

## Terms and Conditions

### 1. Introduction

These terms apply to the sale by SBL Group Ltd (SBL) of Equipment and/or Services (as defined in Schedule 1 and Schedule 2).

### 2. Definitions And Interpretation

2.1 In these Terms, the following words shall have the following meanings:

“Contract” means the contract between SBL and <CUSTOMER NAME> relating to the supply of equipment and/or services, subject to and governed by these Terms.

“Delivery” occurs when equipment is unloaded at a Site.

“Equipment” means an item or items of telecommunications equipment and/or software either supplied by SBL to The Client under the Contract or covered by Support and/or as otherwise agreed between the parties in writing from time to time.

“The Client” means <CUSTOMER NAME>, a company registered in England and Wales (company number <?????>) whose registered office is at <REGISTERED OFFICE ADDRESS>.

“SBL” means SBL Group Limited, a company registered in England and Wales (company number 05664506) whose registered office is at Whittington Hall, Whittington Road, Worcester, Worcestershire, WR5 2ZX.

“Site” means any premises or site where Equipment is to be delivered and/or Services are to be performed, as specified in Schedule 2 of the Contract and/or otherwise agreed between the parties in writing from time to time.

“Service Levels” means the service levels set out in Schedule 3 of the Contract.

“Services” means the services to be performed by SBL under the Contract, as further detailed in Schedule 1 thereof and/or as otherwise agreed between the parties in writing from time to time.

“Support” or “Support Services” means Services to repair Equipment faults reported by The Client or detected by remote monitoring and “Supported Equipment” means Equipment which is covered by the Support Services, as shall be confirmed in writing by SBL to The Client from time to time.

“Terms” means these terms and conditions.

2.1 The headings in these Terms do not affect their interpretation. Except where the context otherwise requires, references to clauses and

schedules are to clauses of these Terms and schedules of the Contract.

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

2.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

2.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

2.5 A reference to any party shall include that party's personal representatives, successors and permitted assigns.

2.6 A reference to a statute or statutory provision is a reference to it as it is updated and amended from time to time. A reference to a statute or statutory provision shall include all subordinate legislation made under that statute or statutory provision.

2.7 If there is an inconsistency between any of these Terms and those set out in another schedule of the Contract and/or the body of the Contract itself, the provisions in these Terms shall prevail unless expressly stated to be superseded by the conflicting provision.

2.8 Words in the singular include the plural and those in the plural include the singular.

### 3. Provision Of Equipment And Services

3.1 SBL agrees to provide to The Client and The Client agrees to the purchase of Equipment and/or Services in accordance with the Contract.

3.2 These Terms apply to the Contract to the exclusion of all others that The Client may purport to apply, or which may otherwise be implied by statute, custom or practice.

### 4 Acceptance

4.1 If SBL installs Equipment, it will test the Equipment in accordance with the manufacturer's diagnostic and readiness test specifications. Acceptance is deemed to occur at the earlier of:

- when the Equipment has been connected to the network, activated and functions to perform its main functions (as detailed in the published specification for the Equipment, if any) except for minor variances in performance that do not materially affect those main functions; or
- if The Client puts the Equipment into commercial use.

If Equipment is installed in phases, SBL may carry out acceptance testing for each phase. The Client may participate in the acceptance testing (and in this regard The Client shall act reasonably).

4.2 If SBL agrees to delay Delivery or installation of Equipment at the request of The Client or if Delivery of installation is delayed because of any act or omission by The Client, acceptance shall be deemed to have occurred 14 days after SBL notifies The Client that the Equipment is ready for Delivery.

4.3 If Equipment is sold but not installed by SBL, acceptance is deemed to occur upon Delivery.

4.4 Subject to clause 4.5 below, if during testing any item of Equipment is found to be defective, SBL shall do one of the following at its sole reasonable discretion and within a reasonable time either rectify the defect, provide a workaround, or replace the item with a new item and the Equipment shall be re-tested. This clause sets out The Client's exclusive remedy in respect of any defective or purportedly defective Equipment.

4.5 SBL will not accept responsibility for any claims for shortages, defects, discrepancies or damage to Equipment unless The Client notifies SBL in

writing as soon as they become aware of the problem.

### 5. Risk Of Loss and Title.

5.1 The Client assumes the risk of loss or damage to Equipment from the time of Delivery. With effect from Delivery, The Client shall maintain insurance for the full insurable value of Equipment until title passes to The Client in accordance with clause 5.2.

5.2 Title of the Equipment shall not pass to The Client until full payment of all sums due for the Equipment and any associated installation Services have been received by SBL in full in cleared funds. Until that time, The Client shall hold the Equipment on a fiduciary basis as SBL's bailee, shall not destroy, deface or obscure any identifying mark or packaging on or relating to the Equipment, shall take good care of the Equipment and shall store and use the Equipment in satisfactory conditions and in accordance with any manufacturer's instructions and/or instructions or directions provided by SBL.

### 6. PRICE AND PAYMENT TERMS.

6.1 Unless the Contract states otherwise, prices quoted by SBL are in UK Pounds Sterling and are exclusive of VAT and any other sales taxes, which The Client agrees to pay.

6.2 The Client acknowledges its responsibility to disclose all relevant information to enable SBL to calculate its charges accurately. The Client shall ensure that all information it provides to SBL is complete, true and accurate. The Client agrees to pay for additional work required which SBL could not reasonably have foreseen on the basis of the information provided to it by The Client.

6.3 Unless the Contract states otherwise, invoicing will be as follows. For the sale of Equipment, the price will be invoiced on Delivery. For the provision of Support and/or Telecommunications Services, the price will be invoiced monthly in advance or otherwise as specifically agreed in writing between The Client and SBL. For all other Services the price will be invoiced monthly in arrears as the Services are performed. If SBL is selling and installing Equipment, 40% of the total price is invoiced on order acceptance, 40% on delivery and the remaining 20% on acceptance by the Hotel or The Client in accordance with clause 4.1 above.

6.4 Invoices shall be paid by The Client within 30 days from the date of the invoice in respect of "Capex" items, within 14 days in respect of "Opex" items, and within 14 days in respect of any other Equipment or Services. If SBL does not receive payment when it falls due, without prejudice to its other rights and remedies it shall be entitled to, after providing notice, (a) suspend the provision of Services, and/or (b) charge interest upon the outstanding amount at the rate of 5.0% per annum over the Bank of England base rate until SBL receives payment in full, whether before or after judgment.

6.5 All payments shall be made by The Client in UK Pounds Sterling by cheque or transfer to such bank account as SBL may from time to time notify.

6.6 SBL shall be entitled to charge The Client for all direct costs incurred if The Client cancels or purports to cancel the Contract other than in accordance with these Terms or if The Client prevents performance of the Contract or if The Client terminates or purports to terminate the Contract in breach of these Terms or any other terms of the Contract. The Client acknowledges these costs and losses may amount to the full purchase price for Equipment, as SBL may be unable to cancel its order or sell the Equipment. The Client further acknowledges these costs and losses may be very considerable for cancelled Services, as SBL may have already employed people to perform the Services and / or purchased all spares or equipment for the duration of the Contract

6.7 SBL may increase its charges annually for any Services performed on an ongoing basis by an amount which does not exceed any increase in the UK general index of retail prices.

## 7. CUSTOMER RESPONSIBILITIES

7.1 The Client shall provide SBL with all information relevant to delivering the Equipment or performing the Services.

7.2 The Client shall prepare the Site for the installation of Equipment, for example removing existing equipment or cable as necessary, and making available secure storage space for equipment, spare parts and tools as reasonably required by SBL. The Client agrees to allow SBL to deliver and/or install the Equipment as soon as SBL is ready to do so.

7.3 The Client shall provide facilities as reasonably required by SBL to provide the Services, including but not limited to ducting, conduit,

structural borings for cable and conductors, and electrical service with suitable terminals and power surge protection devices and shall designate refuse deposit points close to any Equipment and remove any waste placed there.

7.4 The Client shall arrange access to any Site as reasonably required by SBL and shall provide safe and suitable conditions to allow SBL to perform the Services.

7.5 The Client shall procure as required any permission or services of third parties in respect of interfacing equipment or software and allow SBL, at The Client's expense, to make reasonable service requests on third parties for Equipment interconnection, including obtaining telephone service for testing where necessary. SBL will provide The Client previous notice and a reasonable cost estimate therefore.

7.6 The Client shall co-operate with and assist SBL as reasonably required in connection with the Services, including but not limited to making available at all reasonable times either in person or by telephone somebody with appropriate knowledge of the Equipment and Site with authority to act on behalf of The Client, replying to any request for any information, approval or decision promptly and without delay.

7.7 The Client shall maintain the Equipment and its environment in accordance with any manufacturer specifications and tolerances.

7.8 The Client shall select, implement and maintain security features for defence against unauthorised Equipment use.

7.9 The Client shall immediately notify SBL of any inability or anticipated delay in meeting any obligations set out in this clause.

7.10 The Client acknowledges that SBL shall have no responsibility or liability for any delay caused by The Client's failure or delay in performing its obligations under the Contract. The Client shall reimburse any direct and reasonable costs incurred by SBL as a result of any such failure or delay.

## 8. **Safety, Security and Personal Conduct**

8.1 The Client agrees to ensure that SBL's employees, agents and sub-contractors are not exposed to anything which might have a detrimental effect on their health, safety or welfare. If any potential hazards exist at any Site which could have such an effect of which The Client has knowledge, The Client shall



immediately advise SBL, confirmed in writing afterwards, and offer appropriate training and safeguards to ensure safe working conditions. Any breach of this clause 8.1 shall be a material breach of these Terms.

8.2 SBL agrees to ensure that its employees, agents and sub-contractors attending a Site comply with all reasonable Client policies and instructions on health and safety, security and personal conduct (provided that the same are provided to SBL in advance in writing).

8.3 Should there be a breach of clause 8.2, The Client shall be entitled to ban the relevant person from the Site and if this occurs, SBL agrees to provide a suitable replacement as soon as reasonably practicable.

## 9. SUPPORT SERVICES: GENERAL

9.1 The objective of the Support Service is to maintain Supported Equipment in good operating condition in accordance with the manufacturer's specifications, based on normal use by The Client and/or the end-customer (as the case may be). The Client agrees to pay SBL at its standard rates for work it requests SBL to perform which did not result from normal use of the Equipment.

9.2 Any Support Services provided shall be in accordance with Schedule 1 and Schedule 3 of the Contract.

9.3 Where SBL is installing Equipment which is to be covered by Support, SBL shall provide and The Client agrees to pay for the Support Services in accordance with Schedule 1 and Schedule 3 of the Contract with effect from the date of acceptance in accordance with clause 4.1 above.

9.4 Where SBL either did not deliver, or did not install or did not support any Equipment immediately before the Support Services begin, it reserves the right to undertake a pre-maintenance inspection to determine whether any work is required to bring the Equipment up to the manufacturer's specification.

9.5 SBL has no obligation to provide Support Service for any equipment it does not sell, install and approve.

9.6 SBL shall have the right to inspect all equipment and software which is connected to Supported Equipment as reasonably required for the purpose of checking the causes of faults in Supported Equipment.

9.7 Any parts fitted to the Equipment under the Support Service shall upon fitting become the

property of The Client. Any parts that have been replaced by SBL shall upon replacement become the property of SBL. The parties warrant that they have good title to pass on. If the Equipment is leased or charged, The Client warrants that it has obtained all necessary consents to part with the possession of, and give good title to, the replaced parts.

## 10. **Support Services: SBL Obligations**

10.1 SBL shall use reasonable endeavours to ensure that it complies with any SBL obligations set out in these Terms and the relevant Support Plan details.

10.2 SBL may, depending on the Support Plan purchased attempt to repair, by remote technical support, faults reported by The Client or diagnosed remotely; if this does not resolve the problem, where appropriate SBL shall dispatch an engineer to fix the faulty item; and if an item needs replacing, de-install the faulty item and install a replacement. Replacement parts may be new or re-conditioned to be the functional equivalent of the original.

10.3 Any target response times start from the receipt by SBL of a fault in response to The Client's request for assistance.

10.4 SBL agrees that the equipment, services and support it provides comply with relevant regulation and law, and that to the best of its knowledge and belief its provision of the Equipment, Services and Support violates no third party's intellectual property rights.

## 11. **Support Services: Customer Obligations.**

11.1 If The Client is required to report faults in Supported Equipment to SBL (in accordance with the relevant Support Plan), it shall make reasonable attempts to fix any fault itself and if these fail it shall ensure that the fault is reported to the SBL Helpdesk as soon as possible. It shall also ensure that a suitably competent person is available either in person or by telephone to demonstrate the fault and verify its satisfactory resolution. Where agreed with SBL, The Client shall provide the relevant network and equipment to allow remote diagnostics.

11.3 Where SBL is maintaining software on The Client's server/device as part of the Support Service, The Client agrees to maintain the hardware and operating system software at its expense within the specifications and tolerances

specified by the relevant manufacturer. The Client shall promptly forward to SBL all information regarding updates, patches or hot fixes to hardware and/or software operating systems prior to implementation, for review and determination of compatibility with the application software for server-based products.

11.4 The Client agrees to ensure adequate back-up of data and restoration of data which might otherwise be lost when Equipment is repaired. SBL shall have no responsibility or liability in this regard.

11.5 The Client shall not modify, enhance, repair, disassemble, add new equipment to or move any Supported Equipment without SBL's prior written consent, which will not be unreasonably refused: if SBL grants consent, The Client agrees to pay SBL's reasonable extra charges to reflect any resulting additional work for SBL.

11.6 The Client agrees to maintain and supply to SBL a database of Supported Equipment showing the type of equipment, the model number, the serial number, the location, and any changes.

11.7 Where SBL is installing and/or maintaining Equipment that relies on communication over The Client's network, The Client shall procure that The Client ensures that the infrastructure is maintained to provide acceptable communication levels.

## 12. SUPPORT SERVICE EXCLUSIONS.

12.1 The scope of Services performed under any warranty or under the Support Service does not include any repairs or any work made necessary by or in connection with any of the following:

- events beyond the control of the parties of the type referred to in clause 13;
- failure to follow reasonable operational, maintenance or environmental requirements described in the manufacturer's manuals or product bulletins, or in SBL manuals and other documentation provided to The Client;
- failure of consumable items such as but not limited to batteries;
- modifications, enhancements or repairs to, disassembly of or moving Equipment;
- abnormal use of the Equipment, such as but not limited to mishandling, abuse or accidental damage;

- relocation of Equipment without SBL's written consent (other than telephone handsets located in accordance with the manufacturer's specifications);

- changes required by any telephone company, utility company or other transmission provider or third party;

- electrical work external to the Equipment;
- service which is impractical for SBL to render because of Equipment alterations or its connection to other devices, or because of alterations to operating systems;

- systems engineering services, programming, reconfiguration or reprogramming of equipment, or operational procedures of any sort; or

- service calls where either no problem is found or any problem is unrelated to the Equipment.

12.2 SBL shall have no obligation to undertake any repairs or work made necessary by any of the events set out in clause 12.1 but may at The Client's request, perform the work or repairs at SBL's then current time and materials rates.

12.3 SBL reserves the right to cancel the Contract (in whole or in part) by serving three months' written notice on The Client. If SBL does cancel all or part of the Services, it shall reimburse The Client a pro-rated refund of sums paid in respect of the period following the date of cancellation.

## 13. Events Beyond the Control of the Parties.

13.1 Neither party shall be responsible for a delay or failure to perform an obligation under the Contract, other than a delay in making a due payment, if caused by an event beyond the reasonable control of that party, providing that the other party is notified as soon as practicable. Events beyond a party's reasonable control include but are not limited to fire, flood, weather conditions, civil and industrial disturbances, power surges or failure and delays or failures by suppliers, utility companies, telephone companies, internet carriers, telecommunications or other third parties.

13.2 The affected party shall use reasonable endeavours to fulfil its obligations as far as reasonably possible and shall be entitled to an equitable adjustment to any payment or time allowed under the Contract.

#### 14. Software Licence.

14.1 The Client acknowledges any software supplied by SBL is owned by the relevant software publisher or Equipment manufacturer and not by SBL: in no circumstances shall title to any software pass to The Client. The Client agrees to be bound by the terms of the relevant licence agreement, which may be shown on the web site [www.sbl-group.com](http://www.sbl-group.com), or the relevant manufacturer's or publisher's web site or which may accompany any Equipment or software. Any such licence agreement shall exclusively and independently govern the licensing of the software.

14.2 The parties agree that any failure to comply with the terms of this clause 14 shall be deemed a material breach of the Contract for which injunctive and other equitable relief may be sought.

#### 15. Term, Termination And Suspension.

15.1 The Contract shall come into full force and effect upon the date stated therein, and shall remain in force for a fixed period of 36 months. Thereafter the Contract will continue to roll for consecutive periods of 12 months unless terminated on an anniversary of the commencement of the Services by either party serving not less than three months' notice on the other party.

15.2 Either party may by serving written notice with immediate effect terminate the Contract if the other party commits a material breach of the Contract which is incapable of remedy or ceases doing business or commences dissolution, insolvency or liquidation or receivership or any analogous proceedings except for any solvent amalgamation or reconstruction.

15.3 Either party may by serving written notice with immediate effect terminate the Contract if the other party either fails to remedy a material breach of the Contract which is capable of remedy within twenty eight days of written notice giving appropriate details or fails to make a due payment within fourteen days of written notice giving appropriate details. Either party with a right to terminate under this clause shall have the additional right to suspend all or any of its obligations under the Contract until the breach is remedied.

15.4 If any circumstances exist at any Site which SBL reasonably believes could have a detrimental effect on the health, safety or welfare of SBL's employees, agents or sub-contractors, SBL shall

have the additional right to suspend the delivery of all or any Equipment or the performance of all or any Services at any time while those circumstances prevail.

15.6 If a suspension should occur under clause 15.3 or 15.4, the party at fault agrees to pay any reasonable extra costs incurred and the time allowed to the suspending party to perform its obligations shall be equitably adjusted.

15.7 Either party terminating the Contract or suspending its obligations under this clause 15 does so without any further liability on its part under the Contract, other than a liability to pay for Equipment delivered or Services performed and to continue to comply with clause 19 and any other obligations which are of a continuing nature, and without prejudice to any other of its rights or remedies, except as otherwise limited by the Contract.

#### 16. Warranty.

16.1 SBL warrants that the Services will be performed by it or on its behalf using reasonable skill and care, unless otherwise expressly provided.

16.2 Any end-user warranties for Equipment from an Equipment manufacturer are passed on to The Client by SBL, unless stated otherwise in the Contract. If an item of Equipment supplied by SBL develops a fault during the manufacturer's warranty period, SBL shall at its option and expense either return the item to the manufacturer and replace it or repair the item. Replacement parts may be new or reconditioned to be the functional equivalent of the original. The Client acknowledges that any work on Equipment by non-manufacturer certified technicians may invalidate the manufacturer's warranty.

16.3 Unless otherwise stated in these Terms, the warranties in this clause 16 are in place of all other warranties from SBL. All other warranties and conditions, whether express or implied by statute or common law or otherwise, are excluded to the fullest extent permitted by law, including but not limited to warranties of satisfactory quality or fitness for a particular purpose (whether that purpose has been brought to the attention of SBL or not) or any warranty that any Equipment will function uninterrupted or error-free.

16.4 Unless expressly incorporated into these Terms, no statement or representation, whether written, oral or otherwise, shall be relied on by SBL to the effect that any Equipment or Services



will be of satisfactory quality or fit for a particular purpose, whether that purpose has brought to the attention of been brought to the attention of SBL or not.

- 16.5 SBL makes no warranty for use of any Equipment as a component in life support devices.

## 17. Indemnity.

Subject to clause 18, each party shall defend, indemnify and hold harmless the other party, and its respective directors, employees, agents and subcontractors from and against any third party claim, suit, action or proceeding alleging bodily injury, death or damage to tangible property to the extent such injury or damage is caused by the negligence or wilful misconduct of the indemnifying party, its directors, employees, agents or subcontractors in connection with the performance of services or any breach of clause 19 of these Terms, provided that such claim is promptly reported to the indemnifying party in writing and the indemnified party does not attempt to settle nor does anything that may prejudice or compromise the defence of the claim. The indemnifying party shall have exclusive authority to control the defence of any such claim, and the indemnified party shall (at the expense of the indemnifying party) provide such assistance and information as the indemnifying party may reasonably require.

## 18. Limitation of Liability.

- 18.1 Subject to clause 6.6 and 7.10, neither party shall be liable for:
- any actual or potential economic loss of any kind, which includes but is not limited to loss of business, profits, revenue, savings or capital, increased costs of operation whether caused by delays or business interruptions or loss of data or messages or otherwise; or
  - any damages of any kind resulting from unauthorised, fraudulent or illegal use of or access to any Equipment or any software by the other party; or
  - any consequential, indirect, incidental, special or exemplary damages, whether mentioned above or otherwise.

- 18.2 In recognition of the relative risks and rewards of both parties in connection with the Contract, the parties agree to the fullest extent permitted by law to limit the entire liability of either party

for claims arising under or in any way related to the Contract to the amounts paid and payable under the Contract in a twelve month period or one million pounds sterling, whichever is less.

- 18.3 Clauses 18.1 and 18.2 apply to all claims whether based upon breach of warranty, breach of contract, negligence, strict liability in tort or any other legal theory, and regardless of whether the possibility of such damage or loss has been pointed out.

- 18.4 SBL shall be liable for any physical damage it causes to an item of Equipment due to its negligence or wilful misconduct. If this occurs, The Client's sole remedy shall be limited to either SBL's repair of the item of Equipment, or, if SBL reasonably determines that this is impossible or uneconomic, replacement with comparable Equipment or a pro-rated refund based on depreciation over 5 years.

- 18.5 Nothing in these Terms or Contract shall be construed to limit the liability of either party for death or personal injury caused by its own negligence.

- 18.6 By entering into the Contract, the parties acknowledge that this limitation of liability clause has been reviewed and understood and is a material part of these Terms, and that each party has had the opportunity to seek legal advice regarding this clause.

## 19. Confidentiality

- 19.1 For the purpose of this clause 19, confidential information means any information or data in any form or medium, including but not limited to written, documentary, oral or electronic information, which is marked confidential or which by its nature or the circumstances surrounding its disclosure should reasonably be regarded as confidential, including but not limited to the terms of the Contract.

- 19.2 Both parties agree to take reasonable care to ensure that any confidential information remains confidential. Both parties agree not to disclose any confidential information during or subsequent to the term of any Contract to any third party, other than where the disclosure is reasonable in the context of general legal requirements or the provision of any Services or Equipment, such as but not limited to disclosure as necessary to any sub-contractor. Confidential information may be disclosed if it:

- is in the public domain without breach of these Terms;
- was developed independently or already known by the disclosing party;
- was, so far as the disclosing party is aware, legitimately disclosed to it on a non-confidential basis without any restriction on its further disclosure; or
- appears that disclosure is legally required, provided the party who made the original disclosure is notified as soon as possible.

19.3 Both parties agree to ensure any third party to whom disclosure is made in accordance with these Terms will comply with the obligations in this clause 19.

## 20. Data Processing

20.1 SBL warrants that it will comply with the legal and regulatory obligations incumbent upon it under English law (Data Protection Act 1998) on data processing.

20.2 To the extent that in performing the Services it processes any personal data on behalf of The Client, SBL shall only do so in accordance with the instructions of The Client and for the purposes of performing its obligations under the Contract, and it shall implement appropriate technical and organisational measures to protect the personal data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure.

## 21. General.

21.1 Governing Law. These Terms and the Contract shall be governed by English law and both parties agree to be bound by the exclusive jurisdiction of the English Courts in respect of any dispute arising under or in connection with these Terms, the Contract, and/or their subject matter or formation.

21.2 Assignment. Neither party may assign or transfer any of its rights or obligations under the Contract without the prior written consent of the other party, which consent shall not be unreasonably withheld. Nothing in this clause or in the Contract shall prevent SBL from using subcontractors to perform any of its obligations.

21.3 Binding Effect. The Contract shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns.

21.4 Third party rights. Nothing in these Terms, expressed or implied, shall confer any right or remedy on any person other than the parties to the Contract.

21.5 Counterparts. The Contract may be executed in one or more counterparts, each of which shall be deemed an original, but which together shall constitute a single agreement. Either party may rely on a faxed authorised signature from the other party to bind that other party.

21.6 Amendment and waiver. These Terms or any other provision of the Contract may be modified or supplemented only by a written document (excluding electronic mail and instant messaging) executed by both parties. A waiver by either party of a breach of these Terms or any other provision of the Contract shall not be construed as a waiver of any subsequent or different breach. The fact that a party has not sought a remedy for non-compliance or breach by the other party shall not be construed as a waiver of any right or remedy.

21.7 Invalid Clauses. If any Court finds any provision of these Terms or any other provision of the Contract to be invalid or unenforceable, the remainder of these Terms and the Contract shall continue in full force and effect as if the provision had not existed.

21.8 Preparation of these Terms. These Terms and any other terms of the Contract have been fully and carefully reviewed and negotiated by the parties, who agree that neither of them shall be deemed to be the author.

21.9 Entire agreement. The Contract constitutes the entire contract between the parties and supersedes and extinguishes all previous Contracts, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract. Nothing in this clause shall limit or exclude any liability for fraud.



21.10 Headings. The headings appearing in these Terms have been inserted as a matter of convenience and shall not affect their meaning or interpretation.

21.11 Independent Parties. Nothing in these Terms shall be construed to establish or create an agency, partnership or joint venture relationship between the parties.

21.12 Non-Solicitation. Both parties agree not to directly or indirectly solicit, employ or contract with any employee of the other party who has been associated with the Contract during its term and for one year after its termination or expiry.

21.13 Notices. Notices required by these Terms shall be in writing and shall either be delivered in person or by a postal or courier service which requires the signature of the receiving party. The notice will become effective on delivery. Notices shall be served at the registered office address marked for the attention of the Contracts Manager.

## 22. Supplier Flowdown Clauses

22.1 SBL will use reasonable endeavours to make, any Access Circuit (published) RFS Date for a particular Circuit:

22.1.1 subject to a commencement or transfer order having been approved for that Circuit; and

22.1.2 the Service availability to the Site at which that Circuit terminates.

22.2 SBL does not guarantee that any such Circuit will be available from the RFS Date, notwithstanding that The Client has made use of the simultaneous provide or the fast track order facilities.

22.2.1 The Service will not be available to The Client outside BT's service availability area as published from time to time on BT's website.

22.3 SBL will use reasonable endeavours to meet the service levels for the Service as described in Schedule 3. When calculating availability levels any period of interruption or service restriction that is due in whole or in part to issues relating to The Client's Equipment (including without limitation faults, misconfiguration, loss of password or faulty software) or to its interface with the Service shall be deemed to be periods of 100% availability.

22.4 Without prejudice to any other rights or remedies that SBL may have, SBL may terminate

the provision of the Service on not less than 1 month's notice in writing to The Client in which case The Client shall pay to SBL all arrears of Charges in respect of the Service up to the date of its termination.

22.5 In respect of the Assured IP Service the minimum contract term for individual lines is twelve months. In the event that the Assured IP Service is terminated for any reason before the expiry of the twelve month minimum contract term the balance of any rental which would have been paid for the remaining period up to twelve months from the commencement date becomes payable immediately.

22.6 SBL reserves the right to revoke its Acceptance of any order where a Circuit cannot be reasonably connected to the Site in question having due regard to any geographic, practical or technical issue arising, including but not limited to where the Site is an unusually long distance from the local BT exchange or where there is a poor quality copper connection or lack of plant between the Site and the local BT exchange.

22.7 If after Acceptance, The Client cancels or amends any order prior to the RFS Date SBL will be entitled to pass on to The Client any charges for the installation or provisioning of that order levied on SBL by its suppliers.

22.8 On placement of an order for the IP Assured Service an automated availability and suitability check ("Availability Check") is made to ensure that the service can be supported. In the event that the order fails the Availability Check the order will be rejected. In the event that the Availability Check does not return any results or returns only partial results The Client will be given the option of either proceeding with or cancelling the order. The Availability Check is a service provided by BT and SBL shall have no responsibility for any incorrect or misleading results obtained from its use.

22.9 Where the simultaneous provide process is used an Availability Check cannot be made.

22.10 After the access circuit has been installed and made operational the circuit enters an "Assurance Period" at the end of which SBL will either accept or fail the circuit for full operation.

22.11 If, at the end of an Assurance Period, SBL has been unable to accept a circuit SBL may, at its option, allow The Client to take the circuit into service. In such cases any SLAs can not apply.

22.12 Where SBL has been unable to accept a circuit at the end of the Assurance Period The Client shall be entitled to cancel the circuit without penalty

save where the circuit was ordered using the simultaneous provide facility or where it was ordered following partial or no data being received for the Availability Check

- 22.13 The Assured IP Service will not support:
- i. General access to the internet
  - ii. SIP services provided by other operators
  - iii. Site-to-site traffic (inter-PBX)
  - iv. IP extensions for remote workers

22.14 Where a Client takes the Assured IP Service, a router will be delivered by SBL to the Client or a specified alternative address for all circuits using the Assured IP Service. Such router is managed by and remains the property of SBL. If a router is not returned to SBL on termination of the circuit for which it was supplied SBL shall be entitled to invoice The Client for the router at SBLs standard Charge and The Client shall pay any such invoice in accordance with Clause 6 of this Agreement.

22.15 Where SBL is providing a hosted solution to The Client, The Client shall be responsible for or shall ensure that its Customers and/or End Users are responsible for any security matters which are outside SBL's direct control, for example (but not limited to), credentials used to access call management portals that could be used to set up fraudulent calls over an Assured IP Service connection.

## Schedule 5

### CLI Presentation Statement

"I hereby confirm on behalf of <CUSTOMER NAME> (the "Applicant") to SBL Group Ltd (the "Telecommunications Service Provider"), and I am duly authorised so to do, that:

- (i) the number requested for use as a presentation number ("PN") is either allocated to the Applicant and the Applicant does not require the permission of anyone else in relation to that number or the requested PN is not allocated to the Applicant but consent from the allocated owner for its use as a PN has been obtained and has not been withdrawn;
- (ii) the requested PN is in use;
- (iii) the Applicant shall immediately inform the Telecommunications Service Provider if any of the information in this statement ceases to be correct;
- (iv) the telecommunications service provider may suspend and/or withdraw use of its Presentation CLI Service if it is subsequently found that the information in this statement was, or has become, inaccurate or if the PN is being misused in any way;
- (v) the Applicant understands that the PN must not be a number that connects to a revenue sharing number that generates excessive or unexpected call charges in which case the telecommunications service provider may suspend and/or withdraw use of the Presentation CLI Service;
- (vi) The Applicant acknowledges that its network service provider may withdraw the service without penalty in the event that a) having made the appropriate configuration change the Applicant fails to make at least one test call within twenty (20) working days and/or b) the Applicant reverses the configuration change.

The Applicant hereby indemnifies the Telecommunications Service Provider and any underlying network service provider against any claims by any third party relating to use of the PNs.

The Applicant hereby acknowledges that the Telecommunications Service Provider may withdraw this facility at any time for regulatory or legal reasons or if it suspects its misuse or if its use is challenged by any third party.

..... dated .....

For and on behalf of <CUSTOMER NAME>