



**4net Technologies Limited**

**and**

**[Customer Name]**

**Master Agreement**

**00/00/2021**

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This Agreement is dated

DD/MM/YY

## PARTIES

- (1) 4NET TECHNOLOGIES LIMITED incorporated and registered in England and Wales with company number 05448638 whose registered office is at 3 Scholar Green Road, Stretford, Manchester, Lancashire M32 0TR (**FourNet**); and
- (2) [CUSTOMER NAME] incorporated and registered in England and Wales with company number [Number] whose registered office is at [Address] (**Customer**).

## BACKGROUND

- (A) FourNet is a provider of various telecommunications and related services.
- (B) The Customer wishes to be provided with certain telecommunication services on the terms of this Agreement.

## AGREED TERMS

## INTERPRETATION

The following definitions apply in this Agreement:

**FourNet Equipment:** means any equipment, including any Software, owned or licensed by FourNet or its sub-contractors, that is located at a Site for the provision of the Service(s) and, if any, as more fully described in the Supply Schedule and set out in an Order.

**Acceptance Tests:** means those objective tests conducted by the Customer, which, when passed confirm that the Service or Installed Solution is accepted by the Customer and ready for use save for any minor non-conformities, which will be resolved as an Incident.

**Additional Charges:** all charges payable by the Customer in addition to Charges detailed in the Order with the Managed Services Schedule in addition to the Annual Charge.

**Administrator:** means a person authorised by the Customer to manage MACDs and the passwords of Users and Agents.

**Agent:** means a Customer individual who is Provisioned to use the Contact Centre Applications and enabled to receive or make Calls using the Cloud Service.

**Annual Charge:** the annual charge for the Services as set out in the Order.

**Applicable Law:** means the laws of England and Wales and any laws and regulations, as may be amended from time to time, that apply to the provision or receipt of the Services, including:

applicable regulations of a Regulatory Body;

anti-corruption laws set out in the Bribery Act 2010 and the Foreign Corrupt Practices Act of 1977 of the United States of America; and

all applicable export laws and regulations, including those of the United States of America.

**Applications:** means Contact Centre (CC) Applications, Work Force Optimisation (WFO), Avaya Aura Experience Portal Application (AAEP), Interactive Voice Response services and applications (IVR) or Unified Communications (UC) Applications.

**Availability:** means the period of time when the Service is not Out of Service.

Avaya: means FourNet's supplier being a global supplier of business communications.

Billing Period: means a calendar month.

Business Day: a day other than a Saturday, Sunday, or public holiday in England when banks in London are open for business.

Call: means a signal, message or communication which can be silent, visual or spoken, excluding text messages.

Carrier Price List: means the price list of that name which can be found at [www.btwholesale.com](http://www.btwholesale.com) which contains charges for a BT service or facility as amended by the Carrier from time to time.

Circuit: means any line, conductor, or other conduit between two terminals by which information is transmitted, and that is provided as part of the Service.

Claim: means any legal claims, actions, or proceedings against a Party, whether threatened or actual.

CLI: means the telephone number of the calling party or the default number of the Customer.

CLI Code of Practice: means the code by the same name as set out at <https://www.ofcom.org.uk/phones-telecoms-and-internet/information-for-industry/telecoms-industry-guidance/calling-line-identification>

Cloud Services: Services hosted in a FourNet data centre or a 3<sup>rd</sup> party supplier's data centre and provided to the Customer and managed by FourNet as set out in the Order.

Communications Provider or CP: means a 'Communications Provider' as defined in paragraph 1.4(a) of Condition 1 of the General Conditions of Entitlement set by Ofcom pursuant to section 45 of the Communications Act 2003.

Contact Centre or CC: means the suite of Software for providing contact centre services as set out in the Order.

Content: means applications, data, information (including emails), video, graphics, sound, music, photographs, software or any other material.

CPE: the customer premises equipment (such as routers, Network Terminating Equipment) which is provided by FourNet, or one of FourNet's suppliers (as the case may be), as set out in the Order.

CPS: means Carrier Pre-Selection.

CRF: is a Customer Requirement Form used by the Customer to either order the Cloud Service, or to modify certain aspects of the Cloud Service.

Customer Contact: has the meaning given in paragraph 5.3.1 of the Supply Schedule.

Customer Default: has the meaning any failure or delay by the Customer to perform any of the Customer's obligations under the agreement or the Order.

Customer Equipment: means any equipment (including software) other than FourNet Equipment, used by the Customer in connection with the Services.

Customer Service Plan or CSP: means the document of that name which sets out the procedures agreed between the Parties for managing disputes under this Agreement including any escalation process.

De-installation Charges: means the one-off Charges payable by the Customer on de-installation of the Services as set out in the Order.

Delivery Location: the delivery location set out in the Order.

Domain Name: means a readable name on an Internet page that is linked to a numeric IP Address.

Due Date: has the meaning set out in clause 7.6.

E.164: means the ITU-T numbering plan for the world-wide public switched telephone network (PSTN).

Electronic Communications Network: has the meaning set out in the General Conditions of Entitlement found on the OFCOM Website.

Electronic Communications Service: has the meaning set out in the General Conditions of Entitlement found on the OFCOM Website.

Emergency: means a serious situation or occurrence that:

- (a) threatens life and limb; or
- (b) may cause or threatens to cause damage to physical property or systems; or
- (c) happens unexpectedly; and
- (d) demands immediate action.

Emergency Call: means a Call to 999 or 112.

Emergency Calls Access: means that component of the Services conveying Emergency Calls.

Emergency Services Database or ESDB: means the Emergency Call routing and address database.

Emergency Services Organisation: means the relevant local public police, fire, ambulance and coastguard services and other similar organisation.

Enabling Service: has the meaning given in 5.2.5 of the Services Schedule.

Equipment: the equipment to which the Services apply as set out in the Order.

First Response: FourNet have received and logged the Incident and passed to a Resolver Group.

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

Go Live Date: means the date upon which the Service or Solution is ready for use by the Customer and is no longer considered to be in an implementation phase.

Implementation Services: means the supply, installation, configuration and programming of the Equipment and or the Services and training where set out in the Order.

Incident: an unplanned interruption to a Service or reduction in the quality of a Service.

Incoming Call: means a Call from destinations with E.164 numbers made to a User.

**Intellectual Property Rights:** means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Initial Term:** means the length of the contract term for the Service procured as set out in the Order.

**Internal Calls or On-Net:** means Calls made between Users configured within the Customer where both Users are using IP phones (hard or soft).

**International Destination Network:** means a network operated in an overseas country.

**Internet:** means a global system of interconnected networks that use a standard Internet Protocol to link devices worldwide.

**Internet Protocol or IP:** means a communications protocol for devices connected to the Internet that specifies the format for addresses and units of transmitted data.

**IP Address:** means a unique number on the Internet of a network card or controller that identifies a device and is visible by all other devices on the Internet.

**IP Network:** means a telecommunications network operated on IP.

**IVR Port:** means an Interactive Voice Response port on the Avaya Experience Portal.

**Local Area Network or LAN:** means the infrastructure that enables the ability to transfer IP services within Sites (including data, voice, and video conferencing services).

**MACD:** means moves, adds, changes, and deletes carried out on the Applications by the Administrator.

**Managed Services:** the managed services to be provided by FourNet as set out in the Order.

**Manufacturer Support Charges:** the charges for the maintenance services or software assurance provided by the manufacturer of the Goods as set out in the Order.

**Manufacturer Software:** software developed, supported and tested by a 3<sup>rd</sup> party supplier.

**Measurement Period:** means a calendar month (24 hours per day).

**Minimum Billable Value:** means the lowest charges reflected within the commercial offer of the Order based upon the Minimum Billable Volume of Monthly Usage.

**Minimum Billable Volume:** refers to the lowest volume of licenses reflected within the commercial offer of the Order. Where Monthly Usage drops below the agreed volume, the Minimum Billable Value shall be charged.

**Monthly Usage:** means in relation to:

- (a) Contact Centre Applications - the concurrent peak number of Users logged in to the applicable Contact Centre Applications, measured across the Customer's entire base of Users, over the Measurement Period.

- (b) WFO and WFM Applications - this the highest number of named Agents, for whom the applicable WFO Application is Provisioned, that are configured into the Contact Centre (as measured by the Service Portal), during the Measurement Period; and
- (c) UC Applications - the concurrent peak number of Users Provisioned on the applicable UC Application, measured across the Customer's entire base of Users, over the Measurement Period (measured by the Service Portal).

Network Services: means the provision of the existing telephone lines and telephony services and the new telephone lines and telephony services, wide area network (WAN) services, the SIP Services, CPS and other ancillary services which are all as set out in the Order.

Number Portability: means an arrangement whereby a Customer's telephone number ceases to be provided by the losing CP and such Customer telephone number is subject to number import onto the Cloud Service. If the Customer telephone number ceases to be used by FourNet then it may be subject to number export to the gaining CP pursuant to the Number Portability rules as set out in the Product Handbook.

Ofcom: means the Office of Communications or its successor body or authority that is the regulatory body for communications in the UK.

One-off Charges: means the one-off charges for the Services, Goods or Equipment set out in the Order.

On-Net or Internal Calls: means Calls made between Users configured within the Customer where both Users are using IP phones (hard or soft).

Operating Services Manual: means a detailed document that is produced in collaboration with the Customer during Service Transition, that covers all aspects of the delivery of the Managed Services.

Order: means the Customer's order for the Goods and/or Services as set out in Order Schedule to this Agreement and any further orders as agreed between the parties which refer to this Agreement and which shall be in a substantially similar form to the order set out in the Order Schedule.

Out of Service: means an outage affecting more than 20% (but not less than 20) of the Customer's Users for the applicable Application, excluding outages for Planned Maintenance or Emergency maintenance.

Planned Maintenance: means any work planned in advance to be carried out by, or on behalf of, FourNet, including:

- (a) to maintain, repair or improve the performance of FourNet's network (or that of FourNet's subcontractors) or any Services; or
- (b) to make any change to the Services that does not have a material adverse effect on the performance or provision of the Cloud Service including: the introduction or withdrawal of any Service features; or the replacement of any Service with an equivalent Service.

Presentation Number: means the telephone number made available to a called party.

Price or Charges: means the price for the Goods and/or Services as set out in the Order.

Professional Services: means one off implementation and training services delivered to the Customer by FourNet or a 3rd Party on behalf of FourNet, these services are further defined in the Services Schedule.

**Provisioned:** means enabled by the Customer using a Service Portal to log on and use the applicable Application.

**PRS or Premium Rate Service:** means a communications service where Call Charges include a premium to cover the cost of content and/or an element of the service above the costs and Charges attributable to conveyance.

**PSTN:** means Public Switched Telephone Network, which is the concentration of the world's public circuit switched telephone networks.

**Recurring Charges:** means Charges for the Services or applicable part of the Services that are invoiced repeatedly in every payment period (e.g. every month), as set in the Order.

**Regulatory Body:** means any national or supranational regulatory or competition body, government department, court, or other body authorised and empowered under local law in the relevant country to regulate or adjudicate on the provision of the Services.

**Renewal Period:** means a period equivalent to the shorter of (i) the Initial Period and (ii) 3 years.

**Resolver Group:** means Tier 2 and 3 FourNet engineers, supporting 3rd parties or any other relevant person to investigate and solve a customer query or incident.

**Scope of Work:** means the document described as such to be provided by FourNet detailing the Services to be carried out by FourNet

**Second Response:** Resolver Group are actively engaged in fault investigation, logged on to relevant systems and engaged with the Customer.

**Services:** means the Managed Services, Cloud Services and Network Services as appropriate.

**Service Delivery Date:** means the date that the Service is available to the Customer and the charges for the Managed Service, Cloud and Manufacturer Support will be charged from. This is the later date of 90 days following order placement or the Service being available for User Acceptance Testing (unless otherwise specified in the Order).

**Service Credit:** means any agreed remedy for failure by FourNet to meet a Service Level for the Service set out in an Order.

**Service Level:** means any agreed minimum level of Service to be achieved by FourNet with respect to the Service, such as delivery, availability or restoration as set out in the Services Schedule. Bespoke Service Levels will be described in the Order.

**Service Management Boundary:** has the meaning given in paragraph 7 of the Services Schedule.

**Service Portal:** means the portal used by the Supplier to administer the Services and configure Applications and to create and receive reports on the utilisation of the Services.

**Service Transition:** means the process adopted when a project nears completion and the ongoing support services begin. This also covers the process when a Customer orders services that are not attached to a project, where the procured Goods or Services require ongoing maintenance and support.

**SIP Services:** means a Voice over Internet Protocol (**VoIP**) service based on the Session Initiation Protocol (**SIP**) by which FourNet delivers telephone connectivity to the public switched telephone network (**PSTN**) to the Customer with a compatible phone system (**IP-PBX**) as set out in the Order.



Sites: means the locations set out in the Order.

Software: means any software installed on or supplied with the Goods or as set out on the Order.

Specification: means any specification for the Goods issued by the manufacturer.

Statement of Work: means the detailed plan describing the Services required to fulfil the Order. (if any).

Supervisor: means an individual whose role at the Customer's organisation includes the management of Agents and requires access to the supervisor management and reporting tools.

Support Hours: the hours of support set out in the Order.

Target Restoration: the FourNet target to have Service(s) restored to a usable working state by means of full fault fix or the implementation of a workaround.

Transfer Charge Call: means a Call for which the called party is requested and agrees to pay the cost of a Call from a person who initiates a Call.

UC Applications: means the Software for the provision of unified communications services as set out in the Order.

Uniform Resource Locator or URL: means a character string that points to a resource on an intranet or the Internet.

Usage Charges: means the Charges for the Outgoing Calls services as specified in the Order.

User: means any person who is permitted by the Customer to use or access the Services.

VAT: Value Added Tax chargeable under English law for the time being and any similar additional tax.

Voice Channel: means the capacity needed to carry a single Call.

VOIP: means voice over internet protocol.

WFO Applications: means applications supporting work force optimisation including call recording, quality monitoring and workforce management.

Working Day: means 8.30 to 17.30 Monday to Friday, excluding public or bank holidays in the applicable part of the United Kingdom.

3rd Party Supplier: a supplier or sub contractor used by FourNet to deliver part or all of the Professional Services or other Services detailed in the Order.

Clause, schedule, and paragraph headings shall not affect the interpretation of this Agreement.

A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.

## 1. AGREEMENT

1.1 The schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the schedules.

- 1.2 A reference to a company shall include any company, corporation, or other body corporate, wherever and however incorporated or established.
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.
- 1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.5 A reference to a statute or statutory provision is a reference to it as amended, extended, or re-enacted from time to time.
- 1.6 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.7 References to Clauses and Schedules are to the clauses and schedules of this Agreement; references to Appendices and paragraphs are to appendices and paragraphs of the relevant Schedule.
- 1.8 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## 2. CONFLICT

- 2.1 The provisions of the main body of this Agreement shall be supplemented by any applicable additional provisions set out in the Schedules.
- 2.2 In the event, that any provision of the main body of this Agreement conflicts with any provision of any Schedule, the provisions of the Schedule shall take precedence.

## 3. COMMENCEMENT AND TERM

- 3.1 This Master Agreement commences on the date hereof and, subject to paragraph 13, shall continue until terminated by either party in accordance with paragraph 13 or clause 3.5.
- 3.2 FourNet will provide each Service from its Service Delivery Date for the duration of the Initial Term and thereafter for each Renewal Period.
- 3.3 Orders for Managed Services under this Master Agreement will automatically renew for the duration of the Renewal Period unless either party gives notice to end the Agreement in accordance with paragraph 3.4.
- 3.4 Either party may give written notice to the other party not less than 90 days before the end of the Initial Term or the relevant Renewal Period of the Order to terminate the Service at the end of the Initial Term or the relevant Renewal Period as the case may be.
- 3.5 Either party may give written notice to the other party with no less than 90 days before the intended termination date of the Master Agreement. Orders signed under this Agreement shall complete the Initial Term or relevant Renewal Period before the termination comes into effect.

## 4. ORDERS

- 4.1 When the Customer wishes FourNet to provide it with Goods and/or Services, it shall send an Order to FourNet. Each Order shall be deemed to be a separate offer by the Customer to purchase Services on the terms of this Agreement, which FourNet shall be free to accept or decline at its absolute discretion.
- 4.2 No Order shall be deemed to be accepted by FourNet until it issues a written acceptance of the Order or (if earlier) FourNet commences provision of the Services to the Customer.

4.3 Each Order shall refer to this Agreement and be deemed to incorporate all provisions of this Agreement, save as expressly varied in the Order.

## 5. PRICE AND PAYMENT

Table 1

Description	Invoice Frequency	Payment Terms	Commencement	Additional Information
Equipment	n/a	30 days from receipt of invoice	From Delivery to Customer or FourNet	
Perpetual Software	n/a	30 days from receipt of invoice	From Software activation date	
Subscription Software	Annually	30 days in advance	From software activation date	Quarterly and monthly invoice frequencies also available (subject to the Order)
Software Rentals	Annually	30 days in advance	From software activation date	Quarterly and monthly invoice frequencies also available (subject to the Order)
Cloud Services	For Licenses or Subscriptions- Monthly in Advance.  For call volumes- 1 Month in arrears	30 days in advance	Per Milestones agreed in the Order	Quarterly and monthly invoice frequencies also available (subject to the Order)
Professional Services	On Completion of Milestone	30 days from receipt of invoice	Per Milestones agreed in the Order	Quarterly and monthly invoice frequencies also available (subject to the Order)
Connectivity Rentals	Annually	30 days from receipt of invoice	Upon FourNet receiving the Order	Quarterly invoice frequencies also available (subject to the Order)
Software Assurance	Annually	30 days in advance	Upon Service Delivery Date	
FourNet Managed Service	Annually	30 days in advance	Upon Service Delivery Date	Quarterly and monthly invoice frequencies also available (subject to the Order)

5.1 The table above defines general Payment Terms, for specific Orders, any bespoke Payment Terms will be defined in that Order Schedule.

5.2 The full balance of the Order value of any Goods is due on the earlier of (i) the date of delivery of the Goods to the Customer premises, (ii) the date that FourNet notifies the Customer that the Goods are available for delivery to the Customers premises or (iii) the date of delivery to FourNet

in circumstances where FourNet is to carry out configuration or other services to such Goods at FourNet premises.

#### Managed Service and Cloud Service Charges

- 5.3 The Price for the Services shall be inclusive of the Manufacturer Support Charges, the Annual Charge and any Cloud, Rental, Subscription or Network Services Charges unless otherwise stated.
- 5.4 FourNet shall invoice the Customer the Manufacturer Support Charges and the Annual Charge annually in advance from the Service Delivery Date. FourNet shall invoice the first Manufacturer Support Charges on the earlier of (i) 90 days from the date of the Order for the relevant Goods and (ii) 45 days prior to the Service Delivery Date or the anniversary thereafter. FourNet shall invoice the Annual Charges 45 days prior to the due date for the commencement of Services and annually thereafter.
- 5.5 The Service Delivery Date following Implementation Services shall be the date at which the solution is made available to the Customer for UAT following a new implementation, or a date otherwise agreed within the Order. On the Service Delivery Date, the Managed Service provided by FourNet shall commence and the Charges for this Service will be due.
- 5.6 Charges relating to Rentals and Network Services shall commence upon the date set out in the Order.

#### Professional Services Charges

- 5.7 Where Professional Services are provided on a fixed price basis:
  - 5.7.1 the balance of the Order value of any Professional Services will be invoiced as set out in the Order;
  - 5.7.2 Installation Charges will be invoiced at the time of installation;
  - 5.7.3 Cancellation or rescheduling of the services set out in the Scope of Work by the Customer will incur Additional Charges;
  - 5.7.4 Where the Professional Services are provided on a time-and-materials basis:
  - 5.7.5 FourNet's standard daily rates are calculated on the basis of a day worked between 9.00 am and 5.30 pm on weekdays (excluding weekends and public holidays);
  - 5.7.6 FourNet shall be entitled to charge at an overtime rate of 150% of the normal rate for time worked by members of the project team outside the hours referred to in paragraph 5.7 and on Saturdays and 200% of the normal rate on Sundays and public holidays;
- 5.8 FourNet shall invoice the Customer as set out in the Order for its charges for time, expenses, and materials (together with VAT where appropriate) for the month concerned, calculated as provided in this paragraph 5.8. Each invoice shall set out the time spent by each member of the project team and provide a detailed breakdown of any expenses and materials, accompanied by the relevant receipts.
- 5.9 All payments payable to FourNet for Services shall become due immediately on termination of this Agreement, despite any other provision.

#### Additional Training Charges

- 5.10 FourNet will charge the Customer at a fixed, or daily rate as set out in the Order or at a rate advised to the Customer by FourNet from time to time.

#### Service Administration and MACD Charges

- 5.11 FourNet will charge the agreed hourly or daily rate set out in the Order for any additional MACDs or ceases required by the Customer that fall outside the scope of the standard Service as set out in this Agreement or as otherwise detailed by FourNet.

#### Minimum Monthly Spend

5.12 Where the Customer commits to a minimum monthly spend as set out in the Order (which minimum monthly spend excludes one-off Charges, Calls and set-up fees), the Customer shall, unless otherwise agreed in writing by FourNet, be invoiced such minimum monthly spend each month during the term of the Order.

#### Number Allocation Charge

5.13 FourNet will charge the Customer a one-off number allocation Charge as set out in the Order, for each new number.

#### Number Porting Charges

5.14 FourNet will charge the Customer a one-off charge for Number Porting as set out in the Order.

#### Voice Channel Charges

5.15 FourNet will charge the Customer a monthly Voice Channel Charge as set out in the Order for each month or part month.

#### Usage Charges

5.16 The Customer will pay the Usage Charges for Outgoing Calls at the rates advised by FourNet to the Customer from time to time.

5.17 Charging for a Call will commence when an answer signal is received indicating that the media path is complete and will cease when a release signal is received indicating that the Call has been disconnected.

5.18 Except for minimum or fixed fee Calls, FourNet will charge for Calls on a per second basis rounded up to the nearest second.

5.19 Changes to Usage Charges will be effective from the 1st day of each month but FourNet may change Call Charges at other times if necessary.

5.20 Where a Call extends over one or more charging periods, FourNet will apportion the Call duration to the relevant charging period and charge for the call accordingly.

5.21 All charges shall be calculated by reference to data recorded or logged by FourNet and not to data recorded or logged by the Customer and FourNet's data records and logs shall be prima facie evidence of call parties, call time, and call duration and shall be accepted as such save in the case of manifest error by FourNet.

5.22 The Customer shall pay all Usage Charges whether or not the usage was authorised by the Customer.

5.23 FourNet may adjust Usage Charges at any time on giving a minimum of 5 days' notice to reflect a change in international termination rates or as required to do so by a regulatory body.

5.24 FourNet may adjust the Usage Charges provided that FourNet gives the Customer at least 14 days' prior notice of any increase.

#### Free to Caller Calls

5.25 Where an Outgoing Call is made to a 0800, 0808 and 0500 free phone number it will be free to the End User.

5.26 Where an Incoming Call is made to a 0800, 0808 and 0500 free phone number belonging to the Customer, either allocated or ported to the Cloud Service, FourNet will deem it to be an Outgoing Call and will charge the Customer at the rates advised to the Customer from time to time. If a BT managed or public payphone (or equivalent payphone on the BT network of another payphone operator) is used to make this type of Call the Customer will pay the payphone access Charge as set out in:

5.26.1 section B1.09 of the Carrier Price List for a BT payphone; or

5.26.2 the relevant regulated payphone access Charge in a Communications Provider's price list for a Communication Provider payphone.

5.27 Calls that remain On-Net will be free to the caller.

Transfer charge calls

5.28 FourNet will charge for Transfer Charge Calls at the rate advised to the Customer from time to time.

De-installation charges

5.29 FourNet will charge De-installation Charges for the de-installation of Voice Channels or Equipment at the rates set out in the Order.

## 6. Amendment

6.1 Save as set out in clauses 6.2, no amendment of the Order will be effective unless agreed in writing by the Parties.

6.2 FourNet may amend the Order at any time by giving the Customer 21 days' notice in order to:

6.2.1 comply with any legal or regulatory obligation; or

6.2.2 protect the use of its brand or that of its subcontractors; or

6.2.3 introduce new or improved service features; or

6.2.4 withdraw service features or components; or

6.2.5 introduce new or improved service levels; or

6.2.6 change the technical specification of the Services; or

6.2.7 improve clarity, or make corrections to typographical errors; or

6.2.8 introduce process changes; or

6.2.9 change the codes or the numbers allocated to the Services in order to meet the national numbering requirements of Ofcom;

6.3 FourNet will provide 21 days' notice if it proposes any amendments to the Order that are not otherwise specifically referred to in this Agreement.

6.4 Upon expiry of the notice the changes to the Order proposed by FourNet will automatically apply unless the Customer responds to FourNet within 21 days of the notice disagreeing with the changes.

## 7. Invoice Payment

7.1 The Customer shall pay each invoice submitted by FourNet:

7.1.1 within 30 days of the date of the invoice; and

7.1.2 in full and in cleared funds to a bank account nominated in writing by FourNet.

7.2 Any Charges include the cost of hotel, subsistence, travelling, and any other ancillary expenses reasonably incurred by FourNet in connection with the Services, and the cost of any materials or services reasonably and properly provided by third parties required by FourNet for the supply of the Services unless otherwise stated on the Order.

7.3 The Charges are exclusive of VAT, which FourNet shall add to its invoices at the appropriate rate.

7.4 Where stated in the Order the Customer shall pay the Charges by direct debit upon FourNet submitting an invoice in accordance with the Order.

7.5 Where invoices are to be issued online, FourNet will notify the Customer by email when a new invoice is issued.

- 7.6 Without limiting any other right or remedy of FourNet, if the Customer fails to make any payment due to FourNet under this Agreement by the due date for payment (Due Date):
- 7.6.1 FourNet shall have the right to charge interest on the overdue amount at the rate of 3 per cent per annum above the then current Barclays Bank plc's base lending rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly; and
  - 7.6.2 FourNet may suspend the Services or Professional Services until payment has been made in full.
- 7.7 The Customer shall pay all amounts due under this Agreement in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against FourNet in order to justify withholding payment of any such amount in whole or in part. FourNet may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by FourNet to the Customer.
- 7.8 Where the Customer makes an aggregated payment in respect of more than one invoice, the Customer will, upon request, provide a breakdown to show amounts paid in relation to each individual invoice, clearly identifying the amount applicable to each.
- 7.9 At the anniversary of the annual term FourNet will apply an RPI rate adjustment to all recurring Services (as documented by the Office of National Statistics).
- 7.10 In the event, that the price to FourNet of any Goods, Cloud Services, Network Services or Software Assurance increases by more than 2% due to a fall in the sterling exchange rate or due to an increase in the rate of inflation (as documented by the Office of National Statistics) from that of the date of the relevant Order, FourNet may on notice to the Customer increase the Price by the increase to FourNet of the same.
- 7.11 Where FourNet has issued an incorrect invoice, FourNet may issue an amending invoice or credit note together with details of the error to the Customer within 3 months of the issuing of the incorrect invoice.

## 8. Invoice Disputes

- 8.1 The Customer will pay by the Due Date, all undisputed amounts and any disputed amounts that are less than five percent of the total invoice amount.
- 8.2 If the Customer disputes an invoice, it will provide Notice to FourNet of the dispute within 14 days of the date of the invoice and will provide all information relevant to the dispute, stating the reasons for and the amount in dispute.

If the Customer pays by direct debit, FourNet will amend the direct debit by the disputed amount while it investigates the dispute.

- 8.3 The Customer will pay any resolved amount within five Business Days after the resolution of the dispute.
- 8.4 Paragraph 8 will apply to any resolved amounts payable to FourNet from the original Due Date.

## 9. CONFIDENTIALITY

- 9.1 The Customer shall keep in strict confidence all confidential information concerning the business, affairs, customers, clients or suppliers of FourNet disclosed to the Customer by FourNet, its agents or employees. The Customer shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Customer's obligations to FourNet, and shall ensure that such employees, agents, or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Customer.
- 9.2 All materials, equipment and tools, drawings, specifications, and data supplied by FourNet to the Customer shall at all times be and remain the exclusive property of FourNet but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the

Customer until returned to FourNet, and shall not be disposed of or used other than in accordance with FourNet's written instructions or authorisation.

9.3 This clause 5 shall survive termination of this Agreement, howsoever arising.

## 10. DATA PROCESSING

10.1 In this Clause 10:

10.1.1 **"Data Protection Law"**: means the General Data Protection Regulation 2018 ("GDPR") and the Data Protection Act 2018 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner from time to time;

10.1.2 "process", "data controller", "data processor", "data subject(s)", "personal data", and "subject access request" shall have the meaning given in the Data Protection Law.

10.2 The Customer will comply with its obligations as a data controller under Data Protection Law. The Customer warrants and represents that the carrying out by FourNet of processing of the personal data under this Agreement shall not infringe Data Protection Laws.

10.3 The Customer hereby appoints FourNet as data processor in relation to personal data which FourNet receives under or in connection with the performance of this Agreement.

10.4 The details of the personal data processed for the purposes of this Agreement include:

10.5 Subject matter: The subject matter of the data processing is the carrying out of the Services under this Agreement.

10.6 Duration: The duration of the data processing is until the termination of the Agreement in accordance with its terms.

10.7 Purpose: The purpose of the data processing is the provision of the Services to the Customer and the performance of FourNet's obligations under the Agreement or as otherwise agreed by the Parties.

10.8 Nature of the processing: Using personal data in the performance of the Services.

10.9 Categories of data subjects: Employees of the Customer.

10.10 Types of personal data: Contact details of the data subjects.

10.11 In processing personal data pursuant to this Agreement, FourNet shall:

10.11.1 act only on documented instructions from the Customer unless required to do so by Data Protection Law, in which case FourNet shall inform the Customer of such legal requirement before carrying out such processing, unless that law prohibits the provision of such information on grounds of public interest;

10.11.2 ensure that all FourNet personnel involved in the processing of personal data (including its staff, agents and subcontractors) are under appropriate obligation of confidentiality;

10.11.3 take all measures required by Article 32 of the GDPR in respect of the personal data;

10.11.4 not engage another processor without the prior written authorisation of the Customer. Where FourNet does engage another processor, FourNet shall impose the same obligations on such processor as are imposed on FourNet by this clause 10.11.4;

10.11.5 taking into account the nature of the processing, assist the Customer by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Customer's obligations to respond to requests for exercising the data subject's rights set out in Chapter III of the GDPR;

10.11.6 assist the Customer in ensuring compliance with the obligations set out in Articles 32 to 36 of the GDPR taking into account the nature of the processing and the information available to FourNet;



- 10.11.7 at the Customer's choice, delete or return to Customer all personal data in its possession or control after the end of such processing, save that this requirement shall not apply to the extent FourNet is required by Data Protection Law to retain some or all of the personal data.
- 10.11.8 make available to the Customer all information necessary to demonstrate compliance with this Agreement and allow the Customer (or its authorised representatives) to inspect and audit FourNet's compliance with the terms of this Agreement;
- 10.11.9 notify the Customer immediately if, in FourNet's opinion an instruction from the Customer infringes Data Protection Law
- 10.11.10 not cause or permit personal data to be transferred outside the EU without the Customer's prior written consent, unless required to do so by Data Protection Law.
- 10.11.11 Ensure that if FourNet transfers personal data to sub-contractors located in countries outside the EEA, that transfer shall be subject to the terms of the Standard Contractual Clauses (as per European Commission's Decision 2010/87/EU) as set out in Annex 2 which FourNet enters into on behalf of the sub-contractor with the Customer.

## 11. INTELLECTUAL PROPERTY RIGHTS

- 11.1 The Customer acknowledges that all Intellectual Property Rights used by or subsisting in the Goods are and shall remain the sole property of FourNet or (as the case may be) third party rights owner.
- 11.2 In relation to the Software:
- 11.3 the Customer acknowledges that it is buying only the media on which the software is recorded and the accompanying user manuals;
- 11.4 nothing contained in this Agreement shall be construed as an assignment of any Intellectual Property Rights in the Software or user manuals; and
- 11.5 the Customer shall be subject to the rights and restrictions imposed by the owner of the Intellectual Property Rights in the Software and user manuals, and shall comply with all licences, terms of use and registration requirements relating to them. The end user licence terms for 3<sup>rd</sup> Party Software are included in the Annex to the relevant Schedule.
- 11.6 Each Party's Intellectual Property Rights, whether pre-existing or created by a Party during or arising out of or in connection with the performance of this Order, will remain the absolute property of that Party or its licensors.
- 11.7 In reference to Cloud Services, FourNet will give the Customer a non-transferable and non-exclusive licence to use, solely as necessary for receipt or use of the Cloud Service(s), all Software (in object code form only) and associated documentation that may be supplied by FourNet, subject to the Customer's compliance with this Agreement and any third party terms and conditions, as more fully set out in this Agreement or set out in an Order, that apply to the use of the Software. Such licenses will terminate at the end of the term.
- 11.8 The Customer will not copy, decompile, modify, or reverse engineer any Software or knowingly allow or permit anyone else to do so, except as expressly permitted by FourNet in writing or otherwise provided at law.
- 11.9 FourNet will indemnify, hold harmless and defend the Customer from and against any Claims brought against it by a third party for alleged infringement of that third party's Intellectual Property Rights by the Customer's receipt of any Service(s) provided that, for each Claim, the Customer promptly notifies FourNet of the Claim, FourNet is given immediate and complete control of the Claim, the Customer does not make any public statements related to the Claim or in any way prejudice FourNet's defence of the Claim, and the Customer gives FourNet (or its subcontractors) all reasonable assistance with the Claim. All costs incurred or recovered in negotiations, litigation, and settlements relating to any indemnity given under this clause 11.9 will be for FourNet's account.

- 11.10 The indemnity set out in paragraph 11.9 will not apply to Claims arising out of or in connection with:
- 11.10.1 the use of any Service in conjunction or combination with other equipment or software or any other service(s) not supplied by FourNet;
  - 11.10.2 any unauthorised alteration or modification of any Service;
  - 11.10.3 content, designs, or specifications supplied by, or on behalf of, the Customer; or
  - 11.10.4 use of the Services other than in accordance with this Agreement.
- 11.11 The Customer will indemnify FourNet against all Claims, losses, costs and liabilities arising out of or in connection with the matters set out in clause 11.10 that are attributable to the Customer or its agents or Users and will cease any such activity immediately upon notice from FourNet or at such time as the Customer became aware, or should have reasonably have been aware, that the activity had given rise to the Claim.
- 11.12 If any Service becomes, or FourNet reasonably believes it is likely to become, the subject of a Claim of infringement of any third party's Intellectual Property Rights as referred to in clause 11.9, FourNet may, at its own expense:
- 11.12.1 secure for the Customer a right of continued use; or
  - 11.12.2 modify or replace the relevant part(s) of the Services so that it is no longer infringing, provided that that modification or replacement will not materially affect the performance of the relevant part(s) of the Services.
- 11.13 The indemnity in clause 11.9 and the actions in clause 11.12 will be the Customer's sole and exclusive remedy for any Claims arising out of or in connection with an infringement of Intellectual Property Rights.

## 12. LIMITATION OF LIABILITY

- 12.1 The following provisions set out the entire financial liability of FourNet (including without limitation any liability for the acts or omissions of its employees, agents, and sub-contractors) to the Customer in respect of:
- 12.1.1 any breach of this Agreement howsoever arising;
  - 12.1.2 any use made by the Customer of the Services or any part of them; and
  - 12.1.3 any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including without limitation negligence) arising under or in connection with this Agreement.
- 12.2 Nothing in this Agreement shall limit or exclude FourNet's liability for:
- 12.2.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - 12.2.2 fraud or fraudulent misrepresentation; or
  - 12.2.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); or
  - 12.2.4 any matter in respect of which it would be unlawful for FourNet to exclude or restrict liability.
- 12.3 Subject to clause 12.1 and clause 12.2:
- 12.3.1 FourNet shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any of the reasons listed below arising under or in connection with this Agreement:
    - 12.3.1.1 loss of profit; or

- 12.3.1.2 loss of business; or
- 12.3.1.3 depletion of goodwill or similar losses; or
- 12.3.1.4 loss of anticipated savings; or
- 12.3.1.5 loss of contract; or
- 12.3.1.6 loss of use; or
- 12.3.1.7 loss or corruption of data or information; or
- 12.3.1.8 any special, indirect, or consequential loss; and
- 12.3.1.9 FourNet's aggregate liability to the Customer arising under or in connection with this Agreement in each consecutive 12 month period commencing on the date hereof, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, including losses caused by a deliberate breach of this Agreement by FourNet, its employees, agents or subcontractors shall not exceed the total Price paid or payable by the Customer during that period.

12.4 The Customer shall be responsible for putting in place and maintaining all necessary technical and other measures to ensure the security of its networks and systems (including the Equipment). The Customer acknowledges and agrees that FourNet shall have no liability in respect of any unauthorised use of the Customer's networks and systems (including the Equipment) arising from FourNet's provision of the Services or otherwise under this Agreement and that the Customer shall be responsible for all sums due to third parties for the use of the same (including any monies due to communications providers for use of their systems, whether authorised by the Customer or not).

12.5 Except as set out in this Agreement, all warranties, conditions, and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.

12.6 The Customer agrees that, in entering into this Agreement, either it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in this Agreement or (if it did rely on any representations, whether written or oral, not expressly set out in this Agreement) that it shall have no remedy in respect of such representations and (in either case) FourNet shall have no liability in any circumstances otherwise than in accordance with the express terms of this Agreement.

12.7 Any amounts paid by FourNet to the Customer as Service Credits, as may be more fully described in the applicable Order, will be the Customer's sole and exclusive remedy for any failure by FourNet to meet an applicable Service Level and, in any case, will reduce any damages payable up to the applicable limits of liability.

12.8 This clause 12 shall survive termination of this Agreement.

## 13. TERMINATION

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

13.1.1 the other party commits a material breach of this Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach;

13.1.2 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) 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;

- 13.1.3 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;
  - 13.1.4 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 that other party (being a company) other than 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;
  - 13.1.5 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;
  - 13.1.6 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;
  - 13.1.7 a floating charge holder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
  - 13.1.8 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;
  - 13.1.9 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 13.1.2 to clause 13.1.8 (inclusive);
  - 13.1.10 the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.
- 13.2 Without limiting its other rights or remedies, FourNet may terminate this Agreement with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Agreement by the Due Date and remains in default not less than 28 days after being notified in writing to make such payment.
- 13.3 Without limiting its other rights or remedies, FourNet shall have the right to suspend provision of the Services under this Agreement or any other contract between the Customer and FourNet if the Customer becomes subject to any of the events listed in clause 13.1.1 to clause 13.1.10, or if the Customer fails to pay any amount due under this Agreement on the due date for payment.

## 14. CONSEQUENCES OF TERMINATION

- 14.1 On termination of this Agreement for any reason:
- 14.1.1 the Customer shall immediately pay to FourNet all of FourNet's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, FourNet shall submit an invoice, which shall be payable by the Customer immediately on receipt;
  - 14.1.2 all rights and licences granted to the Customer pursuant to the Agreement shall cease;
  - 14.1.3 the Customer shall return or allow FourNet to enter the Customer's premises to collect, all FourNet Equipment.
  - 14.1.4 the accrued rights, remedies, obligations, and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry; and

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

## 15. FORCE MAJEURE

15.1 Neither party shall be liable for any failure or delay in performing its obligations under this Agreement to the extent that such failure or delay is caused by an event beyond a that party's reasonable control, which by its nature could not have been foreseen, or, if it could have been **foreseen, was unavoidable.**

## 16. DISPUTE RESOLUTION PROCEDURE

16.1 If a dispute arises out of or in connection with this Agreement or the performance, validity, or enforceability of it ("Dispute"), then, except as expressly provided in this Agreement, the parties shall follow the procedure set out in this clause:

16.1.1 either party may give to the other written notice of the Dispute, setting out its nature and full particulars ("Dispute Notice"), together with relevant supporting documents. On service of the Dispute Notice, the [EMPLOYEE TITLE] of FourNet and [EMPLOYEE TITLE] of the Customer shall attempt in good faith to resolve the Dispute.

16.1.2 if the parties are for any reason unable to resolve the Dispute through the process set out in clause 16.1.1 within 30 days of service of the Dispute Notice, the Dispute shall be referred to the [SENIOR OFFICER TITLE] of FourNet and [SENIOR OFFICER TITLE] of the Customer who shall attempt in good faith to resolve it; and

16.2 if the parties are for any reason unable to resolve the Dispute within 30 days of it being referred pursuant to clause 16.1, the parties agree to enter into mediation in good faith to settle the Dispute in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties within 60 days of service of the Dispute Notice, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, referring the dispute to mediation. Unless otherwise agreed between the parties, the mediation will start not later than 14 days after the date of the ADR notice.

16.3 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 17.9 (Governing law and jurisdiction).

16.4 If the Dispute is not resolved within 14 days after service of the ADR notice, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 17.9 (Governing law and jurisdiction).

## 17. GENERAL

17.1 **Entire agreement:** This Agreement constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, proposal, promise or representation made or given by or on behalf of FourNet which is not set out in this Agreement. Any proposal, samples, drawings, descriptive matter or advertising issued by FourNet, and any descriptions or illustrations contained in FourNet's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Goods and/or Services described in them. They shall not form part of this Agreement or any other contract between FourNet and the Customer for the supply of the Goods and/or Services.

17.2 **Assignment and subcontracting:** Customer shall not, without the prior written consent of FourNet, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under this Agreement.

17.3 **Notices:** Any notice or other communication required to be given to a party under or in connection with this Agreement shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery, by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or by email at the email address notified by the receiving party in a notice to the other party from time to time, including as updated on an Order.

17.3.1 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post or recorded delivery, 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 email, where receipt of the email is confirmed or acknowledged, including by transmission of an automatic electronic read receipt or a manual acknowledgement from the recipient.

17.3.2 This clause 17.3 shall not apply to the service of any proceedings or other documents in any legal action.

17.4 **Waiver:** A waiver of any right under this Agreement 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 this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

17.4.1 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

17.5 **Severance:** If a court or any other competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.

17.5.1 If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable, and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

17.6 **No partnership:** Nothing in this Agreement is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in anyway.

17.7 **Third parties:** A person who is not a party to this Agreement shall not have any rights under or in connection with it.

17.8 **Variation:** Any variation, including the introduction of any additional terms and conditions, to this Agreement, shall only be binding when agreed in writing and signed by both parties.

17.9 **Governing law and jurisdiction:** 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, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

17.10 This Agreement has been entered into on the date stated at the beginning of it.

SIGNED by [NAME OF DIRECTOR] )

for and on behalf of )

4NET TECHNOLOGIES LIMITED )

SIGNED by [NAME OF DIRECTOR] )

for and on behalf of )

[CUSTOMER] )

## SUPPLY SCHEDULE

### 18. BASIS OF THE SCHEDULE

18.1 The terms of the main body of this Agreement and the terms of this Schedule shall apply to any Order submitted by the Customer to FourNet for the supply of Goods and Software.

### 19. GENERAL CUSTOMER OBLIGATIONS

19.1 The Customer shall:

- 19.1.1 ensure that any information it provides is complete and accurate;
- 19.1.2 co-operate with FourNet in all matters relating to the Goods and Services;
- 19.1.3 provide FourNet, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by FourNet;
- 19.1.4 provide FourNet with such information and materials as FourNet may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
- 19.1.5 obtain and maintain all necessary consents, licenses, permissions and authorisations that are required for the Services including; consent for any to buildings on entrance to property required from local authorities, landlords or owners; for the installation of FourNet or 3rd party equipment; or for the use of the Services over the Customers Network or at a site;
- 19.1.6 comply with, and ensure that its Users comply with, all Applicable Law in the receipt and use of the Services;
- 19.1.7 Adhere and comply with the Compliance Obligations; and
- 19.1.8 keep and make available to FourNet any operating manuals and CDs containing programs or other data supplied with any of the CPE.
- 19.1.9 Be responsible for any damage to or loss of the FourNet Equipment other than due to fair wear and tear.

19.2 The Customer shall not use, and shall prevent its agents, representatives, subcontractors, consultants, and employees from using, the Services:

- 19.2.1 in breach of any reasonable instruction given by FourNet to the Customer from time to time;
- 19.2.2 in contravention of any licence, code of practice, instruction or guideline issued by any regulatory body, or any third party's rights;
- 19.2.3 to send, receive, upload, download, use or reuse any information or material or make any calls that are offensive, abusive, indecent, defamatory, obscene, menacing or cause annoyance, inconvenience, needless anxiety or are intended to deceive or are in breach of confidence, copyright, privacy or any other similar right;
- 19.2.4 in a manner which may result in FourNet, or its suppliers, incurring any liability to a third party;
- 19.2.5 in a manner which may damage FourNet's reputation, or its suppliers' reputation, or the reputation of the Services, or otherwise bring FourNet, its suppliers, or the Services into disrepute;
- 19.2.6 fraudulently, improperly, immorally or in connection with a criminal offence or in any way that is unlawful; or



- 19.2.7 in any way FourNet considers to be, or likely to be, detrimental to the provision of the Services to the Customer or to the provision of any service to any other customer of FourNet.

## 20. CUSTOMER EQUIPMENT CONNECTED TO THE SERVICE

- 20.1 Save as set out in the Scope of Work, the Customer will be responsible for connecting handsets to the Service following the procedures set out in the Product Handbook.
- 20.2 The Customer agrees that if it connects any equipment to the Service that is not on the list of approved equipment, the performance of the Service may be impacted. FourNet will not be liable for any faults that, in its reasonable opinion, are attributable to unapproved equipment, and the Customer will be liable for the costs associated with the correction of such faults.
- 20.3 Save as set out in the Scope of Work, the Customer will ensure it has adequate and correctly configured routers and switches and sufficient bandwidth to enable use of the Service. FourNet will not be liable for any faults that, in its reasonable opinion, are attributable to inappropriate or incorrectly configured Customer Equipment including switches and routers, unless they are supported under contract by FourNet, and the Customer will be liable for the costs associated with the correction of such faults.
- 20.4 The Customer will be responsible for deployment of Customer Equipment unless otherwise stated in the Scope of Work.

## 21. SITE SURVEY

- 21.1 In certain cases, FourNet, or its suppliers, may need to conduct a site survey at the Customer's premises to ensure the suitability of the Customer's site and/or equipment for the use of the Goods, or Services. Such surveys and site visits shall be conducted in accordance with these Conditions, where the survey is carried out by a 3rd party, such as a Carrier these surveys shall incur a charge, payable by the Customer.
- 21.1.1 This includes a Network Readiness Assessment which is a prerequisite for installation services. If the Customer wishes to waive this assessment, FourNet cannot guarantee sufficient connectivity to enable Services.
- 21.2 Following any site survey, FourNet will notify the Customer of any charges that are required in order for FourNet to provide the Goods, or Services to the Customer and the Customer may decide to either pay the said charges or cancel the Order in respect of the affected Goods or Services. The Customer shall within 5 Business Days of the date of it being notified of such charges notify FourNet of its intention to either pay the charges or cancel the Order, failing which the FourNet may terminate the Order for the affected Goods with immediate effect by giving written notice to the Customer.
- 21.3 If, following any site survey, FourNet is not able to supply any part of the Goods or Services to the Customer, FourNet may terminate the Agreement for such part with immediate effect by giving written notice to the Customer.
- 21.4 In the event, that any part of an Order is terminated pursuant to paragraph 4.2 or paragraph 4.3, FourNet will refund any advance payments made by the Customer to FourNet in respect of the Charges for the terminated part of the Order.

## 22. SUPPLY OF GOODS AND SERVICES

- 22.1 FourNet warrants to the Customer that the Goods or Services will be provided using reasonable care and skill. FourNet shall use reasonable endeavours to meet the Service Levels.
- 22.2 FourNet will comply with all Applicable Law in the provision of the Goods and Services.

- 22.3 FourNet shall take reasonable precautions to prevent any unauthorised access by third parties to any part of the telecommunications network provided by FourNet (or its subcontractors), but FourNet will not be liable for any loss or damage sustained by the Customer in the event of any unauthorised access.
- 22.4 FourNet shall use reasonable endeavours to meet any dates to perform, but any such dates shall be estimates only and time shall not be of the essence.
- 22.5 FourNet shall use its reasonable endeavours to provide the Services continuously but FourNet does not warrant or guarantee:
- 22.5.1 that the use of the Services shall be uninterrupted, secure or error-free; or
  - 22.5.2 the call quality; or
  - 22.5.3 that all calls made by the Customer will be accepted by the telecommunications network which is used in the provision of the Services.
- 22.6 Where applicable, the Services will store recorded calls for 30 days after which the Customer will be responsible for providing and managing storage for call recordings. Alternatively, additional storage may be purchased from Fournet.
- 22.7 Details of approved handsets for use with the Services are available on request.
- 22.8 The Customer will be responsible for providing approved Customer Equipment.
- 22.9 FourNet will be responsible for remotely updating, ensuring compatibility, and maintaining the configuration for all approved Customer Equipment used in association with the Services.

## 23. QUANTITY AND DESCRIPTION

- 23.1 The quantity and description of the Goods and Software shall be as set out in the Order.
- 23.2 FourNet reserves the right (but does not assume the obligation) to make any change in any specification of the Goods, Software or Services which is required to conform with any applicable legislation, or which does not materially affect the quality or performance of the Goods, Software or Services.

## 24. MANUFACTURER SOFTWARE

- 24.1 The Customer will comply with the provisions of any Software licences provided with or as part of the Services.
- 24.2 If any Manufacturer Software (or portion of it) provided under this Agreement is installed or downloaded at the Customer premises or on any of the Customer's devices or otherwise made available or accessible to the Customer, the Customer hereby agrees to and shall comply with Manufacturers End User License Agreement ("EULA") for the applicable Software.

## 25. TITLE AND RISK

- 25.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 25.2 Until title to the Goods has passed to the Customer, the Customer shall:
- 25.2.1 hold the Goods on a fiduciary basis as FourNet's bailee;
  - 25.2.2 store the Goods separately from all other held by the Customer so that they remain readily identifiable as FourNet's property;
  - 25.2.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

- 25.2.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- 25.2.5 notify FourNet immediately if it becomes subject to any of the events listed in clause 13.1 of the agreement above; and
- 25.2.6 give FourNet such information relating to the Goods as FourNet may require from time to time.

25.3 Title to the Goods shall not pass to the Customer until FourNet has received payment in full (in cash or cleared funds) for the Goods.

25.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 13.1 , or FourNet reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy FourNet may have, FourNet may at any time require the Customer to deliver up the Goods and, 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.

25.5 Where the Customer procures under this Agreement a Cloud or Rental Service, neither title or risk shall pass to the Customer.

On termination of this Agreement for any reason FourNet's rights in this paragraph 8 shall remain in full effect.

## 26. WEEE REGULATIONS

26.1 The Customer will:

- 26.1.1 be responsible under Regulation 9 of the Waste Electrical and Electronic Equipment Regulations 2006 ("the WEEE Regulations") for the costs of collection, treatment, recovery, recycling and environmentally sound disposal of any equipment supplied under the Order that has become waste electrical and electronic equipment ("WEEE"). FourNet and the Customer acknowledge that for the purposes of Regulation 9 this Clause is an agreement stipulating other financing arrangements for the collection, treatment, recovery, recycling and environmentally sound disposal of WEEE;
- 26.1.2 be responsible for any information recording or reporting obligations imposed by the WEEE Regulations.

## 27. CPE

27.1 Title in the CPE shall at all times remain with either FourNet or its suppliers (as the case may be).

27.2 In respect of any CPE supplied to the Customer under the Agreement, the Customer shall:

- 27.2.1 use the CPE in accordance with any instructions FourNet may provide from time to time and only for the purposes of using the Services in accordance with the Agreement;
- 27.2.2 not move, modify, relocate or any way interfere with the CPE;
- 27.2.3 not have the CPE repaired or serviced except by FourNet or any suppliers approved by FourNet in writing;
- 27.2.4 keep the CPE fully insured for risk of loss, theft, destruction, damage;
- 27.2.5 not create or allow any charges, liens, pledges, or other encumbrances to be created over the CPE; and
- 27.2.6 permit FourNet, or its suppliers, to inspect and test the CPE at all reasonable times

27.3 The Customer shall be liable for any damage to the CPE, and FourNet's suppliers' networks, which is caused by the Customer.

## 28. TELEPHONE NUMBERS

28.1 The Customer will not own any telephone number allocated to it, nor will it have the right to sell or transfer any telephone number to any third party without the prior written consent of FourNet.

28.2 Where the Customer is using an existing telephone number, and that number is not connected to FourNet's network, FourNet may need to perform additional migration work. The Customer undertakes to provide FourNet with any information it may require to carry out the migration and accepts that the migration may delay the commencement of the Services. FourNet shall have no responsibility for any delays in the commencement of the Services due to the migration unless such delay arises from an act or omission of FourNet.

28.3 FourNet reserves the right to change a telephone number allocated to the Customer if FourNet's contract with the third party provider of the telephone number terminates or FourNet's third party provider changes that telephone number.

## 29. NUMBER ALLOCATION AND PRESENTATION NUMBERS

29.1 Where applicable, geographic numbers will be allocated to the Customer by FourNet.

29.2 The Customer will be allocated blocks of up to 100 concurrent numbers in a single order.

29.3 FourNet may revoke any newly allocated number range on reasonable notice where the Customer is not, in FourNet's reasonable opinion actively making use of such numbers.

29.4 FourNet will not be responsible for verifying any information relating to third party or other network operator telephone numbers used as Presentation Numbers.

## 30. NUMBER PORTING

30.1 In line with the Order, FourNet will manage the porting of all numbers to be used in connection with the Service.

30.2 There may be some restrictions to number portability.

30.3 FourNet will manage the porting of telephone numbers using the information supplied by the Customer in accordance with all relevant legislation and regulations (including codes of practice). It is the Customer's responsibility to secure the co-operation of the losing Communications Provider in any number porting activity requested by the Customer.

## 31. CALLS

31.1 Details of Call types not supported by the Services are available upon request.

31.2 If Calls conveyed via the Services for onward termination to an International Destination Network are abnormally high FourNet or the overseas network operator may instigate network management control measures, provided the control measures instigated are reasonably proportionate to the security risk caused. FourNet will notify the Customer of the action taken as soon as is reasonably practicable, provided that in the case of action taken by the overseas network operator, FourNet is made aware of the measures taken.

## 32. SIP SERVICES

32.1 The SIP Services will only become active after satisfactory testing.

- 32.2 The Customer acknowledges that the SIP Services are supplied as a private service for use for certain specific applications which, as regards public emergency call services, confer only limited service at agreed defined locations and is not sold as a full public service. The Customer agrees that FourNet shall be entitled to provide its supplier in respect of each network termination point full details of the Customer's name and address to enable FourNet's supplier to fulfil its obligations to Ofcom.
- 32.3 FourNet does not issue the IP address to be used with the SIP Services. FourNet reserves the right to withdraw or change this IP address if for any reason the address ceases to be available.
- 32.4 The point of connection for the IP connect service is the IP address in the public internet which will be notified by FourNet or its supplier to the Customer. FourNet's responsibility does not extend to the transport between this point and the Customer or to any equipment in operation beyond this point, both of which shall be the responsibility of the Customer. The point of connection for the IP connect service is the pre-configured router to be provided by FourNet or its supplier to the Customer. FourNet's responsibility does not extend to any equipment beyond this router, any or all of which shall be the responsibility of the Customer.

### 33. CONTENT

- 33.1 Where the Customer provides content for use in connection with the Services ("Content"), the Customer warrants that it has obtained in writing all necessary rights, clearances, and permissions to allow it to use the Content including but not limited to any associated copying, storage, streaming or playing of the Content.
- 33.2 The Customer will obtain any necessary licences from the Performing Right Society (PRS), Mechanical Copyright Protection Society (MCPS), Phonographic Performance Limited (PPL) or any other copyright holder and pay any applicable royalties or other charges to use any Content with the Cloud Service.
- 33.3 If the Customer provided Content is the subject of a claim of infringement of any Intellectual Property Rights or breach of any licensing requirement or if FourNet reasonably believes that the Content is likely to become the subject of such a claim, FourNet may, without notice, delete the Content and /or disable the streaming or playing of the Content.
- 33.4 The Customer will indemnify FourNet against any claims or legal proceedings that are brought or threatened against FourNet by a third party arising from any breach of paragraphs 16.1 or 16.2. FourNet will notify the Customer of any such claims or proceedings and keep the Customer informed as to the progress of such claims or proceedings.

### 34. IP ADDRESSES, DOMAIN NAMES AND TELEPHONE NUMBERS

- 34.1 Except for IP Addresses expressly registered in the Customer's name, all IP Addresses and Domain Names made available with the Services will at all times remain the property of FourNet or its suppliers and will be non-transferable. All the Customer's rights to use such IP Addresses and/or Domain Names will cease on termination or expiration of the relevant Service.
- 34.2 FourNet cannot ensure that any requested Domain Name will be available from or approved for use by the Internet Registration Authorities and FourNet has no liability for any failure in the Domain Name registration, transfer or renewal process.
- 34.3 The Customer warrants that it is the owner of or is authorised by the owner of the trademark or name that it wishes to use as a Domain Name.
- 34.4 The Customer is responsible for all fees associated with registration and maintenance of its Domain Name and will reimburse FourNet for any and all fees paid by FourNet to any Internet Registration Authorities, and thereafter be responsible for paying such fees directly to the relevant Internet Registration Authorities.

34.5 Telephone numbers made available with the Cloud Service will at all times remain the property of FourNet and its subcontractors and will be non-transferable. and the Customer's rights to use telephone numbers will cease on termination or expiration of the Service.

## 35. DELIVERY

35.1 FourNet shall deliver the Goods and/or Software to the Delivery Location at any time after FourNet notifies the Customer that the Goods are ready. Where the Delivery Location is unavailable FourNet will hold the Goods and/or Software until the Delivery Location becomes available

35.2 The Customer shall accept delivery of the Goods and/or Software at the Delivery Location on the delivery date.

35.3 Delivery of the Goods and/or Software shall be completed on the Goods' and/or Software's arrival at the Delivery Location or, if unavailable, the time FourNet notifies the Customer that the Goods are ready for delivery.

35.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence.

35.5 The Customer will inspect the Goods on delivery and notify FourNet in writing within 3 Business Days of delivery of any defect in the Goods provided that if no such notification is given it shall be conclusively presumed that the Goods are complete and in good order and condition. Where the Delivery Location is a FourNet location, FourNet will allow the customer to view the Goods at a convenient time for both parties.

35.6 FourNet may deliver the Goods by instalments, which shall be invoiced and paid for separately.

## 36. WARRANTY

36.1 Where FourNet is not the manufacturer of the Goods, FourNet shall use reasonable endeavours to transfer to the Customer the benefit of any warranty or guarantee given by the manufacturer to FourNet.

36.2 FourNet warrants that on delivery, and for a period of 3 months from the date of delivery ("warranty period"), the Goods shall conform in all material respects with any applicable Specification.

36.3 Subject to paragraph 19.4, if:

36.3.1 the Customer gives notice in writing to FourNet during the warranty period within a reasonable time of discovery that any of the Goods does not comply with the warranty set out in paragraph 19.2; and

36.4 FourNet is given a reasonable opportunity of examining such Goods; and

36.4.1 the Customer (if asked to do so by FourNet) returns such Goods to FourNet's place of business;

at the Customer's cost, FourNet shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

36.5 FourNet shall not be liable for Goods' failure to comply with the warranty set out in paragraph 19.2 if:

36.5.1 the Customer makes any further use of such Goods after giving notice in accordance with paragraph 19.3; or

36.5.2 the defect arises because the Customer failed to follow FourNet's or manufacturer's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice; or

- 36.5.3 the Customer alters or repairs such Goods without the written consent of FourNet; or
- 36.5.4 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.
- 36.6 Except as provided in this paragraph 19, FourNet shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in paragraph 19.
- 36.7 Except as set out in this Agreement, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.
- 36.8 This Schedule shall apply to any repaired or replacement Goods supplied by FourNet.

## 37. SECURITY

- 37.1 The Customer acknowledges that use of VoIP, like other network-based services, carries certain security risks to the systems and networks of customers, network providers and third parties including, but not limited to: misuse; unauthorised access; alterations; theft; fraud; destruction; corruption; and attacks ("Occurrences"). The Customer will ensure that it takes security measures including but not limited to the use of firewalls, passwords, access restrictions, encryption, policies, and physical access restrictions to protect from Occurrences all VoIP traffic, equipment, software, data, and systems located on the Customer's premises or otherwise in the Customer's control and used in connection with VoIP, whether owned by the Customer, FourNet, or FourNet's subcontractors.

## 38. SUSPENSION

- 38.1 Without limiting its other rights or remedies, FourNet shall have the right to suspend provision of the Services if:
  - 38.1.1 FourNet reasonably believes that the Services are being used in an unauthorised or illegal manner; or
  - 38.1.2 Ofcom or any other regulatory body requires FourNet to suspend the Services;
  - 38.1.3 to conduct Planned Maintenance, in which case FourNet will notify the Customer in advance;
  - 38.1.4 if FourNet (or its subcontractors) reasonably considers that it is required to do so in order to safeguard the integrity and security of its network.
- 38.2 FourNet will endeavour to notify the Customer in advance of any restriction or suspension for any of the events listed in paragraph 21.1 as soon as commercially reasonable.
- 38.3 Where FourNet exercises its rights to restrict or suspend the Service in paragraph 21.1.4 where the need to safeguard the integrity of security of the network arose as a result of a breach by the Customer:
  - 38.3.1 the Customer will continue to be liable for all applicable Charges for that Service until the Order is terminated; and
- 38.4 FourNet may charge a re-installation fee in order to resume supply of the Cloud Service to the Customer. FourNet reserves the right to suspend and/or withdraw the use of the Presentation Numbers without notice if:
  - 38.4.1 it is subsequently found that the information supplied by the Customer was, or has become, inaccurate; and/or
  - 38.4.2 FourNet reasonably believes that a Presentation Number is being used:
    - (i) in a way prohibited by the CLI Code of Practice; and/or
    - (ii) to generate revenue-sharing

38.5 FourNet will process orders for Type 3 and Type 5 Presentation Numbers based upon the information supplied by the Customer on the CRF.

### 39. EXCUSED PERFORMANCE

39.1 FourNet will not be in breach of the Order, nor legally liable, for any failure or delay to perform any of its obligations under the Order (including any of its obligations to meet the Service Levels, if any) if and to the extent that FourNet's failure or delay in performing arises as a result of:

39.1.1 Any failure or delay by the Customer to perform any of the Customer's obligations under the Order (Customer Default)

39.1.2 Any act or omission other than on the part of FourNet or a subcontractor appointed by it; or

39.1.3 A Regulatory Body restricting or preventing FourNet (or a subcontractor) from supplying the Cloud Service.

39.2 The Customer shall reimburse FourNet on written demand for any costs, charges, or losses sustained or incurred by FourNet arising directly or indirectly from the Customer Default.

### ANNEX 1 to Supply Schedule

### 3<sup>RD</sup> PARTY SUPPLIER END USER LICENCE TERMS

The 3<sup>rd</sup> Party Supplier END USERS LICENCE TERMS will be sent separately and updated from time to time.



## SERVICES SCHEDULE

### 40. BASIS OF SCHEDULE

40.1 The terms of the main body of this Agreement and the terms of this Schedule shall apply to the supply of Services by FourNet to the customer.

### 41. IMPLEMENTATION SERVICES

41.1 Installation Services will be undertaken by accredited personal who will install and configure hardware and software as laid out in the Order and the Statement of Works.

41.2 Project Co-Ordination provides remote basic project management and support to the project manager as set out in the Order and the Statement of Works.

41.2.1 Project Management will meet the requirements and responsibilities as set out in the Order and the Statement of Works.

41.2.2 Consultancy services will be described in the Order and the Statement of Works.

41.3 Training services will be set out in the Order and the Statement of Works.

### IMPLEMENTATION LIMITATIONS

41.4 2.4 If FourNet's performance of any of its obligations under this Agreement is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):

41.4.1 FourNet shall be relieved from the performance of any of its obligations to the extent the Customer Default prevents or delays FourNet's performance of any of its obligations; and

41.4.2 the Customer shall reimburse FourNet on written demand for any costs, charges or losses sustained or incurred by FourNet arising directly or indirectly from the Customer Default.

41.5 FourNet have not included any UPS unless stated in the Order.

41.6 Unless otherwise stated in the Order, the Services do not include the unpacking, building, deployment, wall-mounting, patching or testing of handsets.

41.7 Decommissioning or de-installation, and removal of old hardware is not included in the Service.

41.8 Software and licensing shall only be deployed and installed where explicitly stated in the Order.

41.9 Any customer deliverables which are not met or completed prior to engineering site visits may be subject to change control and may result in Additional Charges for resource time.

41.10 Any changes to the approved Scope of Works will be subject to project change control and may result in Additional Charges.

41.11 FourNet will undertake implementation work during Business Hours unless otherwise stated in the Order.

41.12 Unless otherwise agreed, FourNet will not be responsible for organising, liaising with or managing third parties who are not directly employed to carry out the implementation by FourNet.

41.13 The lead time for Ethernet circuits is between 60 and 90 days, subject to survey.

### ACCEPTANCE TESTS

41.14 FourNet shall notify the Customer when the Service is ready for delivery. Following receipt of such notice, the Customer will promptly carry out the agreed Acceptance Tests for the Service.

FourNet will not be liable to meet any Service Levels or to pay any Service Credits (if Service Credits are payable) if the Customer has not:

- 41.14.1 carried out the Acceptance Tests and confirmed acceptance in writing to FourNet; or
- 41.14.2 notified FourNet in writing that the Service has not passed the Acceptance Tests.

## 42. CUSTOMER IMPLEMENTATION RESPONSIBILITIES

- 42.1 The Customer must monitor and maintain any Customer Equipment connected to the Service or used in connection with the Service;
- 42.2 The Customer must ensure that any Customer Equipment used directly or indirectly by the Customer or User with the Service is:
  - 42.2.1 used in accordance with any instructions, standards and safety and security procedures applicable to the use of that Customer Equipment;
  - 42.2.2 approved and used in accordance with relevant instructions and Applicable Law;
  - 42.2.3 immediately disconnect any Customer Equipment, or advise FourNet to do so at the Customer's expense, if Customer Equipment does not meet any relevant instructions, standards or Applicable Law;
  - 42.2.4 at a reasonable time agreed by FourNet and to enable FourNet to carry out its obligations under this Agreement, use its reasonable endeavours to provide, FourNet employees and anyone acting on FourNet 's behalf who produces a valid identity card, access to any Site. FourNet will normally only require access during the Working Day but may, on reasonable notice, require the Customer to provide access at other times. FourNet may agree to work outside the Working Day but the Customer will pay FourNet 's Additional Charges, as advised to the Customer prior to the Additional Charges being incurred;
- 42.3 The Customer will maintain a list of current Administrators and Users and immediately terminate access for any person who ceases to be an authorised Administrator or User;
- 42.4 The Customer will ensure the security and proper use of all valid Administrator and User access profiles, passwords and other system administration information used in connection with the Service and:
  - 42.4.1 inform FourNet immediately if a user identification ("ID") or password has, or is likely to, become known to an unauthorised person, or is being or may be used in an unauthorised way;
  - 42.4.2 take all reasonable steps to prevent unauthorised access to the Service;
  - 42.4.3 satisfy FourNet's security checks if a password is lost or forgotten;
  - 42.4.4 establish and manage a process for changing all passwords at least every 90 days;
  - 42.4.5 if requested to do so by FourNet in order to ensure the security or integrity of the Service, or as a result of a security breach, change any or all passwords and/or other system administration information used in connection with the Service;
- 42.5 The Customer will take all reasonable steps (including testing with the latest commercially available virus detection software) to ensure that any software used with or in conjunction with the Service is not infected by viruses and/or logic bombs, worms, trojan horses and any other type of disruptive, destructive or nuisance programs;
- 42.6 The Customer will not exploit a Presentation Number to generate revenue-sharing calls. Such exploitation may constitute persistent misuse of an Electronic Communications Network or Electronic Communications Service and FourNet may suspend the Service and/or terminate the Order in such circumstances;

- 42.7 The Customer will, unless otherwise agreed with FourNet, add or delete Users for any Application at any time system administration Portals;
- 42.8 Unless otherwise agreed with FourNet, the Customer will manage User level MACDs and configuration changes via the system administration Portals:
- 42.8.1 provide FourNet with a minimum of 72 hours' notice of any planned changes in the Customer's network environment that may impact the Service;
  - 42.8.2 immediately inform FourNet in writing of any changes to the information the Customer supplied when registering for the Service;
  - 42.8.3 unless otherwise agreed with FourNet, be responsible for adding or deleting Users for any Application at any time via the system administration Portals;
  - 42.8.4 unless otherwise agreed with FourNet, be responsible for managing User level MACDs and configuration changes via the system administration Portals;
  - 42.8.5 ensure that all porting requests contain clear and accurate information. Failure to do so may result in extended lead times and Additional Charges being raised.
- 42.9 The Customer must provide local on-premise all environmental requirements including power, power cords if these are required to be different to those supplied by FourNet (standard UK&I 3-pin), UPS, rack-space and temperature control if identified during the design stage of the project.
- 42.10 During the data capture of technical and functional system information details, Customer assistance must be provided to capture, document and sign off on details such as IP addressing schema, remote access requirements and station configuration through to dial plan and network carrier trunking.
- 42.11 All network configuration must be configured in advance of installation as required by the Supplier.
- 42.12 The Customer must provide a layout plan for phones showing desks and other locations as required by the Supplier.
- 42.13 Provision of local on-premise patch cabling from structured cabling outlets around the building to user and other desk locations must be available.
- 42.14 The Customer should designate a single point of contact, who has a thorough understanding of the business requirements and technical environment, and who will be authorised to make binding decisions.
- 42.15 The Customer must provide support personnel to assist with the provision of local on-premise LAN as identified during the design stage of the project.
- 42.16 The Customer must ensure all staff are briefed on the Supplier requirements and their responsibilities during the project.
- 42.16.1 The Data Network must be ready for Voice which includes:
  - 42.16.2 A configured voice VLAN and QOS implemented to prioritise voice traffic.
  - 42.16.3 The provision of Power over Ethernet (PoE) for IP phones.
  - 42.16.4 The provision and configuration of network routers.
  - 42.16.5 The DHCP configuration for IP Phones.
- 42.17 Criteria for User Acceptance Testing must be documented by the Customer and shared with the Supplier prior to Testing.
- 42.18 The Customer is responsible for the completion of User Acceptance Testing, by agreement that the solution has met Acceptance Criteria, the Customer agrees that the solution is ready to go live as a fully tested and operationally sound system according to the Customer requirements.
- 42.19 The Customer will be required to approve and authorise documentation throughout the project to ensure the availability of resources and agreement of project details.

42.20 The Supplier requires internet connection to be available during visits to Customer locations.

42.21 The Customer will provide IP network resource to be available during all phases of the implementation.

### 43. FOURNET RESPONSIBILITIES

43.1 Before the Service Delivery Date and, where applicable, throughout the provision of the Services, FourNet will:

- 43.1.1 comply with all reasonable health and safety rules and regulations and reasonable security requirements that apply at a Site and are notified to FourNet in writing. FourNet will not be liable to the Customer if, as a result of any such compliance, FourNet is in breach of any of its obligations under this Agreement;
- 43.1.2 provide the Customer with a date on which delivery of the Services (or each part of the Services) is due to start and will use its commercially reasonable endeavours to meet any date;
- 43.1.3 use its reasonable endeavours to provision the Services by any date agreed with the Customer but will have no liability for a failure to do so;
- 43.1.4 provide to the Customer copies of (or provide access to if held on a web interface) the documentation necessary for the Customer to access and use the Service as contemplated by this Agreement;
- 43.1.5 ensure that any information it provides is complete and accurate;
- 43.1.6 obtain and maintain all necessary licences, permissions and consents which may be required for the receipt of the Services; and
- 43.1.7 keep and make available to FourNet any operating manuals and CDs containing programs or other data supplied with any of the Equipment.

### 44. MANAGED SERVICES AND CLOUD SERVICES

44.1 FourNet will provide to the Customer Managed Services as set out in the Order.

44.2 The Customer will have the following components in place to connect to the Services in order for the Services to function and will ensure that these components meet the minimum technical requirements specified by FourNet:

- 44.2.1 where not provided by FourNet, an appropriate access network and any corresponding data hardware (e.g. router, port switches) to support VoIP with sufficient bandwidth to meet the Customer requirements and their interface to the Services, as set out in the Scope of Works;
- 44.2.2 appropriate Local Area Network infrastructure plus any corresponding router or port switches suitable to deliver the Customer requirements to Agents and Users;
- 44.2.3 personal computers or laptops meeting the minimum requirements as notified by FourNet;
- 44.2.4 internet browser meeting the minimum Service requirements as notified by FourNet; and
- 44.2.5 inbound Services supplied and configured to support any non-geographical numbers (each an "Enabling Service").
- 44.2.6 A sufficiently secure and stable remote access method to enable FourNet to deliver support in the event of an Incident, available continually. Where this is not available, FourNet will not be responsible for delays to the delivery of service restoration.

- 44.3 Before the Service Delivery Date and, where applicable, throughout the provision of the Service by FourNet, the Customer will:
- 44.3.1 provide FourNet with the name(s) and contact details of the individual(s) authorised to act on behalf of the Customer for Service management matters ("Customer Contact"), but FourNet may also accept instructions from a person who FourNet reasonably believes is acting with the Customer's authority;
  - 44.3.2 provide FourNet with any information reasonably required without undue delay;
  - 44.3.3 respond to queries from FourNet without undue delay;
  - 44.3.4 ensure that its LAN protocols and Customer Equipment are compatible with the Service;
  - 44.3.5 provide and maintain a VOIP enabled access network which provides full end to end Quality of Service and sufficient uncontested bandwidth to support the Services at the Site(s) for use with the Services as notified by FourNet;
  - 44.3.6 pay all charges related to provision and use of the VOIP enabled access network and report any incidents in the network directly to the supplier of it.
- 44.4 The Customer warrants that any software provided as part of any Customer Equipment it presents for integration with the Service:
- 44.4.1 is written in an appropriate manner such that its security and overall system performance is preserved; and
  - 44.4.2 complies with any applicable code of practice FourNet makes available to the Customer;
- 44.5 For Number Allocation, the Customer will provide FourNet with information regarding the utilisation of allocated numbers as reasonably requested by FourNet.
- 44.6 For Presentation Numbers, the Customer undertakes and warrants that, if it intends to use Type 3 and Type 5 Presentation Number:
- 44.6.1 permission is not required from anyone else in relation to the numbers; or
  - 44.6.2 if the Presentation Numbers are not allocated to the Customer, it provides to FourNet evidence of written consent from the allocated owner for its use as a Presentation Number; and
  - 44.6.3 advises FourNet immediately if that consent is withdrawn;
  - 44.6.4 the Presentation Numbers used are dialable numbers or are numbers that have been received from the PSTN and passed on unchanged in accordance with the terms of the CLI Code of Practice;
  - 44.6.5 to inform FourNet immediately of any changes in relation to 5.6.1 to 5.6.4 above; and
  - 44.6.6 the Presentation Number will not be:
    - (i) a Premium Rate Service number (as defined in Section 120 of the Telecommunications Act of 2003) prefixed 09; or
    - (ii) a number that connects to a revenue sharing number that generates an excessive or unexpected Call Charge.
  - 44.6.7 it will comply with the CLI Code of Practice.
- 44.7 For Number Allocation, the Customer will provide FourNet with information regarding the utilisation of allocated numbers as reasonably requested by FourNet.
- 44.8 The Customer will indemnify and hold FourNet harmless against all claims, losses, costs and liabilities arising from its failure to comply with paragraph 5.6.
- 44.9 The Customer will access the Service via a secure private network access. FourNet will not be liable for any security breach as a result of the Customers failure to comply with this paragraph 5.9.

## 45. FOURNET SERVICE DESK

45.1 The FourNet Service Desk provides support to the customer in line with the SLA set out in the Order. Incidents can be logged via the Customer Portal, Email or Telephone. The service desk is structured as follows:

45.2 First Line Support and Incident Management:

45.2.1 The First Line team are responsible for taking and logging Incidents and to provide an in-depth triage service. They will then pass the Incident to the relevant Resolver Group; the team also proactively manage the Resolver Groups to ensure optimum restoration times. Major Incidents (P1, P2) will be assigned a Major Incident Manager to act as a single point of contact for the Customer and to manage all parties involved in the restoration of service.

45.3 Second Line Support:

45.3.1 Second Line are the Resolver Groups for Incidents of all Priority Levels and will actively work with the Customer and the Software Provider to resolve Incidents as quickly as possible. They are also responsible for carrying out proactive maintenance and monitoring services to ensure events are resolved before they become Incidents. This team also provides onsite support services and part replacement where deemed necessary.

45.4 Third Line Support:

45.4.1 Third Line offer support to the Second Line Resolver Groups and will manage manufacturer escalations. Third Line work closely with the management team to ensure Incident trends are monitored to ensure optimum solution uptime is achieved.

45.5 Where set out in the Order FourNet will provide a Service Delivery Manager to the Customer. The Service Delivery Manager provides proactive management of the service and provides analytical data to measure service performance. The Service Delivery Manager is an escalation point for the customer and will work to ensure the service continually develops and improves throughout the Term.

45.6 Escalation Management:

45.6.1 The Service Desk Team Leaders, Managers and ultimately the Services Director provide an escalation point for the Service Desk and the Customer. The Management team provide support to the team and will look to proactively manage the service to ensure restoration times perform in line with the defined SLA as set out in the Order and ensure preventive measures are carried out in order to avoid incidents.

45.7 The Customer Portal gives the Customer access to log Incidents and check for progress on Incidents via a web browser.

## 46. SERVICE MANAGEMENT BOUNDARY

46.1 FourNet will provide and manage the Managed Services up to and including the FourNet provided access Circuits and associated termination hardware ("Service Management Boundary"). The Service Management Boundary is set out in the Operating Services Manual, The Statement of Works and/or the Order.

46.2 FourNet will have no responsibility for the Services outside the Service Management Boundary.

46.3 Customer specific physical and logical access circuits not provided by FourNet will be outside the Service Management Boundary. In this instance, the Service Management Boundary will be the physical interface between the FourNet network, and the Customer provided circuits.

## 47. NOTIFICATION OF INCIDENTS

- 47.1 FourNet will only be responsible for rectifying faults that lie within the Service Management Boundary and will not be responsible for rectifying faults with the Customer's network, third party software or Customer Equipment unless supplied by FourNet under the Order.
- 47.2 Where the Customer becomes aware of an Incident and reasonably believes that the Incident relates to the Managed Service:
- 47.3 the Customer Contact or Customer's internal helpdesk will report it to FourNet;
- 47.3.1 FourNet will give the Customer a unique reference number for the Incident
- 47.3.2 FourNet will inform the Customer when it believes the Incident is cleared.
- 47.3.3 FourNet will pause the timing measurements for the SLA in the event that the Customer is required to provide further information regarding the Incident.
- 47.4 FourNet will close the Incident when:
- 47.4.1 the Customer confirms that the Incident is resolved within 24 hours of being informed; or
- 47.4.2 FourNet has attempted unsuccessfully to contact the Customer, in the manner agreed between the Customer and FourNet, in relation to the Incident and the Customer has not responded within 24 hours of FourNet's attempt to contact.
- 47.5 If the Customer advised FourNet that the Incident is not resolved within 24 hours of being informed that the Incident has been cleared, the Incident will remain open, and FourNet will continue to endeavour to resolve the Incident and, where appropriate, Availability downtime will continue to be measured by FourNet, until the Incident is closed in accordance with paragraph 8.4
- 47.6 FourNet will not accept Incident notifications from Users other than the Customer Contact or the Customer's internal helpdesk.

## 48. ACCESS TO APPLICATIONS

- 48.1 The Applications available within the Goods or Services are available from FourNet upon request and subject to update from time to time.
- 48.2 FourNet will provide all Applications in English and all the user interfaces and reports will be labelled in English.
- 48.3 The Managed Service supports the integration of Customer or 3rd party owned applications via the application programming interfaces (API)s where specifically defined in the Order. Where such integration is part of the solution specific terms relating to support will be defined in the Order.

## 49. MANUFACTURER SUPPORT

- 49.1 Where defined on the Order, FourNet will escalate incidents to Software and Hardware manufacturers and manage incidents through to resolution.

## 50. PARTS REPLACEMENT

- 50.1 Where defined in the Order FourNet will replace faulty Equipment,
- 50.2 FourNet may supply reconditioned replacement parts where, in the opinion of FourNet, any parts of the Equipment require replacement. Once such replacement parts have been installed, those parts shall become the property of the Customer.
- 50.3 Any parts replaced by FourNet shall upon removal become the property of FourNet and the Customer warrants that FourNet shall have free and unencumbered title to the same.

- 50.4 Where the Customers, and as defined in the Order, opts to provide First Line and/or Second line support, FourNet will ship parts to site for replacement by the Customer under remote support from the FourNet service desk.
- 50.5 Where FourNet is not able to reasonably source replacement Equipment, FourNet shall be under no responsibility to replace the same.

**51. PERFORMANCE MANAGEMENT**

- 51.1 Where defined in the Order FourNet will provide a Proactive Monitoring Service for the Services.
- 51.2 Monitored components will be defined in liaison with the Customer and detailed in the Operations Service Manual, The Statement of Works and/or the Order.
  - 51.2.1 Service Availability will be calculated as below:
  - 51.2.2 Monthly Availability performance (%) =  $(A - B - C) / (A - C) \times 100\%$
  - 51.2.3 where: A = total number of minutes in a month B = total number of minutes the individual service has been Out of Service during a month C = Scheduled Maintenance time or Planned Downtime.

**52. SCHEDULED AND UNSCHEDULED OUTAGES**

- 52.1 For the purpose of updating facilities, and Planned Maintenance, scheduled downtime may occur from time to time. FourNet:
  - 52.1.1 will use its reasonable endeavours to provide the Customer with advance notice of any scheduled downtime;
  - 52.1.2 will use its reasonable endeavours to keep all scheduled downtime to the quietest time on the Service;
  - 52.1.3 may occasionally suspend the Services for operational reasons (such as maintenance or service upgrades) or because of an Emergency, but before doing so will give the Customer as much notice as reasonably possible and whenever practicable will agree with the Customer, when the Services will be suspended.

**53. MANAGED SERVICE OPTIONS**

- 53.1 FourNet will provide to the Customer any of the following options that are set out in any applicable Order and in accordance with the details set out in that Order:
  - 53.1.1 Maintain

Included Services;
Access to FourNet Service Desk
Remote Software Support
Remote System Access via Access Concentrator
Parts Replacement, as defined in Paragraph 2.8
Tier 1 Fault Management
Tier 2 Fault Resolution
Tier 3 Technical Support
Service Desk Management Support
Manufacturer Escalation as defined in Paragraph 3.2.6



53.1.2 Perform

All Services defined in Table 7.2.1 Plus
Named Service Delivery Manager:
Service Performance Reports
Continual Improvement, Service Review and Development
Operational Services Manual (OSM)
Optional Monthly or Quarterly reporting Periods
Performance Management: (as defined in Paragraph 3.2.8)
Proactive System Monitoring
Live Dashboards
Voice Quality Monitoring
Automated Workflow Resolution
System Health Monitoring
Asset Utilization and Capacity Planning

53.1.3 Assure

All Services defined in Table 7.2.2 plus
Software Management:
Firmware Patching
Software Patching
Asset Management:
Automated Configuration Management Data Base (CMDB)
Network Connectivity
Vector Mapping
Change Management:
Audit Logs
Change Scheduler

53.1.4 Protect +

All Services defined in Table 7.2.3 plus
Data Recovery Management
Automated System Configuration Backup
System Recovery
Business Continuity
Security Management
Unauthorized Access Protection
Toll Fraud Management
Security Patching

53.1.5 SUPPORT HOURS

53.1.6 FourNet can provide the service to cover the hours laid out in the table below and the selected option specified in the Order:

Week Day Coverage
-------------------

<b>Hours</b>	08:30 to 17:30
<b>Days</b>	Monday to Friday (excluding Bank and Public Holidays)
<b>24 x 7 x 365 Operation</b>	
<b>Hours</b>	24 Hours a Day
<b>Days</b>	7 Days
<b>Tailored Coverage</b>	
<b>Hours</b>	Set out in the Order
<b>Days</b>	Set out in the Order

## 54. EXCLUSIONS

54.1 The Managed Services do not include services required:

- 54.1.1 as a result of damage to the Equipment caused by the Customer, its employees, its subcontractors or any other person.
- 54.1.2 to be performed outside of Support Hours;
- 54.1.3 where there is no fault with the Equipment, or any fault cannot be replicated;
- 54.1.4 due to the Equipment not being used in accordance with its manufacturer's published instructions;
- 54.1.5 due to the use of parts or supplies not approved by FourNet or the Equipment's manufacturer
- 54.1.6 due to the alteration, modification or repair of the Equipment by a party other than FourNet and its authorised representatives;
- 54.1.7 where the Customer has not carried out procedures or services, recommended by FourNet, to the Equipment;
- 54.1.8 as a result of any physical damage to the Equipment other than through fair wear and tear;
- 54.1.9 relating to any software which is a version no longer supported by the manufacturer or to which the manufacturer charges additional fees for support of the same.

54.2 FourNet shall, following a request for support by the Customer in the circumstances set out in Section 15.1, be entitled to charge the Customer the Additional Charges where FourNet provides Managed Services in respect of the same.

## 55. THE END OF SERVICE

55.1 On termination of the Order, the Customer will in accordance with FourNet's instructions:

- 55.1.1 Return and/or destroy any Manufacturer Software that does not carry a Perpetual License provided under the Order that has been installed or downloaded at the Customer's premises on any of devices, or otherwise made available or accessible by the Customer, and
- 55.1.2 Provide FourNet with certified compliance by an authorised representative of the Customer that the requirements set out in paragraph 16.1.1 have been met.
- 55.1.3 Return any devices used to deliver the Service which are not owned by the Customer. Any devices not returned will be charged for at the current manufacturers recommended retail price.
- 55.1.4 Where necessary, enable FourNet to default system administrator passwords.

## 56. INCIDENT PRIORITY LEVELS

The Incident Priority Levels for the Managed Services are as follows:

Priority	Definition
1	<p><b>Critical Fault</b></p> <p>The Services are Unavailable across all applications and multiple sites.</p>
2	<p><b>Non-Critical Fault, High Business Impact</b></p> <p>The Services are Unavailable across an individual application or one site.</p>
3	<p><b>Non-Critical Fault</b></p> <p>The Services are Unavailable to a group of users.</p>
4	<p><b>Request for Information</b></p> <p>The Services are Unavailable to an individual user.</p>
5	<p><b>Moves, Adds, Changes, Deletions (MACD)</b></p> <p>Request to make a change on the customers system, unless explicitly defined in the Order these requests carry an additional charge.</p>
<p>Where the Customer has opted for 24*7*365 coverage, P1 and P2 Incidents are covered 24 hours a day. P3/P4 and P5 Incidents are managed Monday to Friday 08:30 to 17:30</p>	

## 57. INCIDENT RESPONSE AND RESTORATION TIMES

Action	Definition	Incident Priority Level Response Targets									
		P1		P2		P3		P4		P5	
A: First Response	FourNet have received and logged the Incident and passed to a Resolver Group	30 Minutes		1 Hour		2 Hours		4 Hours		8 Hours	
B: Second Response	Resolver Group are actively engaged in Incident investigation, logged on to relevant systems and engaged with the Customer.	1 Hour		4 Hours		2 Days		3 Days		5 Days	
C: Target Restoration	FourNet target to have the Incident resolved or a workaround within the defined times.	4 Hours		8 Hours		3 Days		3 Days		5 Days	
First Escalation	Incident Escalated to Tier One team Leader, SDM and Service Desk Manager. A meeting convened and a plan of action defined.	A	22 Mins	A	45 Mins	A	90 Mins	A	90 Mins	A	90 Mins
		B	45 Mins	B	3 Hours	B	12 Hours	B	2 Days	B	3 Days
		C	3 Hours	C	6 Hours	C	2 Days	C	2 Days	C	3 Days
Second Escalation	Incident raised with the Services Director	A	27 Mins	A	54 Mins	A	2 Hours	A	2 Hours	A	2 Hours
		B	54 Mins	B	3.5 Hours	B	14 Hours	B	14 Hours	B	4 Days
		C	3 Hours	C	6 Hours	C	21 Hours	C	14 Hours	C	4 Days

## 58. THIRD PARTY RESPONSE TIMES

58.1 Where the Services are delivered by a 3rd Party Supplier to FourNet different Response and Restoration Times may be relevant. Any deviation from those set out in section 57 shall be described in the Order.

58.2 If an Incident requires software development or upgrade to provide resolution, FourNet will restore service where possible and convert the Incident to a Problem and continue to resolve the ticket.

## THE ORDER SCHEDULE

### The Order

THIS ORDER SCHEDULE is made on the [ DATE ].

This Order constitutes an ORDER under the UNIFIED COMMUNICATIONS AGREEMENT dated [ ] between [CUSTOMER NAME] (the "Customer") and 4Net Technologies Limited (the "Supplier")

### Order Charges Summary

Professional Services	
Equipment and Software	
Managed Service/Cloud	
Rentals	
Network Services	

This ORDER SCHEDULE is signed by [ CUSTOMER NAME ] and 4Net Technologies Limited on the date referred to above.

SIGNED by [NAME OF DIRECTOR] )

for and on behalf of )

4NET TECHNOLOGIES LIMITED )

SIGNED by [NAME OF DIRECTOR] )

for and on behalf of )

CUSTOMER )

Installed Equipment and Software

As described in the table below, the following equipment and licenses shall be installed under this Order.

Description	Quantity	Installation Location

Delivery Location Address (if different to Installation Address):

Managed Service, Cloud and Rentals

The following Service shall be provided under this order from the Service Delivery Date for the Initial Term and Renewal Period thereafter.

Service Delivery Date:

Manufacturer Service Delivery Date:

Initial Term:

Managed Service Level	<i>Maintain/Perform/Assure/Protect Plus</i>
Coverage Hours	<i>Weekday/24x7/Bespoke</i>
Service Delivery Management Solution	<i>Monthly/Quarterly</i>
Invoice Frequency	<i>Agile Cloud/On-Premise System/Other Cloud/ Subscription Service/ Rentals/ Network Service</i>
Invoice Payment Method	<i>Monthly/Quarterly/Annually</i>
	<i>BACS/Direct Debit</i>

Charges shall be payable within 30 days of invoice date via the agreed Invoice Payment Method.

Service Description

The following items shall be supported under/ form the Managed Service/Cloud Service/Network Service/Rental:

Description	Quantity	Consumption Model	Installation Location	Annual Recurring Charge
		<i>Cloud/Subscription/Perpetual</i>		


Order Specific Terms

The following terms are specific to this Order. (insert specific flow downs)



**ANNEX 2 TO STANDARD CONTRACTUAL CLAUSES**  
**EUROPEAN COMMISSION**  
**DIRECTORATE-GENERAL JUSTICE**  
**DIRECTORATE C: FUNDAMENTAL RIGHTS AND UNION CITIZENSHIP UNIT**  
**C.3: DATA PROTECTION**  
**COMMISSION DECISION C(2010)593**  
**Standard Contractual Clauses (processors)**

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection.

Name of the data exporting organisation:

Address:

.....

(the data exporter)

And

Name of the data importing organisation:

Address:

.....

(the data importer)

each a "party"; together "the parties",

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

Clause 1

Definitions

For the purposes of the Clauses:

- (a) 'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority' shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (1);
- (b) 'the data exporter' means the controller who transfers the personal data;
- (c) 'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

(d) 'the sub-processor' means any processor engaged by the data importer or by any other sub-processor of the data importer who agrees to receive from the data importer or from any other sub-processor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

(e) 'the applicable data protection law' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

(f) 'technical and organisational security measures' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

## Clause 2

### Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

## Clause 3

### Third-party beneficiary clause

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.

2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

3. The data subject can enforce against the sub-processor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses.

4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

## Clause 4

### Obligations of the data exporter

The data exporter agrees and warrants:

(a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and,

where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;

- (b) that it has instructed and throughout the duration of the personal data-processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;
- (c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;
- (d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;
- (e) that it will ensure compliance with the security measures;
- (f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;
- (g) to forward any notification received from the data importer or any sub-processor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;
- (h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for sub-processing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;
- (i) that, in the event of sub-processing, the processing activity is carried out in accordance with Clause 11 by a sub-processor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and
- (j) that it will ensure compliance with Clause 4(a) to (i).

## Clause 5

### **Obligations of the data importer (2)**

The data importer agrees and warrants:

- (a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- (b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data

exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(c) that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;

(d) that it will promptly notify the data exporter about:

(i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation;

(ii) any accidental or unauthorised access; and

(iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;

(e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(f) at the request of the data exporter to submit its data-processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

(g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for sub-processing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

(h) that, in the event of sub-processing, it has previously informed the data exporter and obtained its prior written consent;

(i) that the processing services by the sub-processor will be carried out in accordance with Clause 11;

(j) to send promptly a copy of any sub-processor agreement it concludes under the Clauses to the data exporter.

## Clause 6

### Liability

1. The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or sub-processor is entitled to receive compensation from the data exporter for the damage suffered.

2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his sub-processor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any

successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a sub-processor of its obligations in order to avoid its own liabilities.

3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the sub-processor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the sub-processor agrees that the data subject may issue a claim against the data sub-processor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the sub-processor shall be limited to its own processing operations under the Clauses.

#### Clause 7

##### Mediation and jurisdiction

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:
  - (a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;
  - (b) to refer the dispute to the courts in the Member State in which the data exporter is established.
2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

#### Clause 8

##### Cooperation with supervisory authorities

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.
2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any sub-processor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.
3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any sub-processor preventing the conduct of an audit of the data importer, or any sub-processor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5(b).

#### Clause 9

##### Governing law

The Clauses shall be governed by the law of the Member State in which the data exporter is established, namely ...

#### Clause 10

## Variation of the contract

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

### Clause 11

#### Sub-processing

- 1.The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the sub-processor which imposes the same obligations on the sub-processor as are imposed on the data importer under the Clauses (3). Where the sub-processor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the sub-processor's obligations under such agreement.
- 2.The prior written contract between the data importer and the sub-processor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses.
- 3.The provisions relating to data protection aspects for sub-processing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established, namely ...
- 4.The data exporter shall keep a list of sub-processing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5(j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

### Clause 12

#### Obligation after the termination of personal data-processing services

- 1.The parties agree that on the termination of the provision of data-processing services, the data importer and the sub-processor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.
- 2.The data importer and the sub-processor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data-processing facilities for an audit of the measures referred to in paragraph 1.

On behalf of the data exporter:

Name (written out in full): ...

Position: ...

Address: ...

Other information necessary in order for the contract to be binding (if any):

Signature.....

(stamp of organisation)

On behalf of the data importer:

Name (written out in full): ...

Position: ...

Address: ...

Other information necessary in order for the contract to be binding (if any):

Signature.....

(stamp of organisation)

### APPENDIX 1 TO THE STANDARD CONTRACTUAL CLAUSES

This Appendix forms part of the Clauses and must be completed and signed by the parties. The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Appendix.

#### Data exporter

The data exporter is (please specify briefly your activities relevant to the transfer):

...  
...  
...

#### Data importer

The data importer is (please specify briefly activities relevant to the transfer):

APAC Remote Support Limited

#### Data subjects

The personal data transferred concern the following categories of data subjects (please specify):

Customer Names, Phone Numbers and Email Addresses.

#### Categories of data

The personal data transferred concern the following categories of data (please specify):

No Personal Data other than that listed above is held.

#### Special categories of data (if appropriate)

The personal data transferred concern the following special categories of data (please specify):

No Special categories of data is held.

#### Processing operations

The personal data transferred will be subject to the following basic processing activities (please specify):

To enable engineers to assist with fault resolution. The data is stored securely in a GDPR Compliant cloud solution.

DATA EXPORTER

Name:  
Authorised Signature .....

DATA IMPORTER

Name:  
Authorised Signature .....

APPENDIX 2 TO THE STANDARD CONTRACTUAL CLAUSES

This Appendix forms part of the Clauses and must be completed and signed by the parties.

Description of the technical and organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):

General GDPR training provided to staff. Data is not stored locally; it is stored in a cloud based GDPR compliant solution and user access entitlement reviews are conducted annually or as required when staff join or leave APAC remote support.

DATA EXPORTER

Name:  
Authorised Signature .....

DATA IMPORTER

Name:  
Authorised Signature .....