construction. In these Conditions, the following rules apply:

- (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); (b) a reference to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and (e) a reference to writing or written includes faxes and emails.

2. Basis of Agreement

2.1 Orders placed with a Hire Agreement

(a) The Quote constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions and the conditions of the Hire Agreement ("CoTHA"). In the case of any conflict between these Conditions and the CoTHA the CoTHA shall prevail.

(b) The Quote shall only be deemed to be accepted when the Supplier issues written acceptance of the Quote at which point and on which date the Agreement shall come into existence (Commencement Date).

(c) The Agreement constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier that is not set out in the Agreement.

(d) Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Agreement or have any contractual force.

(e) These Conditions apply to the Agreement to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

(f) Any quotation given by the Supplier shall be only valid for a period of 20 Business Days from its date of issue.

(g) All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

2.2 Orders placed without a Hire Agreement

(a) The Quote constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions

(b) The Quote shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point, and on which date the Agreement shall come into existence (Commencement Date).

(c) The Agreement constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier that is not set out in the Agreement.

(d) Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Agreement or have any contractual force.

(e) These Conditions apply to the Agreement to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

(f) Any quotation given by the Supplier is only valid for a period of 20 Business Days from its date of issue.

(g) All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

2.3 ID Verification and Fraud Prevention

2.3.1 Acceptance of Customer's application for Services, may be subject to Supplier checking the following records about the Customer and the Customer's business partners:

- a) supplier 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 the Supplier 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");
- d) if the Customer contact is a director, we 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.

2.3.2 The Supplier may also make checks such as assessing the Customer's application for Services and verifying identities to prevent and detect crime and money laundering with carefully selected third parties providing identity verification services. The Supplier may also make periodic searches at CRAs and FPAs to manage the Customer's account.

2.3.3 The Supplier will send information on the Customer's applications 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.

2.3.4 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 organisations by CRAs and FPAs to perform similar checks and to trace the Customer's whereabouts and recover debts owed by the Customer.

2.3.5 If the Customer gives the Supplier false or inaccurate information or the Supplier suspects or identifies fraud or criminal activity this will be recorded and may also pass this information to FPAs and other organisations involved in crime and fraud prevention.

2.3.6 The Supplier and other organisations may access and use from other countries the information recorded by fraud prevention agencies.

2.3.7 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 Data Protection Laws. To read the full details of how data may be used please visit <https://www.aerial-direct.co.uk/about-site/privacy-cookies/>





2.3.8 The Customer can contact the CRAs currently operating in the UK, including Call Credit (Consumer Services Team, PO Box 491, Leeds, LS3 1WZ or call 0870 0601414); Equifax PLC, (Credit File Advice Centre, PO Box 3001, Bradford, BD1 5US; 0870 010 0583; www.myequifax.co.uk); and Experian (Consumer Help Service, PO Box 8000, Nottingham NG80 7WF; 0844 4818000; 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 Supplier on request.

2.4 Anti-Bribery and Corruption

2.4.1 In addition to and without prejudice to clause 9.5) of these General Conditions, the Supplier and the Customer each agree and undertake to the other that in connection with this Agreement and the transactions contemplated by this Agreement, they will each respectively comply with all applicable laws, rules, regulations of the United Kingdom relating to anti-bribery and anti-money laundering.

2.4.2 In the event that the Supplier or the Customer has any basis for a good faith belief that the other party may not be in compliance with the undertakings and/or requirements set out in clause 2.4.1, the Enquirer shall advise the other party in writing and the other party shall co-operate fully with any and all enquiries undertaken by or on behalf of the Enquirer in connection therewith, including by making available the other party's relevant personnel and supporting documents if reasonably deemed necessary by the Enquirer.

2.4.3 Any breach by a party of this clause 2.4 shall be deemed to be a material breach of this Agreement not capable of remedy for the purposes of clause 12.2a).

3. Goods

3.1 The Goods are described in the Goods Specification.

3.2 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirements.

4. Delivery of Goods

4.1 The Supplier shall deliver the Goods to the location set out in the Quote or such other location as the parties may agree (Delivery Location) at any time after the Supplier notifies the Customer that the Goods are ready.

4.2 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.

4.3 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

5. Quality of Goods

5.1 The Supplier warrants that on delivery, and for a period of 12 months from the date of delivery (warranty period) the Goods shall:

(a) conform in all material respects with their description and any applicable Goods Specification; and

(b) be free from material defects in design, material and workmanship;

5.2 Subject to clause 5.3, if:

(a) the Customer gives notice in writing during the warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;

(b) the Supplier is given a reasonable opportunity of examining such Goods; and

(c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost, the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

5.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty in clause 5.1, if:

(a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2; (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;

(c) the Customer alters or repairs such Goods without the written consent of the Supplier;

(d) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;

5.4 Except as provided in this clause 5 the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1

5.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Supplier under clause 5.2

6. Title and risk

6.1 The risk in the Goods shall pass to the Customer on completion of delivery.

6.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums

6.3 Until title to the Goods has passed to the Customer, the Customer shall:

(a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

(b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

(c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;

(d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 12.2(b) to clause 12.2(m); and

(e) give the Supplier such information relating to the Goods as the Supplier may require from time to time.

6.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the event listed in clause 12.2(b) to clause 12.2(m), then, without limiting any other right or remedy the Supplier may at any time:

(a) require the Customer to deliver up all Goods in its possession; and

(b) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

7. Supply of Services

7.1 The Supplier shall provide the Services to the Customer in accordance with the Service Specification in all material respects.

7.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

7.3 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

7.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

8. Customer's obligations

8.1 The Customer shall: (a) ensure that the terms of the Quote and (if submitted by the Customer) the Goods Specification are complete and accurate;

(b) co-operate with the Supplier in all matters relating to the Services;

(c) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;

(d) provide the Supplier with such information and materials and access to 3rd party facilities as the Supplier may reasonably require to supply the Services, and ensure that such information and access is accurate and appropriate in all material respects;

(e) keep and maintain all materials, equipment, documents and other property of the Supplier (Supplier Materials) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation;

8.2 If the Supplier's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):

(a) the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;

(b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 8.2; and

(c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

9. Charges and payment

9.1 The price for Goods shall be the price set out in the Quote where applicable.

9.2 The charges for Services shall be set out in the Quote on a time and materials basis: Non-Chargeable Services



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(a) replacement of all components that have been provided by the Supplier that have become faulty due to fair wear and tear which shall not include accidental damage, storage or use outside normal operational limits; continued use of apparatus that is in need of repair; contamination, immersion, ingress or impact; electrical and magnetic stress; unauthorised or improper repair, configuration, programming; continued use of apparatus requiring an essential hardware or software update.

(b) Unlimited non-complex remote programming changes by the supplier to functions or the operation of the apparatus, including but not limited to speed dial and extension number changes

Chargeable Services

(a) Failure of apparatus supplied that is not due to fair wear and tear

(b) Failure of apparatus that shall include cabling from 3rd party suppliers

(c) Programming Changes that shall include material changes to apparatus requiring a site visit, for reprogramming hardware and/or software and/or compiling data tables and including but not limited to, changes to least cost routing tables, complete auto attendant reprogramming, network changes, IP device reconfiguration

(d) Installation of any additional equipment

(e) The correction of un-authorized programming and/or configuration changes

9.3 Calculation of Charges

(a) the charges shall be calculated in accordance with the Supplier's quotation for Chargeable Services;

(b) the Supplier's quotation is calculated on the basis of an eight-hour day from 9.00 am to 5.00 pm worked on Business Days;

(c) the Supplier shall be entitled to charge an overtime rate of 50% per cent of the quotation on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 9.3(b); and (d) the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by sub-contractors appointed by the Supplier to perform the Services

9.4 The Supplier reserves the right to:

(a) Adjust the monthly amount the Customer pays for Supplier Services (Network and Support) each year. This will take effect from the April bill onwards as explicitly outlined in the Customer's Quote for the duration of the Minimum Term. This adjustment will be in accordance with the inflation-linked price increase mechanism detailed in the Quote and where rights have not been waived the Contract Information and Summary documents for Small Business Customers.

(b) Where a Price Guarantee applies, the price increase set out in Clause 9.4(a) shall not apply for the duration of the price guarantee period. If no price guarantee is in place, inflation-linked increases shall proceed as described in the Quote.

(c) Increase its standard daily fee rates for the charges for the Services, provided that such charges cannot be increased more than once in any 12-month period. The Supplier will give the Customer written notice of any such increase at least two (2) months in advance of the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify the Supplier in writing within two (2) weeks of the date of the Supplier's notice. The Supplier shall then have the right, without limiting its other rights or remedies, to terminate the Agreement by giving four (4) weeks' written notice to the Customer.

(d) increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to:

(i) any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

(ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or

(iii) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods.

9.5 In respect of Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer on monthly in arrears.

9.6 The Customer shall pay each invoice submitted by the Supplier: (a) In respect of goods and installation:-

(i) within 14 days of the date of the invoice; and

(ii) in full and in cleared funds to a bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Agreement.

(b) In respect of Services as provided for in the Schedule to this Agreement.

9.7 All amounts payable by the Customer under the Agreement are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Agreement by the Supplier to the Customer, the Customer

shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods. PROVIDED THAT save as herein provided by this clause 9 charges will be paid by direct debit annually or monthly in advance as set out in the Quote. The Supplier operates a paperless billing system and all invoices will be sent to an email address nominated by the Customer. Paper copies of invoices can be provided for a monthly charge of £1.50p. Payment other than direct debit is subject to a charge of £2 per invoice payment to be made as provided for under clause this clause 9.

9.8 If the Customer fails to make any payment due to the Supplier under the Agreement by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 5% per annum above Barclays Bank Plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

9.9 The Customer shall pay all amounts due under the Agreement in full without any set-off, counterclaim, deduction or withholding except as required by law. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

10. Confidentiality

A party (receiving party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (disclosing party), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Agreement, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Agreement. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 10 shall survive termination of the Agreement.

11. Limitation of liability:

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

11.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

(a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

(b) fraud or fraudulent misrepresentation;

(c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);

(d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or

(e) defective products under the Consumer Protection Act 1987.

11.2 Subject to clause 11.1:

(a) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Agreement; and

(b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed a sum equivalent to the cost of the Goods and Services supplied under this agreement.

11.3 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Agreement.

11.4 This clause 11 shall survive termination of the Agreement.

12. Termination

12.1 The Services may be terminated by:-

(a) the Supplier on giving the Customer not less than 1 (one) month's prior written notice

(b) the Customer as provided for in The Schedule hereto

12.2 Without limiting its other rights or remedies, each party may terminate the Agreement with immediate effect by giving written notice to the other party if:

(a) the other party commits a material breach of its obligations under this Agreement and (if such breach is remediable) fails to remedy that breach within 28 days after receipt of notice in writing to do so; (b) the other party suspends, or threatens to suspend, payment of its debts or





is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

(c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

(d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;

(e) the other party (being an individual) is the subject of a bankruptcy petition or order;

(f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;

(g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);

(h) the holder of a qualifying charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;

(i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

(j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 12.2(b) to clause 12.2(i) (inclusive);

(k) the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; (l) the other party's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Agreement has been placed in jeopardy; or

(m) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

13. Effects of Termination

13.1 Without limiting its other rights or remedies, the Supplier may terminate the Agreement with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Agreement on the due date for payment.

13.2 Without limiting its other rights or remedies, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Agreement or any other Agreement between the Customer and the Supplier if the Customer fails to pay any amount due under this Agreement on the due date for payment, the Customer becomes subject to any of the events listed in clause 12.2 (b) to clause 12.2(m), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

13.3 On termination of the Agreement for any reason: (a) the Customer shall immediately pay to the Supplier: (i) all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;

13.4 If the Customer terminates this Agreement before the expiry of the Minimum Term for any reason other than the Supplier's material breach (which remains unremedied for 28 days after written notice), the Customer shall pay the Supplier an Early Termination Fee, calculated as follows:

(a) A sum equal to the total remaining Service Charges from the termination date until the end of the Minimum Term; plus

(b) Any outstanding invoices for Services already provided; plus

(c) Any third-party costs reasonably incurred by the Supplier due to early termination, including but not limited to infrastructure commitments, wholesale network costs, or cancellation fees imposed by upstream providers.

13.5 The parties acknowledge that the Early Termination Fee represents a genuine pre-estimate of the Supplier's loss, taking into account:

(a) The cost of pre-allocated network infrastructure and resources committed to the provision of the service.

(b) The Supplier's obligations under long-term supplier and network agreements, which are based on the full contract duration.

(c) The operational and administrative costs associated with service setup, implementation, and maintenance.

13.6 The Supplier shall, upon the Customer's written request, provide a detailed breakdown of the Early Termination Fee, including an itemised summary of any third-party costs incurred.

13.7 the Customer shall return all of the Supplier Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Agreement;

13.8 the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry; and

13.9 clauses which expressly or by implication have effect after termination shall continue in full force and effect.

14. Force majeure

14.1 For the purposes of this Agreement, Force Majeure Event means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

14.2 The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Agreement as a result of a Force Majeure Event.

14.3 If the Force Majeure Event prevents the Supplier from providing any of the Services and/or Goods for more than 6 (six) weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Agreement immediately by giving written notice to the Customer.

15 General

15.1 Assignment and other dealings.

(a) The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Agreement to any third party.

(b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Agreement.

15.2 Notices.

(a) Any notice or other communication given to a party under or in connection with this Agreement shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally or sent by prepaid first-class post or other next working day delivery service, or by courier, fax or e-mail.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.2(a); if sent by prepaid first class post or other next working day delivery service, at [9.00 am] on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.

(c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action

15.3 Severance.

(a) If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Agreement.

(b) If one party gives notice to the other of the possibility that any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

15.4 Waiver.

A waiver of any right under the Agreement or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in





exercising any right or remedy under the Agreement or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

15.5 No partnership or agency.

Nothing in the Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

15.6 Third parties.

A person who is not a party to the Agreement shall not have any rights to enforce its terms.

15.7 Variation.

Except as set out in these Conditions, no variation of the Agreement, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by the Supplier

15.8 Governing law.

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

15.9 Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

15.10 Dispute Resolution

15.10.1 Small Business Dispute Resolution (Businesses with 10 or fewer employees)

(a) If the Customer is a **small business (10 or fewer employees)**, the Supplier shall adhere to the Ofcom General Conditions and Communications Ombudsman dispute resolution rules.

(b) In the event of a dispute, the Customer must first raise their concern with the Service Help Desk, who will acknowledge receipt within three (3) Business Days.

(c) If the dispute remains unresolved after eight (8) weeks from the date it was raised, or if the Supplier issues a deadlock letter, the Customer may escalate the matter to an Alternative Dispute Resolution (ADR) service approved by Ofcom, such as the Communications Ombudsman as per Complaints Procedure.

(d) The Supplier will provide details of the relevant ADR scheme upon request and will cooperate fully with the Ombudsman's process.

15.10.2 Large Business Dispute Resolution (Businesses with 11 or more employees)

(a) If the Customer is a **large business (11 or more employees)**, the following escalation process shall apply before any legal proceedings are initiated:

1. Customer Support Co-ordinator – The Customer must first raise the dispute with the Customer Support Co-ordinator, who will acknowledge receipt within four (4) Business Days and attempt to resolve the issue.
2. Head of Service Delivery Escalation – If the dispute is not resolved within four (4) Business Days, the Customer may escalate the matter to the Head of Service Delivery, who will conduct a formal review and respond within ten (10) Business Days.
3. Chief Operating Officer Escalation – If the dispute remains unresolved, the Customer may request escalation to the Chief Operating Officer (COO). The COO (or their appointed representative) shall review the matter and schedule a resolution discussion within fourteen (14) Business Days.

(b) If the dispute remains unresolved after the COO review, either party may seek resolution through mediation, arbitration, or legal proceedings as appropriate. The Supplier reserves the right to propose an independent mediator where reasonable.

(c) Nothing in this Clause prevents either party from seeking urgent injunctive relief where necessary.

16 Data Protection

16.1 In this clause the following definitions will apply:

Data Protection Legislation: shall mean

(i) the Data Protection Act 2018; or

(ii) from 25th May 2018, the General Data Protection Regulation, read in conjunction with and subject to any applicable UK legislation which provides specifications or restrictions of the GDPR rules; or

(iii) from the date of implementation, any applicable legislation that supersedes or replaces the GDPR in the UK or which applies the ruling of the GDPR as if it were part of UK national law.

Customer: the person or firm who purchases Goods and/or Services from Aerial, entering into an agreement. GDPR: shall mean the General Data Protection Regulation (EU) 2016/679; and

Supplier: Aerial Direct Ltd: a company formed in England & Wales (company number: 08043921) registered office: 1 Barnes Wallis Road, Fareham, Hampshire, PO15 5UA, England. Personal Data, Personal Sensitive Data, Data Controller, Data Processor, Data Subject and Processing (and other parts of the verb 'to process') shall have the meaning set out in the Data Protection Legislation.

16.2 Each party shall comply at all times with its respective obligations under the data protection legislation and perform any obligations under this agreement which can cause harm or breach to any of applicable obligations under the Data Protection Legislation. In particular, each party shall:

16.2.1 ensure all necessary notices and consents are in place to enable lawful transmission or access to Personal Data supplied to the Supplier;

16.2.2 where Personal Data is collected, give full information to any Data Subject whose Personal Data may be processed under the Agreement regarding the nature of such processing. This includes a giving notice that such Personal Data may be transferred to the other party;

16.2.3 ensure appropriate technical and organisational measures to protect against unauthorised and unlawful Processing of the supplied Personal Data; and

16.2.4 not transfer the supplied or accessible Personal Data outside the UK or European Economic Area without the necessary protection in accordance with Data Protection Legislation.

16.3 Where the Supplier processes Personal Data on behalf of the Customer and for such purposes the Supplier is a Data Processor and the Customer is the Data Controller. In conjunction with processing the Supplier shall:

16.3.1 process Personal Data only with documented instruction from the Customer and accordance with this agreement;

16.3.2 ensure that parties authorised to process the Personal Data and/or Personal Sensitive Data have agreed to appropriate confidentiality obligations and take necessary steps to ensure parties only act on instructions from Supplier and Customer;

16.3.3 Remain entitled to appoint third party sub-processors. Where the Supplier appoints a third party sub-processor, it shall:

i. Ensure that the third party is subject to, and contractually bound by at least the same obligations as the Supplier; and

ii. Remain liable to the Customer for all acts and omissions of such third parties;

16.3.4 Into the third party sub-processors used pursuant to clause

16.3.3, be entitled to adopt additional or replacement sub processors, subject to:

i. Clause 16.3.3 provisions being applied; and

ii. The Supplier notifying the Customer of the additional or replacement sub-processor by any auditable means, and where the Customer objects to the additional or replacement sub-processor, should any objection be made by the Customer, then the grounds for the objection would be discussed in good faith;

16.3.5 Upon becoming aware of suffering a Personal Data breach notify the Customer without undue delay so both parties if necessary can notify the relevant supervisory authority and Data Subject;

16.3.6 Upon receiving a Customers reasonable request, assist the Customer in complying with the Customers obligations pursuant to GDPR Articles 32-36 (or such corresponding provisions of Data Protection Legislation), including (if applicable):

(a) Carrying out a privacy impact assessment

(b) If required from an impact assessment, engaging in consultation with the relevant supervisory authority

(c) Notifying the supervisory authority that the Supplier has been subject to a Personal Data breach

(d) Communicating such Personal Data breach to an affected individual;

16.3.7 Where required assist the Customer in responding to requests from Data Subjects who are exercising their rights under Data Protection Legislation;

16.3.8 Where termination of the Services/Agreement is exercised, at the request of the Customer to comply with their compliance and/or policies relating to Data Protection Laws (i) securely delete all Personal Data provided by the Customer to the Supplier and/or return to the Customer all Personal Data provided by the Customer to the Supplier; and

16.3.9 Have permission to inspect and audit the Customer and their Processing activities to confirm it's complying with its obligations under this clause upon reasonable notice of at least twenty (20) business days and reciprocate where it is required with the Customer.

16.4 During the course of the Agreement both parties may collect, store and process contact Personal Data of the other party and/or its employees for the purposes of the performance of this Agreement and such processing will be carried out in accordance with each party's privacy policy where applicable for businesses.

The Schedule Maintenance Services.

Document name: AD_COMPLIANCE_US_T&C_3.25_V5
Approved by: COMPLIANCE
Classification: External

Version: V5
Published: 3.2025



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1. Duration of Services: If this option is included within the Agreement, the duration of the Services shall be for the period of the Initial Agreement (Initial Period) starting on the Commencement Date as defined in clause 1.1 of the Agreement or the Commencement Date of any promotion. Upon expiry of the Initial Period the Supplier shall continue to provide the Services for successive further periods of 12 (twelve) months duration (Subsequent Term) until terminated as here in provided
2. Termination of Services: Services may be terminated by the Customer giving the Supplier not less than 6 (six) months' written notice, such notice to expire at the end of the relevant period.
3. Service Levels: Faults in the apparatus will be categorised and dealt with by the Supplier as Priority 1, or Priority 2 as hereafter defined. (Remedy of software faults may be dependent on access to source code and faults in software will be referred to the manufacturer for remedy.)
 - (a) Priority 1 faults are the loss of all or substantially all functionality that renders the Maintained Apparatus unusable. Examples include major functionality failure or total system crash. Supplier will use reasonable commercial efforts to respond within 4 (four) working hours.
 - (b) Priority 2 faults are failures that may cause some difficulty or inconvenience but do not seriously impact on functionality or ability to process traffic. Supplier will use reasonable commercial efforts to respond within 8 (eight) working hours and to provide handset replacements on the next working day provided the fault is reported on a working day by no later 3pm. A fault reported after 3pm will be deemed as reported on the next working day.
 - (c) Programming change and a chargeable programming change: Supplier will use reasonable endeavours to respond within 16 (sixteen) working hours.
4. Miscellaneous

- (a) Supplier at its option may respond by remote interrogation of the apparatus, or by telephone or by an engineer attending the Customer's premises.
- (b) A temporary fix shall be deemed acceptable pending availability of replacement parts for Components.
- (c) A replacement Component shall become the property of the Customer and the replaced Component shall become the property of Supplier. Replacement parts shall be new or substantially as new.
- (d) Where replacement components are supplied the Customer will return the faulty components within 7 (seven) days of receipt of the replacement components. The Customer will pay the Supplier for replacement components if the faulty components are not returned in accordance the terms of this Agreement.
- (e) The Customer acknowledges that provision of the Services is conditional on Supplier being provided with accurate and correct system access details.
- (f) Where the Quote indicates that system access details have been provided by the Customer or requested from the Customer by Supplier, the Customer is responsible for ensuring that system access details are accurate and correct.
- (g) Where the system access details are indicated on the Quote as requested, the Customer will supply the same to Supplier within 10 (ten) working days of the date of the Quote.
- (h) Where the Customer fails to provide system access details the Customer agrees to Supplier resetting the Maintained Apparatus to enable access to the same using renewed system access details.
- (i) Where the Quote indicates that the apparatus is to be reset, Supplier will reset the apparatus. Where Supplier resets the apparatus the Customer shall pay Suppliers charges for performing such a reset of £300.00 (three hundred pounds)

