# SERVICE AGREEMENT

This Services Agreement consists of these General Terms and Conditions, the Product Order Form made available at the time of order placement and the attached Product Terms for the services available from Intercity Technology Limited on the Government's Digital Marketplace, G-Cloud 9.

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**Document Owner**

All enquiries regarding the content of this document should in the first instance be directed to:


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**Document Control**

The creation, review and issue of this document follows:

| Issue | Author | Date | Classification | Reason for Change |
|---|---|---|---|---|
| 1.2 | MG | 05.04.2017 | Issued | First issue to G-Cloud |

# GENERAL TERMS AND CONDITIONS

This Services Agreement consists of these General Terms and Conditions, the attached Product Order Form and the attached Product Terms for the Products as set out in the Product Order Form.

## 1 ORDERING PRODUCTS

1.1 Customer may submit enquiries to ITL and ITL may provide quotations in response to such enquiries. Customer may proceed with a quotation by approving the quotation. ITL will re-present the approved quotation to Customer by way of a Product Order Form.

1.2 Customer may submit an order by signing a Product Order Form (initialling each page), any General Terms and Conditions (attached with Customer's first Product Order Form) and the applicable Product Terms (attached with Customer's first Product Order Form for that Product) either electronically or by hand. Upon such approval, a Product Order Form constitutes an offer by Customer to purchase the Products on the terms of these General Terms and Conditions, the applicable Product Terms and any Special Conditions set out in the Product Order Form. Subsequent Product Order Forms for the same Product will incorporate by reference the General Terms and Condition and applicable Product Terms.

1.3 No terms Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing will apply to any Contract.

1.4 ITL may accept a Product Order Form (and, where required, the General Terms and Conditions and Product Terms) by providing Customer with a copy of the Product Order Form signed by ITL.

1.5 Nothing in these General Terms and Conditions will oblige ITL to accept any Product Order Form, nor to provide any Product, until ITL accepts a Product Order Form. Upon acceptance by ITL, a Product Order Form will become a Contract which commences on the date of acceptance by ITL.

## 2 INSTALLATION AND SUPPLY OF SERVICES AND EQUIPMENT

2.1 Upon commencement of a Contract in accordance with Clause 1, ITL will use reasonable endeavours to provision and, as necessary, install the Product and will inform Customer when the Product is connected and ready for use.

2.2 ITL will supply the Product to Customer from the Connection Date with reasonable skill and care and in accordance with any Legislation, but ITL cannot, given the nature of the Product, guarantee that the Product will be continuously available or error free.

2.3 ITL reserves the right to cancel any Product which is specified in a Contract prior to the Connection Date or within a reasonable period of time thereafter where:

(a) the Product cannot be delivered to, or installed at, a Site owing to a geographic, practical or technical restraint; or

(b) the cost of providing or installing the Product at a Site is materially higher than the usual cost of providing the Product to a customer and Customer does not agree to pay any additional Charges requested by ITL.

2.4 Customer shall provide (and shall make sure that its End Users and any Affiliates shall provide) all information and complete all documentation and information which is required by ITL in order to perform its obligations under the Contract.


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2.5 Customer warrants that any information which it (or any Affiliate) provides to ITL in connection with the Contract or the provision of Services is and will be complete and accurate.

**3 USE OF THE PRODUCTS**

3.1 The Products are provided for use by Customer and End Users in the course of Customer's business and on the condition that Customer does not resell or otherwise make the Products available to any other person save as set out in Clause 19.3.

3.2 Customer undertakes to use the Products, and to procure that each End User uses the Products, in accordance with:

(a) the terms and conditions of the Contract and any laws and regulations applicable to Customer's use of the Products; and

(b) any reasonable operating instructions as may be notified in writing to Customer by ITL from time to time.

3.3 Without prejudice to ITL's obligations to provide a particular Product, Customer is responsible for the security of their use of the Products including protecting all passwords, backing-up all data, employing appropriate security devices, including virus checking software, and having suitable disaster recovery processes in place.

3.4 Without limiting Clause 3.2, Customer will not, and will procure that each End User will not, use a Product to:

(a) send, communicate, knowingly receive, upload, download or use any material or make any calls that are offensive, abusive, indecent, defamatory, obscene, menacing, cause annoyance, inconvenience, needless anxiety or are intended to deceive;

(b) download, possess or transmit in any way, illegal material;

(c) engage in criminal, illegal or unlawful activities;

(d) violate or infringe the rights or property of any person, including rights of copyright and any other Intellectual Property Rights, privacy or confidentiality;

(e) intentionally impair or attempt to impair, without authorisation, the operation of any computer, prevent or hinder access to any program or data held in any computer or to impair the operation of any such program or the reliability of any such data; or

(f) send, communicate, knowingly receive, upload or download data or make any calls in such a way or in such amount that Customer knows or ought reasonably to know will have a material adverse effect on the ITL Network (or any part of it), the provision of the Products or ITL's customers.

3.5 Customer indemnifies and promises to pay on demand ITL and its Affiliates for any settlement paid by, damages awarded against and reasonable legal costs and expenses suffered or incurred by ITL and any of its Affiliates arising out of or in connection with any claim made or threatened against ITL or an Affiliate of ITL by a third party arising out of or in connection with Customer's or End User's breach of this Clause 3.

3.6 Where Customer or an End User uses a Product to access the internet, other networks, websites or content, Customer accepts that ITL shall have no responsibility for the same and that Customer shall access the same at its own risk. Customer shall be responsible for all charges arising from such access.

**4 SUPPORT, MAINTENANCE AND PRODUCT MANAGEMENT**

4.1 ITL will provide support and maintenance, where set out in the Product Order Form, for the Product as set out in the Support Terms and the relevant Support Annex.


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4.2 ITL is responsible for a Product up to and including the Network Terminating Equipment.

4.3 Subject to Clause 7.2 (c) ITL will have the right to withdraw or change a Product and to terminate or vary any affected Contracts for all customers to:

(a) comply with any law, regulation or safety requirement; or

(b) take into account the withdrawal of or a significant change to the technology used to provide the Product.

4.4 In relation to any withdrawal or change under Clause 4.3, ITL will:

(a) give Customer not less than three (3) months' notice, unless made to comply with a regulatory or mandatory change when ITL shall give as much notice as reasonably practicable; and

(b) use reasonable endeavours to avoid any material adverse impact on the nature or quality of the Product or any material increase in the Charges.

4.5 Where a Product is withdrawn, ITL may offer an equivalent or better Product with the same Charges. ITL will be obliged to do so in respect of any affected Contract within its Contract Term where a Product is withdrawn under Clause 4.3 (b) and pay Customer's reasonable demonstrable third party costs of moving to the replacement Product, up to a maximum of the Recurring Charges payable in respect of the remainder of the Contract Term. Where such equivalent or better Product has lower Charges, ITL may allow Customer to benefit from such reduction, if Customer agrees to pay the costs of moving to the equivalent Product.

4.6 If Ancillary Equipment is required to be installed, used or maintained at a Site, then Customer shall:

(a) provide ITL with all necessary assistance, documentation and access to premises and property to enable ITL to carry out the installation or maintenance on time;

(b) carry out all preparatory work notified by ITL to allow ITL to carry out the installation or maintenance on time; and

(c) at its own cost and expense provide:

(i) suitable space and environmental conditions for the Ancillary Equipment; and

(ii) all necessary services at the Site for the installation, use and maintenance of the Ancillary Equipment.

**5 CHARGES, PAYMENT AND REBATES**

5.1 ITL will invoice Customer electronically for the Charges, as set out in the Product Terms, payable under a Contract as set out in the Product Terms and Customer will pay all invoices by BACS or direct debit within seven (7) days of the date of the invoice, subject to clause 5.6.

5.2 Customer shall be liable for all Charges, whether or not incurred fraudulently.

5.3 Customer shall be responsible for all local access charges and costs associated with access.

5.4 Customer may request a paper invoice, subject to payment of a reasonable administrative charge.

5.5 All amounts payable by Customer under Contract are exclusive of Value Added Tax.


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5.6 If Customer in good faith disputes an invoice and wishes to withhold the disputed sum, Customer must notify ITL in writing of the dispute not more than one (1) month after the date of the invoice and make payment of any undisputed amount in accordance with the terms of the Invoice. Customer may still dispute an invoice in good faith more than one (1) months after the date of the invoice, but Customer must make payment in full of the invoice notwithstanding the dispute raised. In each case, Customer must provide reasonable details of the dispute to allow ITL to investigate. When the dispute is resolved a Party will settle any amount owing to the other immediately upon resolution.

5.7 Without limiting any other right or remedy of ITL:

(a) if Customer fails to make any payment due to ITL under a Contract by the due date for payment, ITL will have the right to charge interest on the overdue amount at the rate of 4% per cent per annum above the then current National Westminster Bank PLC base 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;

(b) if a direct debit is dishonored or cancelled, ITL will have the right to make a reasonable administration charge;

(c) ITL may set off any amount owing to it or its Affiliates by Customer against any amount payable by ITL to Customer; and

(d) if Customer has not paid an invoice by the due date ITL shall be entitled to suspend any further deliveries of any Ancillary Equipment or the provision of any Services until ITL has been paid in full.

5.8 Where the Product is paid for by way of a revenue share between ITL and Customer and requires a payment from ITL to Customer, ITL will pay Customer's revenue share in accordance with the procedures set out in the applicable Product Terms. Customer does not have the right to set off its revenue share against any sums due to ITL by Customer. As no Charges are payable for revenue share services, the amount of Customer's revenue share will be deemed to be Charges for the purpose of calculating the total limit of liability under Clause 9.3 for such Products.

5.9 Subject to Clause 7.2 (c), ITL may vary the Charges at any time by giving Customer notice to reflect changing arrangements with any Third Party Operator or changing legal, regulatory or business requirements. The revised Charges will apply to all Products provided after the effective date of the notice of change. Where such change is to Customer's material detriment, ITL will give Customer not less than one (1) month's notice in writing. Customer may within thirty (30) days of receiving such written notice be entitled to terminate the relevant Products by written notice to ITL.

## 6 CREDIT AND SECURITY

6.1 ITL may perform a credit check on Customer if Customer’s financial circumstances change subsequent to acceptance of a Product Order Form and may impose a Credit Limit on Customer’s account. Any Credit Limit imposed can be amended on notice. If Customer exceeds such Credit Limit:

(a) ITL may demand immediate payment of all unpaid Charges (whether invoiced or not); and

(b) Customer will remain responsible for all Charges incurred, including those exceeding the Credit Limit.


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6.2 ITL may require from Customer a deposit or other security as a condition of providing Products. ITL may hold deposit or security until Customer has paid all sums due to ITL under all Contracts. No interest is payable on any deposits held by ITL.

## 7 TERMINATION

7.1 A Party may terminate a Contract (or, where a Contract relates to multiple Connections, a Connection) by providing the other Party with the relevant notice via the relevant procedure, each as specified in the Product Terms. In the case of ITL, such notice must expire on or after the end of the Contract Term. Where Customer terminates a Contract or a Connection prior to the end of the Contract Term, the Customer shall pay the relevant Cancellation Charges to ITL.

7.2 Customer may terminate a Contract (or where applicable, a Product or Connection) by giving notice in writing to ITL if:

(a) there is a Material Failure under the Contract;

(b) ITL is in material breach of the Contract (other than Material Failure) which, if capable of remedy, has not been remedied within thirty (30) days of receipt of written notice specifying the breach in reasonable detail and requiring its remedy;

(c) if any changes made to the Products pursuant to Clauses 4.3 (b), 4.5 or 5.9 are to Customer's material detriment; or

(d) the circumstances in Clause 12.2 arise.

7.3 ITL may terminate any or all Contracts by giving notice to Customer if:

(a) Customer is in material breach of a Contract, which if capable of remedy, has not been remedied within 30 days of written notice specifying the breach in reasonable requiring its remedy;

(b) Customer makes any voluntary arrangements with its creditors or becomes subject to an administration order or goes into liquidation, whether voluntary or compulsory (other than for the purpose of a solvent reconstruction or amalgamation) or an encumbrancer takes possession of or receiver is appointed in respect of its assets;

(c) Customer fails to give any deposits or security required by ITL under Clause 6.2;

(d) The circumstances in Clause 12.2 arise; or

(e) Customer fails to pay any invoice within 14 days of the due date.

## 8 SUSPENSION

8.1 ITL may, without prejudice to any other right which it might have, elect to suspend the provision of all or part of a Product under any or all Contracts until further notice on notifying Customer either orally (confirming such notification in writing) or in writing if:

(a) ITL is entitled to terminate a Contract;

(b) ITL has reasonable grounds to believe that Customer or an End User is using the Product in breach of Clause 3;

(c) ITL or any third party providing equipment or services to ITL in connection with the provision of the Products is obliged to suspend the same in order to comply with any legislation, an order, instruction or request of government, regulatory authority, emergency services organisation or other competent authority; or


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(d) Customer exceeds the Credit Limit under Clause 13.1 and has not remedied this situation within five (5) Business Days of receiving written notice from ITL requiring Customer to do so.

8.2 If ITL exercises its rights under:

(a) Clause 8.1 as a consequence of the breach, fault, act or omission of Customer or an End User, the Charges will continue to be payable and Customer will pay to ITL all reasonable costs and expenses incurred by the implementation of such suspension and any recommencement of the provision of Products; or

(b) Clauses 8.1 (b) or 8.1 (c), ITL will limit the suspension to the Connections in respect of which the breach has occurred or to which it is obliged to so suspend.

**9 LIABILITY**

9.1 Nothing in a Contract will exclude or limit a Party's liability arising from or in connection with:

(a) any death or personal injury caused by the negligence of such Party, its agents, sub-contractors, officers, directors or employees;

(b) any fraudulent acts or omissions of or fraudulent representations made by such Party, its agents, sub-contractors, officers, directors or employees;

(c) any breach of statutory implied terms as to title;

(d) any other liability which cannot be excluded or limited by law;

(e) any indemnity given by such Party in a Contract unless otherwise expressly agreed in writing;

(f) any breach of Clauses 13 or 14; and

(g) any liability to pay the Charges.

9.2 Subject to Clause 9.1, a Party will not be liable to the other Party in contract, tort (including negligence) breach of statutory duty or otherwise for:

(a) indirect, consequential or special loss or damage;

(b) loss of opportunity;

(c) loss of anticipated savings

(d) loss arising from damage to a brand, reputation or goodwill (whether direct or indirect);

(e) loss of profit or anticipated profit (whether direct or indirect);

(f) loss of business or contracts (whether direct or indirect);

(g) loss of revenue or anticipated revenue (whether direct or indirect);

(h) loss or degradation of data (whether direct or indirect); and

(i) claims brought by, or ex-gratia payments made to, Customer's customers or any other third party (whether direct or indirect).

9.3 Subject to Clauses 9.1 and 9.2, a Party's total liability to the other Party in respect of all losses arising under or in connection with all Contracts in contract, tort (including negligence), breach of statutory duty or otherwise, will in no circumstances within any period of 12 consecutive months exceed the greater of:


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(a) ten thousand pounds (£10,000); and

(b) the Recurring Charges paid by Customer under all Contracts during such 12 months period, subject to a maximum of five hundred thousand pounds (£500,000)

9.4 Except as expressly set out in a Contract and to the extent permissible by law, all other warranties, terms and conditions, guarantees as to quality or fitness for a particular purpose of the Products or any other conditions or guarantees, whether express or implied by law, custom or otherwise are excluded.

**10 ANCILLARY EQUIPMENT**

10.1 Property in and ownership of the:

(a) Ancillary Equipment remains with ITL or its suppliers at all times;

(b) Customer Equipment remains with Customer at all times; and

(c) Purchased Equipment remains with ITL or its suppliers until Customer has paid ITL the Charges for the Purchased Equipment in full when property and ownership will pass to Customer.

10.2 Customer must clearly identify any Ancillary Equipment at the Sites.

10.3 Risk in and liability for Ancillary Equipment and Purchased Equipment passes to Customer on delivery of each item thereof. Customer must insure the Ancillary Equipment in respect of all relevant risks from delivery. Customer will provide a copy of the insurance policy to ITL upon request.

10.4 Customer must:

(a) not, nor permit any other person, to sell, let, transfer, dispose of, mortgage, charge, modify, repair, service, tamper with, remove or interfere with the Ancillary Equipment or suffer any distress, seizure or execution to be levied against any Ancillary Equipment;

(b) keep the Ancillary Equipment at the Site, with the exception of mobile devices;

(c) house, keep and use any Ancillary Equipment in accordance with any written instructions notified to Customer by ITL from time to time or, in the absence of instructions, to the same standard as a reasonable owner of the Ancillary Equipment would if it were their property;

(d) in the case of an emergency, take whatever steps as are reasonably necessary to safeguard the Ancillary Equipment and notify ITL as soon as possible the circumstances of such emergency;

(e) ensure the Ancillary Equipment is kept safe and not damaged;

(f) not remove, tamper with or obliterate any words or labels on the Ancillary Equipment or any part thereof; and

(g) permit ITL or its agent to inspect, test and maintain the Ancillary Equipment at all reasonable times and on reasonable notice.

10.5 Customer must immediately notify ITL of any loss or damage to any Ancillary Equipment. Without prejudice to ITL's other rights and remedies, where Customer breaches the provisions of this Clause 10


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(a) Customer indemnifies and promises to pay on demand ITL for the costs of repairing or replacing any Ancillary Equipment damaged by Customer's or End User's breach of this Clause 10 and

(b) ITL will not be liable to Customer for any failure to provide the Product as a result thereof.

10.6 Where Customer rents Ancillary Equipment, ITL will replace such equipment where ITL is satisfied that there is a fault with it. Under such circumstances Customer is required to immediately return the faulty Ancillary Equipment to ITL.

10.7 ITL does not provide any warranty in respect of any Purchased Equipment but, where possible, will provide Customer with the benefit of any manufacturer's warranty.

10.8 ITL will be entitled, after termination (for any reason whatsoever) of a Contract by giving notice of its intention to repossess the Ancillary Equipment, to:

(a) require Customer (at Customer's cost and risk) to immediately return the Ancillary Equipment to ITL; or

(b) enter upon any premises with such transport as may be necessary and repossess any Ancillary Equipment.

**11 SITES AND ACCESS**

11.1 Customer must procure at its own expense all permissions, licences, waivers, consents, registrations and approvals necessary for ITL to deliver, install and provide the Products at the Sites.

11.2 Where Ancillary Equipment is required to be installed at a Site, Customer must prepare the Site in accordance with ITL's reasonable instructions.

11.3 To enable ITL to carry out its obligations and exercise its rights under a Contract, Customer must upon request of ITL, permit or procure permission for ITL or anyone acting on ITL's behalf to access the Site at all reasonable times. ITL will not be liable for any failure to provide the Product to the extent caused by Customer's failure to comply with this Clause 11.3.

11.4 Customer will provide or procure a safe working environment at the site for ITL employees and anyone acting on ITL's behalf. ITL's employees or anyone acting on ITL's behalf will observe the reasonable regulations affecting the Site as previously advised in writing to ITL.

**12 EVENT OUTSIDE THE PARTIES' REASONABLE CONTROL**

12.1 A Party will not be liable for any delay in performing or failure to perform any of its obligations under a Contract (other than Customer's obligation to pay the Charges) which occurs as a result of a Force Majeure Event.

12.2 In the event that a Force Majeure Event continues for a period of 60 days, the Party not subject to the Force Majeure Event will have the right to terminate in accordance with Clause 7.2 or 7.3.

**13 CONFIDENTIALITY**

13.1 Neither Party will disclose to any third party without the prior written consent of the other Party any Confidential Information which is received from the other Party as a result of a Contract. Both Parties agree that any Confidential Information received from the other Party will only be used for the purposes of performing its obligations under a Contract. These restrictions will not apply to any information which:


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(a) is or becomes generally available to the public other than as a result of a breach of an obligation under this Clause 13; or

(b) is acquired from a third party who owes no obligation of confidence in respect of the information; or

(c) is or has been independently developed by the recipient without use of the other Party's Confidential Information.

13.2 Notwithstanding Clause 13.1, either Party will be entitled to disclose the Confidential Information of the other Party to:

(a) a third party to the extent that this is required by any court of competent jurisdiction or by a governmental or regulatory authority, or where there is a legal duty or requirement (other than a contractual duty or requirement) to disclose Confidential Information; or

(b) another party solely where it is necessary to discharge an obligation under a Contract. Prior to disclosing any Confidential Information pursuant to this Clause 13.2(b), the disclosing Party shall ensure that any recipient is subject to obligations of confidentiality of a nature equivalent to those set out in this Clause 13. Each Party shall remain liable to the other Party for any breaches of this Clause 13 by any recipient.

13.3 Customer shall keep all passwords and other security codes ("Codes") issued by ITL confidential and only disclose them to persons within Customer's business on a need-to-know basis and to no other third parties except as otherwise permitted under the Contract. ITL shall be entitled to change the Codes from time to time after first providing where reasonably practicable written notice to Customer detailing the change.

13.4 Customer shall inform ITL immediately if Customer suspects that the confidentiality of the Codes has been prejudiced and ITL shall assist Customer to change all affected Codes. The Customer remains responsible for all actions committed by any person whilst logged on using Codes.

**14 INTELLECTUAL PROPERTY**

14.1 All Intellectual Property Rights in the Products will be owned by ITL, its licensors and its Affiliates.

14.2 ITL grants to Customer a non-exclusive, royalty free, licence to use such within the United Kingdom, for the sole purpose of utilising the Products in accordance with the terms of the Contract and any usage guidelines that ITL may provide from time to time. Customer shall not reproduce any software provided by ITL, save that Customer may make a single back-up copy of such software for security purposes only. Customer shall not modify, adapt, translate, reverse engineer or disassemble such software.

14.3 Customer grants to ITL and its Affiliates a non-exclusive, royalty free, licence to use, copy and interface with any Intellectual Property Rights within the United Kingdom in any Customer Equipment and the information and data in the Products for the purpose of performing ITL's obligations under the Contract.

14.4 Notwithstanding Clause 14.2, Customer will not be entitled to use the name, trade mark, trade name, or other proprietary identifying marks or symbols of ITL or its Affiliates without ITL's prior written consent.

14.5 In the event that Products contain Intellectual Property Rights owned by third parties which ITL is not entitled to sub-licence to Customer, ITL will use reasonable endeavours to assist Customer, at Customer's cost and expense in obtaining a licence to use those Intellectual Property Rights owed by third parties on terms that are acceptable to Customer.


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14.6 In the event that Customer Equipment contains Intellectual Property Rights owned by third parties which Customer is not entitled to sub-licence to ITL, Customer will use reasonable endeavours to assist ITL, at ITL's cost and expense, in obtaining a licence to use those Intellectual Property Rights owned by third parties on terms that are acceptable to ITL.

14.7 Customer will not, and will procure that its personnel and, where used, its sub-contractors and their personnel, do not, do anything (whether by omission or commission) during the Contract or at any time thereafter to affect or imperil the validity of any Intellectual Property Rights in the Products.

14.8 Customer will not obtain any rights in respect of any of Intellectual Property Rights in the Products by virtue of the Contract.

**15 TRIAL PRODUCTS**

15.1 From time to time ITL may invite Customer to try Trial Products. Customer may accept or decline any such trial. Trial Products are provided for evaluation purposes "as is" and not for live or commercial use, are not supported, may contain defects, and may be subject to additional terms.

15.2 Trial Products are not considered "Products" and the exclusions set out in Clause 9.4 shall apply to all Trial Products. ITL may terminate any Trial Product at any time in its sole discretion and is under no obligation to make any Trial Product commercially available.

**16 SEVERANCE**

16.1 If any provision of a Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable:

(a) the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable; or

(b) to the extent that modification under Clause 16.1 (a) cannot be implemented, such provision or part-provision shall, to the extent required, be deemed not to form part of such Contract,

and the validity and enforceability of the other provisions of such Contract shall not be affected.

**17 ASSIGNMENT AND SUB-CONTRACTING**

Neither Party will assign, transfer, mortgage, charge, sub-contract, declare a trust over or deal in any other manner with any or all of its rights and obligations under a Contract without the prior written consent of the other Party.

**18 WAIVER**

18.1 A waiver of any right or remedy under a Contract or by law is only effective if given in writing and expressed to be a waiver and will not be deemed a waiver of any subsequent breach or default.

18.2 A failure or delay by a Party to exercise any right or remedy provided under a Contract or by law will not constitute a waiver of that or any other right or remedy, nor will it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under a Contract or by law will prevent or restrict the further exercise of that or any other right or remedy.


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18.3 Customer must bring any dispute or claim arising out of or in connection with a Contract or its subject matter or formation (including non-contractual disputes or claims) within twelve (12) calendar months of the date it first became aware or ought reasonably to have become aware of the facts giving rise to the liability or alleged liability or within the relevant statutory limitation period, whichever is the earlier, or such dispute or claim will be barred.

**19 THIRD PARTY RIGHTS**

19.1 PhonepayPlus may directly enforce the provisions of a Contract under the Contract (Rights of Third Parties) Act 1999 in so far as such provisions relate to regulation of a Product by PhonepayPlus.

19.2 Each Contract will enure for the benefit of ITL and its Affiliates from time to time.

19.3 Customer may make the Products available to its Affiliates and authorises ITL to accept Product Order Forms submitted directly by its Affiliates. Customer will be liable to ITL for any obligations undertaken by its Affiliates under a Contract including any liability to pay the Charges in respect of any Products provided by ITL to Customer's Affiliates (even if invoiced directly to the Affiliate) and Customer will be liable to ITL for any act and omission of its Affiliates in breach of the terms and conditions of a Contract.

19.4 Except as expressly provided in Clauses 19.1 and 19.2 , a person who is not a party to a Contract will not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of a Contract.

19.5 The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under a Contract are not subject to the consent of any other person.

**20 NOTICES**

20.1 All contractual notices for a Contract must be in writing and be sent either by letter or email as follows:

(a) in the case of ITL:

(i) Address: 101-114 Holloway Head, Birmingham B1 1QP, United Kingdom
Attention: Customer Services Director or

(ii) Email: customersupport.dept.uk@intercity.technology ; or

(b) in the case of Customer:

(i) Address: using the details set out on the Product Order Form attached to these General Terms and Conditions; or

(ii) Email: using the email details set out on the Product Order Form attached to these General Terms and Conditions.

20.2 Operational correspondence should be sent to a Party's usual operational contact(s).

20.3 A Party may change the details recorded for it in this Clause 20 by notice to the other in accordance with Clause 20.1.

20.4 Notices are effective where:

(a) delivered by hand, at the time of signature of a delivery receipt or at the time the notice is left at the relevant address;

(b) sent by guaranteed next Business Day delivery service providing proof of postage, at 9am on the second Business Day after the posting date;


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(c) sent by email, on the sending date in the sender's time zone where sent before 5 pm in the recipient's time zone on a Business Day or on the next Business Day where sent after 5pm, in each case as verified by written or automated notification or by electronic log.

**21 VARIATIONS**

21.1 No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

21.2 Without prejudice to the generality of the foregoing, ITL may amend this Agreement as a consequence of:

(a) any legal or regulatory change, or where required by a regulator of ITL or a Third Party Operator; or

(b) where required to ensure that ITL complies with any amended terms and conditions upon which a Third Party Operator makes a Product available to ITL.

21.3 ITL reserves the right at any time to make a change to the Third Party Operator.

**22 ENTIRE AGREEMENT**

22.1 Each Contract constitutes the entire agreement between Parties and supersedes and extinguishes all previous agreements, promises, assurances, covenants, indemnities, commitments, warranties, representations, statements and understandings between them howsoever made, whether express or implied, and whether made innocently or negligently (**"Statements"**) relating to its subject matter.

22.2 Each Party acknowledges that in entering into a Contract it does not rely on, and shall have no remedies in respect of any Statements that are not expressly stated in the applicable Contract.

22.3 Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any Statements or terms of a Contract.

**23 SURVIVAL OF CLAUSES**

23.1 The expiry or termination of a Contract will not affect any provisions of it as are expressed to operate or have effect after its termination and will be without prejudice to any right of action already accrued to either Party in respect of any breach of a Contract by the other Party.

**24 GOVERNING LAW AND JURISDICTION**

24.1 This Agreement shall be governed by and constructed in accordance with law of England and Wales, and the courts in England and Wales shall have exclusive jurisdiction to handle any disputes arising.

**25 DEFINITIONS AND INTERPRETATION**

25.1 In a Contract:

(a) words and phrases used with capital letters have meaning given in the glossary at the end of these General Terms and Conditions, unless otherwise defined in the glossary at the end of the applicable Product Terms or in a Product Order Form;

(b) headings shall be for ease of reference only and shall not affect the interpretation of the Contract;

(c) time will not be of the essence and dates given are estimations only;

(d) any obligation on a Party not to do something includes an option not to allow that thing to be done; and


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(e) references to:

(i) Clauses are to clauses in these General Terms and Conditions and to Paragraphs are to paragraphs of the Support Terms or applicable Product Terms;

(ii) a person includes a corporate or unincorporated body (whether or not having a separate legal personality);

(iii) one gender will include a reference to any other gender;

(iv) a statue or statutory provision is a reference to it as amended, extended or re-enacted from time to time and will include all subordinate legislation made from time to time under that statute or statutory provision;

(v) writing or written does not include faxes;

(vi) the Contract or to any other agreement or document referred to in the Contracts is a reference to the Contract or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of the Contract) from time to time;

(vii) words in the singular will include the plural and *vice versa*; and

(viii) the words "include(s), "including" or "in particular" are deemed to have the words "without limitation" following them.

25.2 Where a Contract compromise multiple Products, Customer's right of termination and the treatment of any Incidents will be construed in relation to the affected Product only, unless the Product comprises multiple Connections when Customer's right of termination, the treatment of any Incident will be constructed in relation to each affected Connection only.

25.3 In the case of conflict or ambiguity, the order of precedence for a Contract and any documents attached to or referred to in it will be as follows, in descending order of importance;

(a) the Product Order Form; then

(b) any Special Conditions; then

(c) the Product Terms; then

(d) these General Terms and Conditions; then

(e) documents attached and referred to in the Contract.


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## GLOSSARY

| | |
|---|---|
| **Affiliate** | In relation to a Party to a Contract (at the relevant time) any company which is a Subsidiary or Holding Company or which is a Subsidiary of any such Holding Company from time to time (where 'Subsidiary' and 'Holding Company' have the meanings given in section 1159 and Schedule 6 of the Companies Act 2006). |
| **Ancillary Charges** | Any third party charges as set out in the Price List incurred by ITL relating to the provision of a Product that are not Installation Charges, Recurring Charges, Usage Charges or Cancellation Charges. |
| **Ancillary Equipment** | Any equipment, apparatus, software, systems and cabling provided by, or on behalf of, ITL to provide a Product at a Site and until title has passed to Customer in accordance with Clause 10.1 (c) the Purchased Equipment. The Ancillary Equipment does not include the ITL Network. |
| **Business Day** | A day which is not Saturday, Sunday or a public holiday in England and Wales. |
| **Cancellation Charges** | The charges (if any) set out in any Product Terms, Product Order Form or Price List, payable by Customer to ITL as a result of cancelling a Contract or any Connection during a Contract Term. |
| **Charges** | The Installation Charges, the Recurring Charges, the Non-Recurring Charges, the Usage Charges, the Ancillary Charges and the Cancellation Charges. |
| **Clock Hours** | The elapsed time during the applicable Incident Resolution Support Hours between when an Incident is logged and when its status becomes Resolved, excluding Parked Time. |
| **Closed** | The status that an Incident is changed to when either: (i) ITL has notified Customer that the Incident has been Resolved and Customer confirms the Incident is fixed or (ii) when the status has been Pending Requestor Information for three days. |
| **Confidential Information** | All business and trade secrets, methods of doing business, customer lists, tariffs and pricing information and all other confidential information and material disclosed by obtained by a Party in connection with a Contract. |
| **Connection Date** | The date ITL notifies Customer a Product is ready for use by Customer or, where a Product comprises multiple Connections, a Connection is connected to the ITL Network or, if earlier, the date upon which Customer first uses the Product or Connection. |
| **Connection** | Each single connection of a Product to the ITL Network and "Connected" will be construed accordingly. |
| **Contract** | A Product Order Form and any terms set out in it, which has been accepted by ITL in accordance with Clause 1.4, incorporating the General Terms and Conditions and the applicable Product Terms. |
| **Contract Term** | The period commencing on the date of the Contract and expiring after the period from the Connection Date or, where a Product comprises multiple Connections, expiring after the period from the Connection Date of the last Connection, specified in the applicable Product Order Form. |


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|---|---|
| **Credit Limit** | A monthly financial limit on the Charges which may be incurred under all Contracts. |
| **Customer Equipment** | Any equipment, apparatus, software, systems and cabling provided by Customer and used to access the Products. |
| **End User** | Any person who must be an employee of or contractor to Customer, authorised by Customer to use the Product. |
| **Force Majeure Event** | An event beyond the reasonable control of a Party which is not attributable to its fault or negligence, including acts of God, expropriation or confiscation of facilities, any form of government intervention, war, threat or preparation for war, hostilities, rebellion, terrorist activity, local or national emergency, civil commotion, strikes or other industrial action (other than affecting the Party seeking to rely on such event) imposition of sanctions, embargo, sabotage or riots, floods, fires, explosions or other catastrophes, natural disasters, nuclear or chemical or biological contamination, epidemic or pandemic, interruption or failure of utility service, power failures, non-availability of any third party communication services or the public Internet. |
| **General Terms and Conditions** | These terms and conditions including the Support Terms. |
| **Incident** | An unplanned interruption to or a reduction in the quality of a Product. |
| **Incident Resolution Support Hours** | The times during which an Incident counts towards Clock Hours as specified in the relevant Support Annex and Product Order Form. |
| **Installation Charges** | The charges, as set out in the Product Order Form, incurred as a result of or arising from the installation of the Products by ITL at the Site. |
| **Intellectual Property Rights** | Patents, rights to inventions, copyright and related rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, Confidential Information, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar rights or forms of protection which subsist or will subsist now or in the future in any part of the world. |
| **ITL** | Intercity Technology Limited, a company registered in England & Wales with company number 01938625. |
| **ITL Network** | The public electronic communications network operated by ITL, its Affiliates or its or their third party providers from time to time. |
| **Intrusive Testing** | Testing performed by ITL or its sub-contractors that will have a temporary, material detriment to a tested Product's operation from Customer's perspective, to the extent that the Product may not be usable during testing. |
| **Legislation** | Any applicable laws and regulations relating to the provision of the Products. |
| **Maintenance** | Pro-active maintenance of a Product to minimise incidents. |


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| | |
|---|---|
| **Maintenance Window** | The hours of 00:00 to 06:00, seven days a week or, where different, as set out in the relevant Product Terms. |
| **Material Failure** | A material or persistent breach of the Contract or failure by ITL to deliver the Product in accordance with the service level agreement set out in the relevant Product Terms and, where any such breach or failure is capable of being remedied, such breach or failure has not been remedied within five (5) Business Days of ITL being notified or becoming aware of such failure. |
| **Network Terminating Equipment** | The device provided by or utilised by ITL at the end of a communication path to a Site to provide a connection from Customer Equipment to the ITL Network. |
| **Non-Recurring Charges** | The charges for a Product that are incurred from time to time, as set out in the Product Order Form. |
| **Office Hours** | Opening hours of ITL's offices, which on Business Days are 08:30 – 17:30 (Monday – Thursday) and 08:30 – 17:00 (Friday) GMT/BST |
| **Parked Time** | The status to which an Incident is moved outside the control of ITL including when:<br>(a) an act or omission by Customer or a third party acting on Customer's behalf prevents ITL from completing its obligations;<br>(b) the status of the Incident is Pending Requestor Information;<br>(c) Customer fails to accept an engineering appointment offered by ITL (until such time as the agreed engineering appointment commences);<br>(d) ITL or its agent is unable to obtain access to the relevant Site or Equipment (as applicable);<br>(e) ITL is awaiting power down or up of Customer Equipment;<br>(f) ITL is unable to progress resolution of the Incident owing to Maintenance; or<br>(g) the Incident is assigned to a Third Party Operator. |
| **Party** | ITL or Customer and together the "Parties". |
| **Pending Requestor Information** | When ITL has requested information or action from Customer and is unable to progress the Incident without the requested information or action being completed. |
| **PhonepayPlus** | The UK regulatory body for premium rate phone services. |
| **Price List** | The list of Charges for the applicable Product as provided to Customer and as such, periodically updated and made available to Customer from time to time. |
| **Priority** | The level of priority of an Incident as assigned pursuant to the Support Terms. |
| **Product** | Any service, Ancillary Equipment and Purchased Equipment provided by ITL to Customer pursuant to a Contract as more particularly described in the applicable Product Terms and any associated Product Documentation, and "Products" will be construed accordingly. |
| **Product Documentation** | Any Product-specific documentation, available via the relevant Product Terms, setting out technical specifications, parameters, capabilities, limitations or further relevant information, as made available to Customer, |


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| | |
|---|---|
| | and as such may be updated periodically by ITL in accordance with these General Terms and Conditions. |
| **Product Order Form** | Each request for a Product in the format required from time to time by ITL signed by Customer incorporating these General Terms and Conditions and the applicable Product Terms. |
| **Product Terms** | The terms applicable to a particular Product. |
| **Purchased Equipment** | Any equipment, apparatus, software, systems and cabling purchased by Customer from ITL as a Product. |
| **Recurring Charges** | The regular charges for a Product that are incurred periodically, in the same amount, such as line rental as set out in the Product Order Form. |
| **Resolution Target** | The time limit within which ITL targets to resolve the Incident, as set out in the applicable Support Annex. |
| **Resolved** | The status an Incident is changed to when ITL believes the Incident is fixed and "Resolution" will be construed accordingly. |
| **Site** | Any premises, not owned by ITL, at which a Product is to be provided. |
| **Small Business Customer** | A Customer who is neither a communications provider nor a person for which more than ten individuals work (whether as employees, volunteers or otherwise). |
| **Special Conditions** | Any express supplemental terms agreed between the Parties and set out in a Product Order Form. |
| **Statements** | Has the meaning set out in Clause 22.1. |
| **Support Annex** | The section of the Product Terms that supplements the Support Terms by setting out the support standards applicable to a specific Product. |
| **Support Terms** | The section of these General Terms and Conditions headed "Support Terms" that detail the support applicable to the Products. |
| **Third Party Operator** | The operator of any electronic communications network or provider or any electronic communications services over which or through which ITL may provide Products. |
| **Trial Products** | Any ITL product or service not generally available to ITL's customers. |
| **Usage Charges** | The charges, as set out in the relevant Product Terms, that are incurred based on use of a Product, such as call charges or bandwidth usage charges. This covers all charges incurred including where a Product is used without the Customer's knowledge, consent or otherwise. |


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## SUPPORT TERMS

### 26 SUPPORT OPERATING HOURS

26.1 Incident logging is available to Customer 24 hours a day seven days a week 365 days a year.

26.2 Incident Resolution support for a Product is available to Customer as detailed in the relevant Support Annex.

26.3 General customer service support for a Product is available to Customer during Office Hours as detailed in the relevant Support Annex.

### 27 MAINTENANCE

27.1 ITL may, without obtaining the prior consent of Customer, suspend the operation of a Product for operational reasons, including but not limited to the Maintenance of and/or alterations to the Product and/or in an emergency, provided always that ITL fully complies with each of the following conditions:

(a) ITL notifies Customer in advance of the Maintenance and/or alterations as set out in the relevant Support Annex;

(b) The elapsed time for which operation of a Product is suspended does not exceed the maximum duration specified in the relevant notification;

(c) The Maintenance and/or alterations do not materially impact the Product; and

(d) Suspension of the operation of a Product is during the Maintenance Window

27.2 In the event that ITL carries out any Maintenance and/or alterations to the Product otherwise than in circumstances where the conditions described in Clause 27.1 are to be satisfied, then the written prior consent of Customer shall be required before any such Maintenance and/or alterations are carried out and any such Maintenance and/or alterations shall constitute an Incident.

### 28 INCIDENT MANAGEMENT

28.1 Before contacting ITL about an Incident, Customer should make all reasonable efforts to rule out the possibility that it is caused by Customer Equipment.

28.2 Customer should report an Incident to ITL as soon as reasonably practical;

28.3 Where the cause of an Incident is not due to the failure of a Product (for example if there is a failure of Customer Equipment) Customer shall be liable for ITL's reasonable costs and expenses incurred in investigating the same.

28.4 Unless the Product Documentation states otherwise, Customer must report Priority 1 or 2 Incidents using the telephone number on the ITL web site or as otherwise provided by ITL. Any Priority 1 or 2 Incidents which are not reported in the correct manner are not subject to the Resolution Target.

28.5 Priority 3 and 4 Incidents may be reported by phone, email or relevant web portal.

28.6 Customer will be required to provide the following information when reporting an Incident:


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(a) name and contact details (including email) of person reporting incident;

(b) Incident Site contact details;

(c) times at which Customer representative will be at Site to give access to ITL or its representative;

(d) Connections or Products affected; and Incident description or details of the Incident symptoms.

28.7 When an Incident is reported by Customer, ITL will assign a Priority and Incident reference and provide this to Customer within 30 minutes of notification of the Incident to ITL.

28.8 Where an Incident is temporarily repaired, the Incident Priority may be reduced as appropriate. The re-classification of an Incident will determine the course of actions thereafter.

28.9 For Priority 1 Incidents, Customer agrees that Intrusive Testing by ITL can occur without seeking permission. For any other issue where ITL believes that Intrusive Testing is required, it will seek permission from Customer before doing so.

28.10 Where an appointment is agreed to work on Site and anyone acting on ITL's behalf is unable to gain access to the Site or carry out the necessary work on Site, ITL may levy associated Ancillary Charges, unless it is ITL's error.

## 29 INCIDENT PRIORITY

29.1 Incident Priority is classified accordingly:

| Priority | Incident Description |
|---|---|
| **P1** | Service outage |
| **P2** | Service issue |
| **P3** | Service issue affecting a single End User |
| **P4** | Incident follow-up – root cause analysis |
| **P5** | Planned change request & other communications |

## 30 RESOLUTION

30.1 The duration of an Incident will be measured in Clock Hours.

30.2 ITL may keep an Incident open for monitoring purposes after Resolution until Closed.

30.3 If the same Product (or, where applicable under Clause 25.2, a Connection) experiences multiple Incidents arising from a single root cause within the same month, ITL will consider and treat this as an intermittent single Incident for the purposes of Resolution Targets and Credits.

## 31 ESCALATION

31.1 Escalation means that more senior support staff will be made aware of Customer's Incident and provide additional assurance to Customer.

31.2 ITL will provide Customer with the escalation procedure for each Product on request.


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# TELEPHONY PRODUCT TERMS

## 1 SCOPE

1.1 These Product Terms cover:

(a) Touch Technology®;

(b) Cloud Contact Centre;

(c) Orbit;

(d) Calls & Lines, including:

(i) Single analogue lines;

(ii) Multi analogue lines;

(iii) ISDN2; and

(iv) ISDN30.

(e) SIP Trunking; and

(f) Inbound solutions.

## 2 PRODUCT SUPPORT

2.1 ITL will provide support, where purchased, for Telephony Products in accordance with the Support Annex.

## 3 CALL RECORDING

3.1 Where call recording is provided as part of a Product, each call to be recorded must be routed over the ITL Network.

3.2 The Parties agree that Recordings and any data contained within the Recordings are the responsibility and property of the End User.

3.3 ITL will store one copy of each Recording for the period specified in the relevant Product Documentation unless otherwise stated in the Product Order and will charge Customer for such storage at the rates set out in the Price List.

3.4 ITL reserves the right to access and retain the Recordings or copies of them for the purposes of:

(a) observing the call recording performance of the Product;

(b) retaining a record or activity on the ITL Network; and

(c) performing maintenance or resolving any incidents.

## 4 ALLOCATION AND USE OF TELEPHONE NUMBERS

4.1 Nothing in these Product Terms gives Customer ownership of any telephone number, dialling code or static IP address provided by ITL as part of any Telephony Product.

4.2 Customer may request the transfer of telephone numbers to Telephony Products or from ITL Telephony Products. In such circumstances ITL shall use its reasonable endeavours to enable such transfer.


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## 5 UNUSED PRODUCTS

5.1 Without prejudice to any other right or remedy available to ITL if any number allocated to Customer:

(a) remains inactive for six consecutive calendar months; or

(b) calls to such number amount to five minutes or less in any calendar month,

ITL may, on notice, either:

(i) remove any such number from Customer; or

(ii) charge for retention of such number by Customer at the appropriate rate as set out in the Price list,

unless ITL has been notified in advance that the number is part of a disaster recovery plan.

## 6 PRODUCT RESTRICTIONS

6.1 Customer must notify ITL five (5) Business Days before any significant increase in traffic across the ITL Network will arise as a result of the use of Telephony Products by Customer (for example ticket sales, marketing promotions, etc.). For the purposes of this paragraph, a significant increase will mean that more than 5,000 calls in a 15-minute period will be delivered to one phone number (or the aggregate of non-geographic numbers if they point to one number).

6.2 In relation to any Telephony Product which is subject to line rental, being the provision of rented access to a telephone line and any ancillary extras which ITL agrees expressly to provide, save where ITL is not able currently to provide the applicable Telephony Product or as required by legislation, Customer will route outbound calls across the ITL Network.

6.3 ITL cannot guarantee the correct function of any telephony product or service not provided by ITL but which operates across a Telephony Product. A list of services as identified by ITL or any Third Party Operator known to be incompatible with the provision of the applicable Telephony Product is available within the relevant Product Documentation, but Customer acknowledges that this is for illustrative purposes only as third party services are constantly changing.

6.4 Customer may only use each telephone number which has been provided by ITL as part of an Inbound solution for this purpose only. Where Customer uses or allows a telephone number to be used for any other purpose, including to make outbound calls, this will be a material breach of a Contract.

## 7 EMERGENCY SERVICES DATABASE

7.1 Customer must maintain an up-to-date information in relation to any installation address or other relevant details which will have an impact on ensuring that correct information is passed to any emergency organisation in accordance with condition 4 of OFCOM's general conditions of entitlement (as updated from time to time). Without restricting Customer's obligations in this paragraph 7, Customer will:

(a) ensure that it provides a full postal address for each telephone number which is PAF-validated;

(b) respond within one Business Day to any request from ITL to correct a discrepancy in any installation address as reported by the emergency services; and

(c) promptly co-operate with any audits conducted by ITL to ensure such compliance.

## 8 PHONEPAYPLUS


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8.1 In the case of any Telephony Products regulated by PhonepayPlus, Customer:

(a) confirms that it has and will ensure that it continues to have adequate service and refund mechanisms in place (including a non-premium-rate UK service phone number) in order to discharge its obligations under the PhonepayPlus Code;

(b) agrees always to comply with all applicable laws and regulations including the PhonepayPlus Code. Customer must also abide by any directive, direction, instruction, recommendation or other similar advice that OFCOM or PhonepayPlus gives from time to time;

(c) will help ITL to comply with all requirements and conditions imposed by PhonepayPlus, OFCOM or by law which affects the Telephony Products;

(d) will provide ITL promptly with any information or material relating to Customer's use of such Telephony Products as ITL may request from time to time;

(e) will inform ITL of any:

(i) changes or additions to any information it has supplied to ITL at any time; and

(ii) sanctions imposed by PhonepayPlus or OFCOM on Customer or any associated individuals.

8.2 Customer must complete a self-bill request as more particularly detailed in the applicable Product Documentation.

8.3 ITL has the right to retain all or part of any revenue share:

(a) when directed by PhonepayPlus;

(b) where any network operator withholds or reclaims any corresponding sums from ITL as a result of Customer's acts or omissions; or

(c) where ITL has reasonable grounds to believe the Telephony Product is being used for fraudulent or other illegal activity or otherwise in breach of the Agreement (only until such time as Customer proves to reasonable satisfaction of ITL that this is not the case).

ITL has the right to pay all or part of any retained revenue share to Customer or a third party as directed by PhonepayPlus or as otherwise required by Legislation.

8.4 Where ITL is required to make any payment to any Third Party Operator, PhonepayPlus or any other third party in the circumstances set out in paragraph 8.3, Customer will pay to ITL on demand a sum equal to any shortfall between the amount due and any sums retained under paragraph 8.3.

8.5 In accordance with the PhonepayPlus Code and Section 1 of the Contracts (Rights of Third Parties) Act 1999, PhonepayPlus will be entitled to enforce all relevant provisions of these Product Terms against Customer as if it were a party to these Product Terms.

## 9 CHARGES

9.1 The Charges relating to each Telephony Product are set out in the Price List. Where a Customer uses a Telephony Product for which there is a variable rate (for example international calls) then it will be charged in accordance with ITL's standard prevailing rates for such Telephony Products unless expressly agreed otherwise.

9.2 Unless otherwise stated in the relevant Product Order, the Charges for Telephony Products will be invoiced in the following manner:


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(a) Recurring Charges:

(i) will be billed monthly in advance; and

(ii) for a part month billing owing to new installation, addition or cancellation will be billed (or credited) pro rata in arrears;

(b) all other Charges will be invoiced monthly in arrears.

9.3 Any amendment by ITL to Customer's rates for revenue share services will, for the purposes of this paragraph 9 be governed by ITL's right to vary Charges pursuant to Clause 5 of the General Terms and Conditions.

9.4 ITL reserves the right to amend Charges as a result of Customer breach of paragraph 8.2.

9.5 Charges in relation to Telephony Products which are subject to the PhonepayPlus Code will be paid in accordance with paragraph 10.5

## 10 CALL CHARGES

10.1 Call Charges will be charged at three rates according to the time the call was initiated and the destination as follows:

| Rate | Time Period |
|---|---|
| Peak | 08:00:00 – 17:59:59, Monday – Friday, GMT/BST |
| Weekend | 00:00:00 Saturday – 23:59:59 Sunday, GMT/BST |
| Off Peak | All times which are neither Peak nor Weekend |

10.2 Public holidays are treated as a normal day.

10.3 Where a call overlaps between periods, the whole call will be charged at the rate that applied when the call was initiated.

10.4 Calls are measured and billed in per-second units or call units based on the applicable tariff. Charges are presented on Customer's invoice to two decimal places and are rounded up to the nearest whole penny before VAT is applied.

10.5 Where the Telephony Product is paid for by way of a revenue share between ITL and Customer, ITL will notify Customer of the amount of revenue share due for each month within 15 days of the end of the month and raise a "self-bill" invoice in respect of the revenue share on behalf of Customer. Subject to the provisions of this paragraph 10.5, ITL will pay the revenue share within forty-five (45) days of the date of the invoice. Customer does not have the right to set off the revenue share against any sums due to ITL by Customer.

10.6 Where access to a revenue share Telephony Product is obtained by a caller without payment to ITL or any other public communications provider then Customer will not be entitled to any payment from ITL in respect of such access.

## 11 TERMINATION ON NOTICE AND CANCELLATION CHARGES

11.1 A Party may terminate a Contract or any Connection forming part of a contract by giving not less than thirty (30) days written notice to the other Party., The Calls & Lines Products typically take up to ten (10) Business Days after termination to be disconnected and Customer will be liable for any Usage Charges or Recurring Charges applicable until disconnection.


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11.2 Cancellation Charges for Telephony Products are equal to the value of all Recurring Charges that would have been payable by Customer from the date of termination up to the end of the applicable Contract Term in respect of the Connections which are terminated, together with any applicable Cancellation Charges listed in the Price List or Product Order for the particular Telephony Product.


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## SUPPORT ANNEX

| Support Hours & Maintenance Notification | | |
|---|---|---|
| **Incident reporting** | 24 x 7 x 365 | |
| **Incident resolution** | Priority 1 & 2 incidents | 24 x 7 x 365 |
| | Priority 3, 4 & 5 incidents | Business Days during Office Hours |
| **Planned maintenance lead times** | As specified in the relevant Product Documentation | |

| Resolution Target & Incident Update Frequency | | |
|---|---|---|
| **Incident Priority** | **Resolution Target** | **Incident Update Frequency** |
| 1 | Reasonable endeavours | Hourly during Office Hours |
| 2 | Reasonable endeavours | Hourly during Office Hours |
| 3 | As specified in the relevant Product Documentation | As specified in the relevant Product Documentation |
| 4 | As specified in the relevant Product Documentation | As specified in the relevant Product Documentation |
| 5 | As specified in the relevant Product Documentation | As specified in the relevant Product Documentation |


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## GLOSSARY

| | |
|---|---|
| Calls & Lines | ITL Product as described in the relevant Product Documentation |
| Call Recording | Any Telephony Product offered by ITL to a Customer pursuant to these Product Terms which provides the facility to record calls |
| Cloud Contact Centre | ITL Product as described in the relevant Product Documentation |
| Inbound | ITL Product as described in the relevant Product Documentation |
| Office Hours | As specified in the relevant Product Documentation |
| Orbit | ITL Product as described in the relevant Product Documentation |
| PAF | Royal Mail Postcode and address finder |
| PhonepayPlus Code | The code of practice (as amended, superseded or replaced from time to time) and any other guidance in relation to the operation of premium rate services and any similar services issued by PhonepayPlus. |
| Recording | Any call recording resulting from Call Recording Product |
| SIP Trunking | ITL Product as described in the relevant Product Documentation |
| Telephony Product | Any of Calls and Lines, Call Recording, Cloud Contact Centre, Inbound, Orbit, SIP Trunking and Touch Technology |
| Touch Technology® | ITL Product as described in the relevant Product Documentation |
| WLR | Wholesale Line Rental – Openreach products which give ITL and other Communications Providers the ability to offer their own branded service to End Users in the UK using the Openreach products of Wholesale Access, Wholesale Digital Access and Wholesale ISDN30. |


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# ICT PRODUCT TERMS

## 1 SCOPE

1.1 These ICT Product Terms cover the following:

(a) M Four Product comprising the following services:

(i) Remote Support;

(ii) Maintenance and Support;

(iii) Monitoring;

(iv) Management; and

(v) Managed Service Desk.

## 2 PRODUCT ORDER FORM VALIDITY

2.1 Any offer that ITL makes for ICT Products is only by way of a Product Order Form, valid for fourteen (14) days from and including the issue date specified within that Product Order Form.

## 3 SERVICE LEVEL AGREEMENT AND SERVICE CREDITS

3.1 M Four

(a) ITL will provide a Service Level Agreement and Service Credits as set out in the Support Annex for:

(i) Maintenance and Support;

(ii) Monitoring; and

(iii) Management (excluding moves, additions and changes).

(b) Any deviation from the Service Level Agreement as set out in the Support Annex shall only apply if and in so far as explicitly agreed between the Parties and set out in a separate Statement of Works.

## 4 SERVICE TARGETS

4.1 M Four

(a) ITL will provide a Service Target as set out in the M Four Service handbook for:

(i) Remote Support;

(ii) Managed Service Desk; and

(iii) Moves, additions and changes (within Management).

## 5 CHARGES

5.1 M Four

(a) The Charges relating to each M Four are set out in the Product Order Form.

(b) Unless otherwise stated in the relevant Product Order, the Charges for each M Four will be invoiced in the following manner:

(i) Recurring Charges will be invoiced in advance as set out in the relevant Product Order Form; and


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(ii) all other Charges will be invoiced *ad hoc* in arrears.

(iii)

## 6 TERMINATION

6.1 A Party may terminate a Contract by giving not less than thirty (30) days' written notice to the other Party.

## 7 CANCELLATION CHARGES

7.1 M Four

(a) Cancellation Charges for M Fours are equal to the value of all Recurring Charges that would have been payable by Customer from the date of termination up to the end of the applicable Contract Term in respect of the relevant M Four, together with any applicable Charges listed in the Product Order for the particular M Four.

## 8 EXCLUSIONS

8.1 M Four

(a) Any change to the IT Environment made by Customer or any third party (with or without Customer's knowledge) which was not made in accordance with the Change Management Process agreed with ITL.

(b) Any Customer Equipment which has been modified or subjected to non-standard IT environments including, but not limited to, physical or electrical stress.

## 9 M FOUR

9.1 Maintenance and support

(a) This paragraph 9.1 is applicable if ITL supplies Maintenance and Support service to Customer.

(b) Transfer of title on ITL Equipment deployed on a like-for-like basis as part of service restoration will become effective at the point where such equipment is accepted by Customer. At that point title on the faulty Customer Equipment will transfer to ITL.

(c) If ITL implements a temporary repair or workaround in order to achieve service restoration:

(i) no transfer of title will take place on any ITL Equipment deployed;

(ii) Customer is responsible for ensuring that such ITL Equipment is maintained properly and not subject to misuse or damage; and

(iii) if a failure of any such ITL Equipment occurs and is deemed by ITL to be caused by misuse or damage by Customer or a third party acting on Customer's behalf, ITL may charge Customer for repair or replacement of such.

9.2 Monitoring

(a) This paragraph 9.2 is applicable if ITL supplies Monitoring service to Customer.

(b) Customer will maintain the IT Environment in accordance with the equipment vendor's environmental specifications of any Customer Equipment contained therein.

(c) Customer specifies any Resolver Group which ITL contacts in respect of an Incident and Customer will notify ITL in advance of any change to a Resolver Group.


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(d) Service excludes any Customer Equipment which is downstream of the egress point of any Customer Equipment which is being monitored.

9.3 Management

(a) This paragraph 9.3 is applicable if ITL supplies Management service to Customer.

(b) Service applies to the IT Environment documented by ITL by way of the following:

(i) ITL has implemented the IT Environment;

(ii) ITL has conducted an audit of the IT Environment; or

(iii) Customer has provided ITL with documentation of the IT Environment and ITL has confirmed acceptance of such as an accurate representation of that IT Environment.

## 10 CONFIDENTIAL INFORMATION

10.1 Confidential Information includes Personal Data.

## 11 INTELLECTUAL PROPERTY

11.1 M Four

(a) Customer will not remove, render illegible or change ownership marks that are attached to any M Four equipment.

## 12 LIABILITY

12.1 M Four

(a) In accordance with Clause 9.2 in ITL's General Terms and Conditions, ITL will not be liable to Customer for any loss or damage that Customer may suffer as a result of:

(i) modifications that ITL applies to the Services or the permanent or temporary discontinuation of the Services or parts thereof;

(ii) Customer's confidence in the completeness, accuracy and correctness of the messages shown by ITL;

(iii) the incorrect or irregular use of the Services; or

(iv) any incorrect or incomplete information provided by Customer to ITL.


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# SUPPORT ANNEX

## 13 SUPPORT HOURS

### 13.1 M Four

Support Hours for M Four are defined below. The support option is specified in the relevant Product Order Form.

| Support Option | Support Hours |
|---|---|
| Extended Business Hours | 08:00 – 19:00, Business Days |
| Out of Hours | 19:00 – 08:00, Business Days |
| 24 x 7 x 365 | Available at all times |

**Table 13-1 – Support Hours for M Four**

## 14 INCIDENT PRIORITY LEVELS

### 14.1 M Four

Incident priority levels for M Four are defined below.

| Incident Priority Level | Description |
|---|---|
| P1 | Critical – business service down<br>Serious impact to all or a significant part of the customer's IT Environment (e.g. malfunction causing operational downtime)<br>A device may be assigned a P1 status which means that when it is unavailable, restoring it to service has priority P1. |
| P2 | Major – business service affected<br>Service impacting issue not affecting full IT Environment (e.g. serious degradation of performance)<br>A device may be assigned a P2 status which means that when its performance is impaired, restoring it to service has priority P2. |
| P3 | Minor – business service not affected<br>Comprised IT Environment with no service impact (e.g. loss of resilience in HA environment) |
| P4 | Notable – no impact or non-business related<br>Informational request, no business service impact (e.g. enquiry on a particular function or feature). |

**Table 14-1 – Incident Priority Levels for M Four**

## 15 SERVICE LEVEL AGREEMENT

### 15.1 M Four

(a) Maintenance and Support

The SLA for resolving an Incident is defined below.


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| Incident Priority | Resolution Target |
|---|---|
| P1 | 4 Clock Hours |
| P2 | 6 Clock Hours |
| P3 | 8 Clock Hours |
| P4 | Next Business Day |

**Table 15-1 – SLA for Maintenance and Support**

(b) Monitoring

The SLA for contacting the Resolver Group about an Incident is defined below.

| Incident Priority | Resolution Target |
|---|---|
| P1 | 0.5 Clock Hours |
| P2 | 1 Clock Hour |
| P3 | 4 Clock Hour |
| P4 | 8 Clock Hours |

**Table 15-2– SLA for Monitoring**

(c) Management

The SLA for resolving an Incident (hardware replacement or repair only) is defined below.

| Description | Resolution Target |
|---|---|
| P1 | 4 Clock Hours |
| P2 | 6 Clock Hours |
| P3 | 8 Clock Hours |
| P4 | Next Business Day |

**Table 15-3– SLA for Management**

## 16 SERVICE CREDITS

16.1 M Four

(a) Applicability

Service Credits are applicable only for P1 Incidents for which the Clock Hours exceed the Resolution Target and only for the following services:

- Maintenance and Support
- Management (applies only to hardware replacement or repair)
- Monitoring


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(b) Calculation of Service Credits

Service Credits are calculated as a percentage of the Recurring Charges for the applicable device, pro-rated for the month in which the relevant Incident was raised and then multiplied by a weighting which depends on the number of Clock Hours exceeding the Resolution Target. The relevant percentages and weightings are as set out below.

| Clock Hours Exceeding Resolution Target | Service Credit (% of Recurring Charges) | Weighting |
|---|---|---|
| >0 and ≤12 | 10% | 1 |
| ≥12 and ≤24 | 25% | 2 |
| ≥24 and ≤72 | 50% | 3 |
| ≥72 and ≥120 | 75% | 4 |
| ≥120 | 100% | 5 |

**Table 16-1 – Service Credit Percentages & Weightings for M Four**


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## GLOSSARY

| | |
|---|---|
| Change Management Process | Process agreed between Customer and ITL for changing the IT Environment as described in the relevant ITL Product Documentation. |
| Content | Software (including machine images) data, text, audio, video or images. |
| Customer Equipment | Any equipment, apparatus, software, systems and cabling within an IT Environment. |
| ICT | Information and Communications Technology |
| IT Environment | Any IT environment within the scope of an M Four service. |
| ITL | Intercity Technology Limited, a company registered in England & Wales with company number 01938625. |
| ITL Equipment | Any equipment, apparatus, software, systems and cabling provided by ITL and used to effect a temporary fix or workaround in an IT Environment. |
| Maintenance and Support | Managed IT maintenance and support service – ITL Product as described in the relevant Product Documentation. |
| Managed Service Desk | Managed IT service desk – ITL Product as described in the relevant Product Documentation. |
| Management | Managed IT service – ITL Product as described in the relevant Product Documentation. |
| M Four | ITL Product comprising: Maintenance and Support; Monitoring, Management, Managed Service Desk and Remote Support as described in the relevant Product Documentation. |
| Monitoring | Managed IT monitoring service – ITL Product as described in the relevant Product Documentation. |
| Patch Management Policy and Procedure | As described in the relevant ITL Product Documentation |
| Remote Support | Managed IT remote support service – ITL Product as described in the relevant Product Documentation. |
| Personal Data | As defined in The Data Protection Act (1998). |
| Remote Support | Managed IT remote support service – ITL Product as described in the relevant Product Documentation |
| Resolver Group | The Party responsible for providing support for any IT Environment within the scope of Monitoring. |
| Service Measurement Period | One (1) calendar month. |
| Service Hours | Times ITL is contracted to provide service to Customer and when Clock Hours may apply. |
| SLA | Service Level Agreement – the level of service that ITL agrees to provide |
| Service Credits | Mechanism for calculating the amount to be deducted from the Recurring Charge for an ITC Product if ITL's performance fails to meet the performance standards set in the SLA. |
| Service Request | Request for service applicable to an IT Environment. |
| Service Target | The level of service that we target to provide |
| SoW | Statement of Works applicable to an IT Environment. |


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# EMM PRODUCT TERMS

## 1. SCOPE

1.1. These product terms cover the following Enterprise Mobility Management (EMM) products:

a) Blackberry Enterprise Service (featuring Good powered by BlackBerry)

(i) On-premise; and

(ii) Cloud-based.

b) Vodafone Secure Device Manager – cloud-based; and

c) Wandera – cloud-based.

## 2. SOFTWARE

2.1. Subject to Customer's compliance with these EMM Product Terms ITL grants Customer a non-exclusive, non-transferable, non-sub-licensable, revocable licence to download, install and use the Software and to make the Software available to End Users.

2.2. If the Software provides access to the Wandera Service, the licence granted to Customer as described in paragraph 2.1 is subject to End Users' compliance with the End User Agreement in APPENDIX 2.

## 3. PRODUCT SUPPORT

3.1. ITL will provide support for EMM Products in accordance with the Support Annex.

## 4. CHARGES

4.1. The Charges relating to each EMM Product are set out in the Price List.

4.2. Unless otherwise stated in the relevant Product Order, the Charges for EMM Products will be invoiced in the following manner:

a) Recurring Charges will be invoiced in advance for the period specified in the Price List.

b) Non-Recurring Charges will be invoiced in advance for the period specified in the Price List.

## 5. TERMINATION

5.1. Customer may terminate a Contract or any Licence forming part of a Contract by giving not less than thirty (30) days written notice to ITL. Customer will be liable for any Charges applicable until termination.

5.2. The Blackberry Enterprise Service (featuring Good powered by BlackBerry) will end on the expiry of the Contract Term.

5.3. The Vodafone Secure Device Manager and Wandera services will continue after the Contract Term unless terminated by either Party giving not less than 30 days written notice to the other.

## 6. CANCELLATION CHARGES

6.1. Cancellation Charges for EMM Products are equal to the value of all Recurring Charges that would have been payable by Customer from the date of termination up to the end of the applicable Contract Term.


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## 7. SERVICE USAGE (WANDERA)

7.1. This paragraph 7 is applicable if ITL supplies provides Wandera Service to Customer.

7.2. Customer must notify ITL if the number of End Users increases by more than 5% of the number of End Users specified in the Product Order Form including any subsequent variation.

7.3. ITL reserves the right to require Customer to purchase additional Licences if the number of actual distinct End Users (as notified by Wandera to ITL) exceeds the number of End User Licences from time to time.

## 8. INTELLECTUAL PROPERTY (WANDERA)

8.1. This paragraph 8 is applicable if ITL supplies Wandera Service to Customer.

8.2. Wandera and its licensors retain all right, title and interest in and to the Software used to access the Wandera Service ("Wandera Software"), including all intellectual property rights therein. The Wandera Software is protected by United States and other laws and international treaties. Customer may not delete or in any manner alter the copyright, trademark, and other proprietary rights notices or markings appearing on the Wandera Software as delivered to Customer.

8.3. Customer acknowledges and agrees that portions of the Wandera Software, including without limitation the source code and the specific design and structure of individual modules or programs, constitute or contain trade secrets of Wandera and its licensors.

8.4. Wandera alone shall own all rights, title and interest evidenced by, embodied in, and/or related to the Wandera Software, including without limitation all related Intellectual Property Rights in and to the Wandera Software and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Customer or any other party relating to the Software. For these purposes "Intellectual Property Rights" means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights and all other intellectual property rights, derivatives thereof and forms of protection of a similar nature anywhere in the world and any goodwill associated therewith.

8.5. Wandera's name, trademarks, service marks, logos and the product names associated with the Services are owned by Wandera or third parties who have licensed their rights to Wandera and no right or license is granted hereunder to use them.

8.6. Customer may not adapt or use otherwise any name, mark or logo that is identical, or confusingly similar to any of Wandera's trademarks, service marks and logos.

8.7. Customer must avoid any action or omission which may dilute, or tarnish Wandera's goodwill.

8.8. Customer agrees to abide by all messages and signs pertaining to proprietary rights, such as Copyright mark [©] or Trademark [® or ™] accompanying the Wandera Software. Customer agrees to retain and avoid distorting such signs and notices in any copy thereof.

## 9. CHANGES TO SERVICE (WANDERA)

9.1. This paragraph 9 is applicable if ITL supplies Wandera Service to Customer.

9.2. ITL reserves the right to make changes to the Wandera Service. Such changes may include functional enhancements, extensions, error corrections or fixes. Such changes do not include any release, option or future product which is not included under the applicable level of support for the Wandera Service.

9.3. ITL will give Customer notice of changes to the Wandera Service.


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9.4. Changes to the Wandera Service will only become effective upon Customer's renewal of the Software for the Wandera Service.

9.5. On receipt of notice from ITL for Customer to renew the Software, Customer agrees to renew the Software within a reasonable timeframe. If Customer does not renew the Software, in the event that Customer requires support for the Software, ITL reserves the right to withhold support for the Wandera Service until the Customer has renewed the Software for the Wandera Service.


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## SUPPORT ANNEX

| Support Hours and Maintenance Notification | |
|---|---|
| **Incident reporting** | 24 x 7 x 365 |
| **Incident resolution** | Reasonable endeavours |
| **Maintenance notification** | Minimum of 5 Business Days |

### 17 APPENDIX 1 – WANDERA PRIVACY POLICY

Registration for or use of the Wandera services shall be deemed to be Customer's consent to abide by Wandera's Privacy Policy as updated by Wandera from time to time and which may be located at https://www.wandera.com/privacy-policy/ or such other location as Wandera may use. Customer is responsible for obtaining all necessary consents from any End Users.

**Questions about this privacy policy**

If you have any questions or comments concerning this policy, please call ITL on 0330 332 7933 or email customer.support@intercity.technology

### 18 APPENDIX 2 – WANDERA END USER AGREEMENT

Registration for or use of the Wandera services shall be deemed to be Customer's acceptance of Wandera's End User Agreement as updated by Wandera from time to time and which may be located at https://www.wandera.com/end-user-agreement/ or such other location as Wandera may use. Customer is responsible for obtaining all necessary agreements from any End Users.

**Questions about this end user agreement**

If you have any questions or comments concerning this end user agreement, please call ITL on 0330 332 7933 or email customer.support@intercity.technology


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## GLOSSARY

| | |
|---|---|
| Blackberry Enterprise Service (featuring Good powered by Blackberry) | EMM service procured by ITL from Blackberry as described in the relevant Product Documentation |
| Connection Date | For Blackberry Enterprise Service (featuring Good powered by Blackberry) this is the date which is 12 months prior to the expiry date of any Licence.<br><br>For Vodafone Secure Device Manager and Wandera, this is the date when ITL notifies Customer a Product is ready for use by Customer or if earlier, the date upon which Customer first uses the Product. |
| Device | A SIM or a device into which a SIM may be inserted and which may be used *inter alia* to make or terminate a telephone call or to transmit or receive data. Also a device which is managed by Blackberry Enterprise Service (featuring Good powered by Blackberry) or Vodafone Secure Device Manager and which connects to via Wi-Fi to the public Internet only. |
| EMM | Enterprise Mobility Management |
| Licence | Right-to-use licence for an EMM service applicable for one Device for Vodafone Secure Device Manager and Wandera, and for one User for Blackberry Enterprise Service (featuring Good powered by Blackberry). |
| Software | Executable form of EMM software procured by ITL to provide an EMM product |
| SIM | The Subscriber Identity Module which contains Customer's information and which, when used with a Device, enables access to the Services. |
| User | Up to ten (10) Devices within the Blackberry Enterprise Service (featuring Good Powered by Blackberry) assigned to the same individual person or tangible entity. |
| Vodafone Secure Device Manager | EMM service procured by ITL from Vodafone as described in the relevant Product Documentation. |
| Wandera | Third Party Operator of the Mobile Data Gateway procured by ITL to provide an EMM product for managing mobile data. |
| Wandera Service | EMM service procured by ITL from Wandera as described in the relevant Product Documentation. |


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# CLOUD COMPUTING PRODUCT TERMS

## 1 SCOPE

1.1 These Product Terms cover ITL Cloud Computing Products otherwise known as the Scalable Compute Platform or SCP Products.

## 2 PRODUCT ORDER FORM VALIDITY

2.1 Any offer that ITL makes for SCP Products is only by way of a Product Order Form, valid for thirty (30) days from and including the issue date specified within that Product Order Form.

## 3 SERVICE LEVEL AGREEMENT AND SERVICE CREDITS

3.1 ITL will provide a Service Level Agreement and Service Credits as set out in the Support Annex.

## 4 CHARGES

4.1 The Charges relating to each SCP Product are set out in the Product Order Form.

4.2 The Charges will be invoiced in the following manner:

(a) Recurring Charges will be invoiced monthly in advance; and

(b) all other Charges will be invoiced in arrears.

## 5 TERMINATION

5.1 A Party may terminate a Contract by giving not less than thirty (30) days' written notice to the other Party.

5.2 Unless ITL terminates a Contract pursuant to Paragraph 7.3 of ITL's General Terms and Conditions, during the thirty (30) days following termination;

(a) ITL will not erase Customer Content as a result of the termination;

(b) Subject to payment by Customer of Cancellation Charges that become due as a result of the termination, ITL will make Customer Content available from a backed-up copy.

## 6 SUSPENSION

6.1 ITL will not erase Customer Content as a result of suspension pursuant to Paragraph 8.1 of ITL's General Terms and Conditions.

6.2 While service is suspended, ITL will make Customer Content available from a backed-up copy.

## 7 CANCELLATION CHARGES

7.1 Cancellation Charges for SCP Products are equal to the value of all Recurring Charges that would have been payable by Customer from the date of termination up to the end of the applicable Contract Term in respect of the relevant SCP Product, together with any applicable Charges listed in the Product Order for the particular SCP Product.

## 8 THIRD PARTY SOFTWARE LICENCES

8.1 Any third-party software supplied by ITL to Customer shall be sold subject to Customer's acceptance of the relevant suppliers' software licences. Customer confirms acceptance of such terms by accepting these Product Terms.

8.2 Customer may upload third-party software to the SCP provided that Customer is appropriately licenced in respect of that software.

8.3 Customer will keep accurate and complete records pertaining to licencing of software that Customer has installed on any SCP supplied by ITL.

(a) Customer will ensure that the software licences remain current.

(b) ITL may audit Customer's records, where the scope of the audit is to verify that the software licences are current.

(c) In the event that an audit indicates the presence of any unlicenced software, ITL will notify Customer accordingly and Customer will notify ITL that:

(i) Customer has obtained the appropriate licences; or

(ii) Customer has removed the software from the relevant SCP.

(d) ITL will not be held responsible for the licensing of third-party software installed by the customer during the contract term

(e) Customer shall indemnify ITL for any costs, claims, losses, damages, liabilities, demands and/or expenses including any legal costs incurred as a result of any failure by Customer to be appropriately licenced in respect of software not supplied by ITL.

8.4 Customer is responsible for patching, configuring and maintaining any software that Customer has uploaded to the SCP.

## 9 CUSTOMER CONTENT

9.1 ITL will store Customer Content at its sites within the UK mainland.

9.2 All Intellectual Property Rights in the Customer Content will be owned by Customer.

## 10 PLANNED MAINTENANCE

10.1 ITL may conduct planned maintenance which may result in the SCP becoming unavailable or suffer a degradation in performance.

10.2 ITL will give Customer reasonable advance notice via email of planned maintenance. The information provided in this notice is described in the relevant Product Documentation.

10.3 While planned maintenance is in progress, the Service Level Agreement for the relevant SCP will not apply.

# SUPPORT ANNEX

## 11 SUPPORT HOURS

11.1 Support Hours are 24 x 7 x 365.

## 12 INCIDENT PRIORITY LEVELS

12.1 Incident priority levels are defined below.

| Incident Priority | Description |
|---|---|
| P1 | Critical – Scalable Compute Platform is unavailable |
| P2 | Major – Scalable Compute Platform performance is degraded |
| P3 | Minor – Scalable Compute Platform performance is not affected |
| P4 | Notable – No impact on Scalable Compute Platform performance |

**Table 12-1 – Incident Priority Levels**

## 13 SERVICE LEVEL AGREEMENT

13.1 The Resolution Targets for resolving Incidents are defined below.

| Description | Resolution Target |
|---|---|
| P1 | 4 Clock Hours |
| P2 | 6 Clock Hours |
| P3 | 8 Clock Hours |
| P4 | Next Business Day |

**Table 13-1 – Resolution Targets**

## 14 SERVICE CREDITS

14.1 Service Credits are applicable only for P1 Incidents for which the Clock Hours exceed the Resolution Target.

14.2 Calculation of Service Credits

Service Credits are calculated as a percentage of the Recurring Charge for the applicable SCP, pro-rated for the month in which the relevant Incident was raised. The relevant percentages are as set out below.

| Clock Hours Exceeding Resolution Target | Service Credit (% of Recurring Charges) |
|---|---|
| >0 and ≤12 | 10% |
| ≥12 and ≤24 | 25% |
| ≥24 and ≤72 | 50% |
| ≥72 and ≥120 | 75% |
| ≥120 | 100% |

**Table 14-1 – Service Credit Percentages**

## GLOSSARY

| | |
|---|---|
| Cloud Computing | ITL Product as described in the relevant Product Documentation. |
| Content | Software (including machine images) data, text, audio, video or images. |
| Customer Content | Content that Customer transfers to ITL for processing, storage or hosting by SCP and any computational results that Customer derives from such Content through use of SCP. |
| Service Hours | Times ITL is contracted to provide service to Customer and when Clock Hours may apply. |
| Scalable Compute Platform | An instance of a computer as described in the relevant Product Documentation. |
| SLA | Service Level Agreement – the level of service that ITL agrees to provide |
| Service Credits | Mechanism for calculating the amount to be deducted from the Recurring Charge for an SCP if ITL's performance fails to meet the performance standards set in the SLA. |