

PACE TELECOM LIMITED

STANDARD TERMS AND CONDITIONS OF BUSINESS

These Conditions contains the following information:

- Standard terms – pages 1 - 18;
- Schedule 1 (Equipment Sales) – pages 19 – 20;
- Schedule 2 (Maintenance) – pages 21 – 24;
- Schedule 3 (Fixed Wire) – pages 25 – 27;
- Schedule 4 (Mobile via Pace Network) – pages 28– 35;
- Schedule 5 (Mobile via Third Party Network Operator) – pages 36 – 37;
- Schedule 6 (Broadband) – pages 38 – 42; and
- Schedule 7 (VOIP) – pages 43 – 45.

1. DEFINITIONS

1.1 In these Conditions, the following definitions (as well as those found in the Relevant Schedules) apply:

Additional Service: an additional Service which is taken out by the Customer (after the date of the original Order) whilst the Services continue to be performed by PACE (during the Term).

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

Charges: the charges payable by the Customer for the supply of the Services and/or the Sale Equipment in accordance with clause 7.

Commencement Date: the date of the Order or the commencement of the provision of the Services or the supply of the Sale Equipment, whichever is the later.

Conditions: these terms and conditions as amended from time to time in accordance with clause 18.8, including and as amended by the bespoke provisions of the Relevant Schedules (whichever are applicable to the appropriate Service).

Contract: the contract between PACE and the Customer for the supply of Services and/or the sale of the Sale Equipment in accordance with these Conditions, constituting the Order and these Conditions (which include the Relevant Schedules).

Customer: the person or firm who purchases the Services or Sale Equipment from PACE, as set out in the Order.

Early Termination Fee: means, unless set out differently in the appropriate Relevant Schedule which applies to a particular Service and disregarding Relevant Schedule 1, the Customer's average monthly spend under the Contract (when the Customer has been using the Service normally), multiplied by the number of complete months remaining until the Contract would otherwise have expired (up until the Minimum Term or the two year anniversary thereof (if applicable)).

Equipment: the equipment, hardware and/or software supplied as part of the Services plus any additional equipment as is agreed between the parties to be supplied from time to time following the Commencement Date.

Intellectual Property Rights: all intellectual property rights whatsoever.

Maintained Equipment: the third party equipment which PACE agrees to maintain for the Customer pursuant to Relevant Schedule 2.

Minimum Term: means the minimum term of the Contract starting on the Commencement Date and running for the period of months set out in the Relevant Schedule, which is extended until the Minimum Term of any Additional Service if an Additional Service is taken out by the Customer during the Term.

Order: the order form signed by the parties setting out the Services and/or Sale Equipment to be supplied by PACE to the Customer pursuant to these Conditions.

PACE: Pace Telecom Limited a private company limited by shares and registered in England and Wales with company number 03602670.

PACE Materials: has the meaning set out in clause 6.1(k).

Relevant Schedule: the schedule(s) which applies to the appropriate Service which is supplied pursuant to the Order, setting out the bespoke terms and conditions in relation to such Service.

Sale Equipment: the equipment which PACE agrees to sell to the Customer (as per Relevant Schedule 1) pursuant to these Conditions.

Service(s): the service(s) supplied by PACE to the Customer as set out in the Order (including the ordering of any Equipment), plus any Additional Service that PACE agrees to supply to the Customer from time to time, pursuant to these Conditions.

Site: the location(s) at which the Services are to be provided or the Sale Equipment is to be delivered as set out in the Order.

Term: the term of the Contract (including any extension courtesy of an Additional Service as per clause 2.3), being from the Commencement Date until the Minimum Term and thereafter continuing on a rolling two year basis unless and until notice is served in accordance with these Conditions.

2. APPOINTMENT AND DURATION

2.1 With effect from the date of the Order, and in consideration of the payment of the Charges by the Customer, PACE agrees to supply the Services and/or the Sale Equipment to the Customer in accordance with these Conditions.

2.2 The Contract shall commence on the date of the Order and with effect from the Commencement Date shall, subject to earlier termination in accordance with clause 11, continue for the Minimum Term and thereafter (please note clause 2.4) shall continue on a rolling 24 month basis, subject to notice of termination being served in writing by the Customer (in accordance with clause 18) 90 days prior to the contract renewal, or by PACE in accordance with clause 11.3.

2.3 In the event that the Customer engages PACE in respect of any Additional Service during the Term from time to time, then the term of all of the current Services at that time shall be extended

until the Minimum Term of the Additional Service and thereafter shall continue and be terminable collectively as per clause 2.2.

- 2.4 In the event that the Customer has 10 or less employees then the Contract shall not automatically renew as per clause 2.2 but shall continue after the expiry of the Minimum Term subject to either the Customer or PACE giving 90 days' notice of termination.
- 2.5 Notwithstanding any other provisions in these Conditions, the Customer may terminate the Contract by serving notice in writing on PACE within 7 days of the date of the Order (i.e. a 'cooling off' period). For the avoidance of doubt, if the Customer wishes to terminate an Additional Service within 7 days then said notice of termination shall only serve to terminate that particular Additional Service and specifically does not terminate the Contract and the other on-going Services being provided to the Customer at that time.

3. BASIS OF CONTRACT

- 3.1 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of PACE which is not set out in the Contract.
- 3.2 Any samples, drawings, descriptive matter or advertising issued by PACE, and any descriptions or illustrations contained in PACE's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 3.3 The Customer acknowledges that PACE has relied and will rely upon the information, documents and materials provided by the Customer. The Customer warrants that the information supplied has been and will at the time of supply be compiled with reasonable skill and care and shall not by virtue of any error or omission be misleading or inaccurate in any material respect.
- 3.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 3.5 Any quotation given by PACE shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

4. SUPPLY OF SERVICES

- 4.1 PACE shall use its reasonable endeavours (so far as it reasonably can) to procure that the Services are provided in a reliable and professional manner and in accordance with good industry practice.
- 4.2 PACE shall supply the Services to the Customer, at the Site (if applicable), in accordance with the Order in all material respects.

- 4.3 PACE shall use all reasonable endeavours to meet any performance dates specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 4.4 PACE shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and PACE shall notify the Customer in any such event.
- 4.5 PACE shall comply with all applicable health and safety laws when it undertakes installation and/or maintenance work.
- 4.6 PACE shall endeavour to rectify and/or fix and/or assist with any fault in the Services (if appropriate) as soon as reasonably practicable.
- 4.7 PACE will normally carry out any installation and/or maintenance work during normal working hours but may, on reasonable notice (no less than 12 hours except in case of emergency), require the Customer to provide access at other times. At the Customer's request PACE may agree to work outside normal working hours but the Customer may be asked by PACE to pay any relevant overtime charges for relevant staff.
- 4.8 PACE warrants to the Customer that the Services will be provided using reasonable care and skill.

5. EQUIPMENT

- 5.1 If PACE provides Equipment to the Customer as part of the Services then unless as set out as otherwise in the Contract:
- (a) the Equipment shall remain the sole property of PACE and title will remain with PACE at all times;
 - (b) the Customer will not interfere with or modify the Equipment and will not remove or alter any identification mark on the Equipment showing that it is owned by PACE;
 - (c) the Customer will make clear to third parties that the Equipment is PACE's property;
 - (d) the Customer is responsible at all times for the safe use and safe keeping of the Equipment whilst it is in the Customer's custody, including procuring and maintaining an appropriate insurance policy to cover against loss of, or damage to, the Equipment;
 - (e) the Customer must keep the Equipment at the Site (save for mobiles) in accordance with PACE's instructions;
 - (f) the Customer must permit PACE to inspect or test the Equipment remotely at such times as may be agreed between PACE and the Customer, such agreement not to be unreasonably withheld or delayed;
 - (g) the Customer must not attempt to let, sell, charge or otherwise deal with the Equipment in any way inconsistent with PACE's ownership of such Equipment;

- (h) the Customer must not permit or suffer any execution or distress to be levied or used against the Equipment or permit or suffer the Equipment to be seized under or affected by any distress, execution or other legal process;
 - (i) the Customer will be liable to PACE for any loss or damage to the Equipment except where it can be shown that PACE was responsible for such loss or damage. The Customer must notify PACE immediately of any loss or damage to the Equipment;
 - (j) the Customer must notify PACE immediately if the Equipment is lost or stolen.
 - (k) On expiry of Pace Telecom Ltd associated lease agreements, the leased equipment become the property of Pace Telecom Ltd. An invoice will be raised for secondary rental or title of the Equipment unless the Equipment is returned to Pace Telecom Ltd at Unit 2 Zenith House Gresford Industrial Park Wrexham LL12 8LX in good working condition by the customer within 7 days of the expiry of the lease.
 - (l) Pace Telecom Ltd will audit all equipment that is sent back to ensure that it is all present and all in working order. There will be a further charge for this of £195 ex VAT. Any missing items will be charged at RRP.
- 5.2 PACE warrants that each item of Equipment will conform in all material respects to the manufacturer's specification for a period of 12 months (but in the case of software 90 days) from the date on which each item of Equipment is dispatched to the Customer by PACE (the "**Warranty Period**") unless special conditions associated with certain Equipment apply.
- 5.3 If, within the Warranty Period, the Customer notifies PACE of any defect or fault in the Equipment arising under normal use and in consequence of which it fails to conform in any material respect with the manufacturer's specification PACE shall, at PACE's option either: repair the faulty Equipment; or, replace the faulty Equipment with the same or an equivalent item of Equipment which may be a new or refurbished item. In the event that Equipment is provided to replace Equipment which has failed during its Warranty Period, the replacement Equipment will be provided with its own Warranty Period which shall last for the greater of: a) 3 months from the date on which the replacement Equipment is dispatched to the Customer; or
b) the outstanding period of the original Warranty Period.
- 5.4 Following the expiry of the Warranty Period for Equipment provided under the Contract in which PACE retains title, PACE will extend the Warranty Period in respect of such Equipment until the end of the Minimum Term ("**Extended Warranty Period**"). Upon expiry of the Minimum Term, or termination of the Contract, the Extended Warranty Period shall cease.
- 5.5 The warranty obligations set out in clauses 5.2 and 5.4 shall not apply in the event that the Customer, or anyone acting with the authority of the Customer, has amended or damaged the Equipment, or used it for a purpose or in a context, other than in accordance with PACE's or the manufacturer's instructions and advice.
- 5.6 Following any upgrade or replacement of Equipment or disconnection of Equipment from the Wireless Services (as defined in Relevant Schedule 4), PACE shall reserve the right to request the safe return of any such Equipment in which PACE retains title pursuant to clause 5.4 from the Customer to PACE at the Customer's expense.
- 5.7 If the Equipment is not returned following expiry of the Term or is damaged in any way during

the Term then the Customer must inform PACE immediately and within 7 days pay for the Equipment at the then retail purchase cost from time to time, or such equivalent replacement cost if the item of Equipment is no longer available for purchase. Disregarding the aforementioned, mobile Customers (Relevant Schedule 4) shall be entitled to retain mobile handsets at the end of the Minimum Term.

5.8 PACE reserves the right to add to, substitute, or to discontinue any item of Equipment at any time. PACE does not guarantee the continuing availability or any particular item of Equipment.

5.9 PACE may either remotely (or at the Site by prior arrangement) make or procure any inspection, test, modification, change, addition to or replacement of any Equipment provided PACE acts in a reasonable manner.

6. CUSTOMER'S OBLIGATIONS

6.1 The Customer shall (as appropriate):

- (a) ensure that the terms of the Order are complete and accurate;
- (b) co-operate with PACE in all matters relating to the Services;
- (c) comply with the reasonable operating instructions given by PACE to the Customer in respect of the use of the Services;
- (d) provide PACE, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by PACE;
- (e) provide PACE with such information and materials as PACE may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
- (f) prepare the Customer's premises for the supply of the Services and meet any related costs;
- (g) provide an adequate electricity supply and a suitable earth connection in the room for the operation of the Equipment to be installed at the Site;
- (h) notify PACE immediately if it becomes aware of any fault in the Services;
- (i) obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start;
- (j) comply at all times with all laws, codes of practice and obligations, applicable to the Customer. PACE will have no liability under the Contract for failure to comply with its obligations in any case where the Customer does not comply with any such relevant laws or obligations or does not obtain any necessary consents or approvals;
- (k) keep and maintain all materials, equipment, documents and other property of PACE (**PACE Materials**) at the Customer's premises in safe custody at its own risk, maintain PACE Materials in good condition until returned to PACE, and not dispose of or use PACE Materials other than in accordance with PACE's written instructions or authorisation;
- (l) ensure that the Services are used predominately for the Customer's own genuine business purposes and specifically not for any illegal, immoral, menacing or unlawful purpose or not in any way which infringes the rights of any third party (including copyright and confidentiality) or for the transmission of any material which is illegal, defamatory, obscene, offensive or abusive in any way (or is intended to be);

- (m) immediately reimburse PACE if PACE incurs any liability whatsoever (from a third party or otherwise) in respect of clause 6.1 (l); and
 - (n) comply with all of its obligations under the Contract at all times.
- 6.2 If PACE's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**) (in addition to clause 8):
- (a) PACE shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays PACE's performance of any of its obligations;
 - (b) PACE shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from PACE's failure or delay to perform any of its obligations as set out in this clause 6.2; and
 - (c) the Customer shall reimburse PACE on written demand for any costs or losses sustained or incurred by PACE arising directly or indirectly from the Customer Default.

7. CHARGES AND PAYMENT

- 7.1 The Charges for the Services and/or Sale Equipment shall be such charges, costs, disbursements, tariffs and expenses as set out in the Order and/or (referred to in) the Relevant Schedule plus such additional charges which are incurred by the Customer from time to time. For the avoidance of doubt, any data and/or mobile usage in excess of your agreed monthly allowance shall be charged at the then current PACE tariffs in force from time to time in relation to that particular Service.
- 7.2 PACE shall invoice the Customer in accordance with the payment schedule of the Order and/or the Relevant Schedule.
- 7.3 The Customer shall pay each invoice submitted by PACE (at anytime):
- (a) within 7 days of the date of the invoice; and
 - (b) in full and in cleared funds to a bank account nominated in writing by PACE, and
- time for payment shall be of the essence of the Contract.
- 7.4 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by PACE to the Customer, the Customer shall, on receipt of a valid VAT invoice from PACE, pay to PACE such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

- 7.5 Without limiting any other right or remedy of PACE, if the Customer fails to make any payment due to PACE under the Contract by the due date for payment (**Due Date**), PACE shall have the right to charge interest, compensation and charges pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.
- 7.6 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against PACE in order to justify withholding payment of any such amount in whole or in part. PACE may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by PACE to the Customer.
- 7.7 Upon 28 days' notice or as much notice as is reasonably practicable in the circumstances, PACE reserves the right to pass on any price increases (in its charges) to the Customer where such change arises as a consequence of changes imposed by third party manufacturers or suppliers or a regulatory body for example.
- 7.8 The Customer is urged to regularly check the amounts and frequency of payments made to PACE. In the event that there has been some form of overcharging by PACE then the Customer is only permitted to reclaim 6 months' worth of overcharging from the point of notifying PACE of such error. In the event of adding any additional Services or renewing any of the Services then the right to reclaim any previous overcharging is irrevocably waived and released at that point.
- 7.9 Copy invoices requested by the Customer shall be charged at £15 per invoice.

8. SUSPENSION/INTERRUPTION OF SERVICES

- 8.1 PACE shall be entitled (upon reasonable notice or immediately if appropriate) to temporarily suspend and take out of use any Services for operational or other reason, including:-
- (a) where PACE is entitled to terminate the Contract pursuant to clause 11 (without prejudice to any of PACE's other rights, remedies and/or causes of action);
 - (b) improving, upgrading, updating and/or altering any content or part of the Services;
 - (c) replacing, maintenance, repair and upgrade of any of the Services;
 - (d) dealing with any actual or suspected security breach, virus, or attack or any misuse;
 - (e) where required by any regulatory, governmental or other competent authority;
 - (f) any emergency or taking any other action that PACE reasonably considers necessary as a reasonable and prudent provider of the Services;
 - (g) where PACE believes there has been and/or there is and/or there is expected to be a suspected abuse of the Services, including for example a high call spend on premium numbers;
 - (h) where PACE believes the Customer is not using the Services in accordance with their usual practice or is not using the Services properly;

- (i) where the Customer has not paid for the Equipment and/or the Sales Equipment by the due date;
 - (j) excessive usage of the Services;
 - (k) false or incorrect information has been provided by the Customer; and
 - (l) any reason whatsoever where PACE has good and genuine cause to do so.
- 8.2 Where Services are suspended in accordance with clause 8.1, the following provisions will apply:
- (a) subject to any requirements of any third party services provider, PACE will use reasonable efforts to minimise any downtime, and to carry out routine maintenance of upgrading at a suitable time agreed with the Customer in advance;
 - (b) PACE will use reasonable efforts, wherever practicable, to inform the Customer at least 24 hours ahead that the Services shall be suspended;
 - (c) a reconnection charge of £25.00 per service shall be payable by the Customer before the services are reconnected.
- 8.3 PACE and the third party services provider shall be free to carry out emergency or urgent maintenance at any time to ensure the Services are continued to be supplied. PACE shall advise the Customer if practicable prior to the conducting of any such emergency or urgent maintenance.
- 8.4 In the event that the Customer is in breach of its payment obligations, PACE may at its reasonable discretion (and without prejudice to any other rights which PACE may have) and upon giving the Customer prior written notice, suspend the provision of all or any of the Services from a date and time not less than 7 days from the date of such written notice having been given. PACE shall recommence provision of the Services as soon as reasonably practicable following the Customer's fulfilment of its payment obligations (in respect of all of the Services). In the event that the breach is not remedied within the period of 7 days from the date that the Services are suspended, then PACE shall have the option (without prejudice to any other rights which PACE may have) to terminate the Contract with immediate effect in accordance with clause 11.1.
- 8.5 In the event that a third party services provider suspends the provision of all or any of the third party services to PACE, PACE shall have the right to suspend the provision of any part of the Services which is wholly or partly dependent on PACE receiving the third party services. Where this clause 8.5 applies PACE shall give to the Customer as much notice as is reasonably practicable that the Services will be suspended and shall resume the provision of the suspended Services as soon as is reasonably practicable after the resumption of the provision of the third party services to PACE.
- 8.6 During any period of suspension of the Services:
- 8.6.1 PACE shall not be responsible for the provision of the suspended Services or for any requirements or service levels not being met (save to the extent that PACE's failure to

comply with the other terms of the Contract or to provide the Services which are not suspended adversely affects provision of the suspended Services); and

8.6.2 the Customer shall not pay any Charges in respect of the suspended Services, unless the suspension was due to the Customer's breach of its obligations under the Contract.

8.7 Any period of suspension of the Services may be to such extent and of such duration as PACE may reasonably specify.

9. LIMITATION OF LIABILITY

9.1 Nothing in these Conditions shall limit or exclude PACE's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

9.2 Subject to clause 9.1:

- (a) PACE shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) PACE's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 2x the amount paid by the Customer to PACE during the preceding 12 months before the purported breach in respect of that particular Service (or in respect of the Sale Equipment the invoice value of the particular item of Sale Equipment).

9.3 PACE shall under no circumstances be liable to the Customer in respect of any direct, indirect or consequential losses resulting from:

- (a) damage, improper use, operation or neglect of the Equipment or the subjection of the Equipment by the Customer to unusual physical or electrical stress, the neglect or misuse of the Equipment or any failure or fluctuation of electrical power, air conditioning, humidity control or other environmental controls or where the environment in which the Equipment operates and is sited does not meet BS 67014 requirements;
- (b) modification of the Equipment or its merger (in whole or part) with any other equipment unless approved in writing by PACE;
- (c) the Customer failing to implement recommendations for any solutions to faults advised by PACE;
- (d) faults due to failures of electrical supplies, networks or PABX systems;

- (e) electrical work external to the Equipment;
 - (f) transportation or relocation of the Equipment not performed by or on behalf of PACE;
 - (g) use of the Equipment for a purpose for which it was not designed or breach by the Customer of any maintenance agreement covering the Equipment;
 - (h) any repair, adjustment, alteration or modification of the Equipment by a third party and without PACE's prior written consent;
 - (i) any force majeure event (as defined in clause 18.1(a)) or any event outside of the reasonable control of PACE; or
 - (j) a third party succeeding in "hacking" into the Equipment.
- 9.4 To be valid, any claim against PACE arising out of or in connection with the Contract whether in contract, tort or otherwise, must be brought within 12 months of the beginning of the commencement of the purported circumstances and/or breach which allegedly gave rise to such claim.
- 9.5 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 9.6 This clause 9 shall survive termination of the Contract.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 All Intellectual Property Rights in or arising out of or in connection with the Equipment and/or Services is owned absolutely by PACE or a third party (who in such circumstances shall have licensed the same to PACE).
- 10.2 To the extent possible, PACE grants the Customer a non-exclusive and non-transferable licence to use the Equipment for the sole purpose of the Services. The Customer is strictly forbidden from reproducing all or any part of the Equipment, save for the Customer will be entitled to make a single back-up copy for security purposes only. The Customer will not modify, adapt, translate, reverse engineer or disassemble the Equipment but if the Customer wishes to exercise its rights under section 50B of the Copyright, Designs and Patents Act 1988 then PACE will give the Customer information about the terms on which such rights may be exercised.
- 10.3 Copyright in all documents, drawings and information including if applicable any access codes supplied to the Customer in connection with the Contract remain vested in PACE or the copyright owner. Such documents, drawings and information are confidential and will not be copied, disclosed or used (except for the purpose for which they were supplied) without PACE's prior written consent.
- 10.4 All PACE Materials are the exclusive property of PACE.

10.5 The Customer shall inform PACE of any breaches or alleged or purported breaches of the Intellectual Property Rights in respect of the Equipment and/or Services and shall provide the Customer with all such reasonable assistance to this regard as requested by PACE.

11. TERMINATION

11.1 Without limiting its other rights or remedies, PACE may terminate the Contract with immediate effect by giving written notice to the Customer if:

- (a) the Customer commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days of the Customer being notified in writing of the breach;
- (b) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of that otherparty;
- (e) the Customer (being an individual) is the subject of a bankruptcy petition or order;
- (f) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer (being a company);
- (h) a floating charge holder over the assets of the Customer (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the other party;
- (j) any event occurs or proceeding is taken with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 11.1(b) to clause 11.1(i) (inclusive);
- (k) the Customer suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or

- (l) the Customer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 11.2 Without limiting its other rights or remedies, PACE may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 11.3 Without limiting its other rights or remedies, PACE shall have the right to terminate the Contract by giving the Customer 3 months' written notice following the expiration of the Minimum Term.
- 11.4 In the event that the Contract is terminated (for whatever reason) before the Minimum Term or the two year anniversary thereof (if applicable), the Customer shall pay the Early Termination Fee to PACE within 7 days.
- 11.5 For the avoidance of doubt the Early Termination Fee is payable in respect of all applicable Services (regardless of the date upon which the Services were entered into) at the actual time of termination.
- 11.6 The parties acknowledge and accept that the Early Termination Fee does not constitute a penalty and is a genuine estimate of loss on behalf of PACE.
- 11.7 If the Contract is terminated in breach of these Conditions, then any discounts previously granted to the Customer will become immediately repayable to PACE.

12. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to PACE all of PACE's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, PACE shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the Customer shall return all of PACE Materials and Equipment which has not been fully paid for. If the Customer fails to do so, then PACE may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (c) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

13. INDEMNITY IN RESPECT OF BREACHES BY THE CUSTOMER

13.1 The Customer agrees to indemnify on a full indemnity basis and hold PACE harmless in respect of any breaches, and/or purported breaches, of these Conditions.

13.2 In particular, if PACE find it necessary to use solicitors or other professional parties to recover any monies owing to them under the Contract or in dealing with any breaches of the Contract by the Customer, the Customer shall in addition be required to pay the costs incurred by PACE and shall indemnify PACE in respect of the same regardless of any court decision as to the liability for costs

14. DATA PROTECTION

14.1 In this Contract the terms “**Personal Data**”, “**Sensitive Personal Data**”, “**Data Processor**” and “**Data Controller**” are as defined in the Data Protection Act 1998(“**DPA**”).

14.2 The PACE acknowledges that under the terms of the Contract;

- (a) it will act as a Data Processor appointed by the Customer who is a Data Controller; and
- (b) the data concerning the business and activities of the Customer to which it has access is Personal Data and may contain Sensitive PersonalData.

14.3 Each Party shall comply with the DPA.

14.4 PACE will only process the Personal Data to the extent necessary for the purposes of the Contract. PACE shall take such reasonable security measures as required to enable it to process the Personal Data in compliance with the obligations equivalent to those imposed on the Customer by the Seventh Principle of theDPA.

14.5 The Customer agrees that, under its contracts with third party services providers, PACE may be required to pass details of customers to whom it provides the relevant third party services to the third party services provider. The Customer gives consent to PACE to transfer the Personal Data to a third party services provider where this is reasonably required for PACE to fulfil its contractual obligations to that third party services provider. Where this clause 14.5 applies, PACE shall use reasonable endeavours to procure that the third party services provider complies with the obligations of PACE set out in this clause 14.5.

14.6 For the avoidance of doubt the parties acknowledge that all the Personal Data is the property of the Customer.

15. DIRECT DEBIT GUARANTEE

15.1 In accordance with the terms of the Order, PACE may permit the Customer to pay for some of the Services by way of direct debit.

- 15.2 A direct debit guarantee is offered by all banks and building societies that take part in the direct debit scheme, and the Customer is advised to familiarise itself with the terms of said guarantee.
- 15.3 If a direct debit bounces, then PACE reserves the right to charge an administration fee of £50.
- 15.4 If a direct debit is cancelled, this will be deemed as a breach of contract and PACE reserves the right to charge an administration fee of £50.

The account may be suspended if this the direct debit is no reinstated within 10 working days,

16. CONFIDENTIALITY

- 16.1 A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain, and shall ensure that such confidential information is not copied, adapted or altered in any way. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 16 shall survive termination of the Contract.
- 16.2 The Customer accepts and permits PACE to use information and data about calls routed through any Equipment including but not limited to origin, destination, duration, route and time, so that PACE:
- (a) can perform its obligations under the Contract and maintain or upgrade the quality of the telecommunications services it provides or offers; and
 - (b) can collate the information and other customer's information to produce non-customer-specific statistics to assist PACE for whatever reason.

17. COMPLAINTS

In the unlikely event of the Customer wishing to make a complaint please direct this in the first instance to your point of contact at PACE. If you are unable to resolve the issue within a reasonable time then please write to the directors of PACE at the registered office who will endeavour to deal with the matter as swiftly and professionally as possible.

18. GENERAL

- 18.1 Force majeure:
- (a) For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of PACE including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of PACE or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or

direction, accident, breakdown of plant or machinery, fire, flood, storm or default of

PACE's or subcontractors.

- (b) PACE shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- (c) If the Force Majeure Event prevents PACE from providing any of the Services for more than 6 weeks, PACE shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

18.2 Assignment and subcontracting:

- (a) PACE may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- (b) The Customer shall not, without the prior written consent of PACE, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

18.3 Notices:

- (a) Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing, on Company Letter Head, addressed from an Company signatory or director and shall be sent by:
 - (i) recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business; or
 - (ii) email to: in the case of PACE - crm@pacetelecom.co.uk, in the case of the Customer – the email address for a director or Company signatory.
- (b) Any notice or other communication shall be deemed to have been duly received if sent by recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by email upon receiving an email from PACE acknowledging receipt of the same.
- (c) This clause 18.3 shall not apply to the service of any proceedings or other documents in any legal action.

18.4 Waiver:

- (a) A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- (b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

- 18.5 Severance:
- (a) If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
 - (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 18.6 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.
- 18.7 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 18.8 Variation: PACE reserves the right to make reasonable variations to the Contract from time to time upon reasonable notice. For the avoidance of doubt the Customer cannot make any variations to the Contract unless agreed in writing with PACE.
- 18.9 Governing law and jurisdiction: This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

19. INTERPRETATION

- 19.1 Construction - in these Conditions, the following rules apply:
- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
 - (b) a reference to a party includes its personal representatives, successors or permitted assigns;
 - (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
 - (d) any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
 - (e) a reference to **writing** or **written** includes faxes and e-mails;
 - (f) any obligations under these Conditions are jointly and severally liable as between the obligors;

- (g) the Relevant Schedules form part of these Conditions as if set out in the main body of these Conditions;
- (h) in the event of conflict between the terms of these Conditions and the Relevant Schedules the terms and conditions of the Relevant Schedules shall apply;
- (i) these Conditions shall govern any future relations between PACE and the Customer save for any updated terms and conditions of PACE from time to time;
- (j) these Conditions shall be interpreted constructively, intuitively and sensibly given the nature of the fact that not all of the provisions in the main body of these Conditions and the Relevant Schedules will apply to each and every Service provided pursuant to the Order;
- (k) if a Relevant Schedule which doesn't directly relate to the Services being supplied contains a provision which in some way benefits PACE, PACE can rely on such a provision.

SCHEDULE 1 – EQUIPMENT SALES

1. SALE EQUIPMENT

- 1.1 All representations as to the performance of the Sale Equipment are based on the information supplied by the manufacturer of the Sale Equipment and related to their performance in normal working conditions and when used correctly in accordance with the manufacturers' installations and user instructions.
- 1.2 Unless otherwise agreed, Sale Equipment supplied will be in accordance with the manufacturers' normal designs and specifications current at the date of manufacture or delivery and the supply by PACE of Sale Equipment differing from any contractual or pre-contractual specifications or descriptions shall not be in breach of the Contract in so far as the Sale Equipment is of approximately equivalent performance to the Sale Equipment referred to in such specifications and descriptions.
- 1.3 PACE undertakes to credit the account of the Customer (if any) or to remedy free of charge by repair or replacement of any defects in the Sale Equipment covered under the manufacturer's guarantee provided that the Customer notifies PACE promptly of any such defect and where the Customer arranges for the prompt return to PACE of the defective Sale Equipment at the Customer's risk and expense.

2. CHARGES

- 2.1 Where there is any agreement to supply Sale Equipment to be delivered by instalments which are to be separately paid for, such agreement shall not be severable and failure by the Customer to pay for or accept delivery of any instalment by the due date shall entitle PACE at its option to treat the whole agreement with the Customer as repudiated.
- 2.2 The payment terms of PACE are a 50% deposit at the time of the Order, and 50% within 7 days of the agreed date of bringing the Sale Equipment into service.

3. DELIVERY AND RISK

- 3.1 Time for the delivery of the Sale Equipment is not of the essence of the Contract. The proposed dates for delivery are estimates only and a failure by PACE to comply with them shall not be a breach of these Conditions.
- 3.2 Should the Sale Equipment that is delivered be rendered inoperable as a result of a failure of another supplier or contractor to commission services connected to the Sale Equipment, PACE shall not be in breach of these Conditions.
- 3.3 The Sale Equipment shall be at the Customer's risk from the time of delivery. The Customer is required to inspect the Sale Equipment on receipt and to notify PACE in writing of any defects or complaints within 7 days.

3. PROPERTY IN EQUIPMENT

- 3.1 Notwithstanding risk in the Sale Equipment passing to the Customer in accordance with clause 3.2 of this Schedule, the Sale Equipment shall remain the sole and absolute property of PACE, and title to and legal and equitable ownership of the Sale Equipment shall not pass to the Customer, until payment is received in full by PACE in respect of all Sale Equipment supplied by PACE to the Customer from time to time, and the Customer acknowledges that until such payment is made in full it is in possession of the Sale Equipment solely as a fiduciary of PACE.
- 3.2 Until title to the Sale Equipment passes to the Customer the Sale Equipment shall be kept separate and distinct from all other property of the Customer and of third parties and in good condition and stored in such a way as to be clearly identifiable as belonging to PACE and the Customer will not cause or permit or suffer any labels, badges, serial numbers or other means of identification of the Sale Equipment to be removed or obscured.

SCHEDULE 2 - MAINTENANCE

DEFINITIONS

In this Schedule, the following definitions (as well as those found at clause 1 of the main body of these Conditions) apply:

Basic Service: the repair and maintenance of the Maintained Equipment as further detailed in clause 1.2.

Consultancy Service: the advisory service to be provided by PACE relating to the application and use of the Maintained Equipment.

Support Fee: the fee payable by the Customer to PACE in respect of the Basic Service as set out in the Order.

1. SERVICES SUPPLIED

1.1 During the Term PACE shall use its reasonable endeavours to provide the Customer with:

- (a) the Basic Service within such response times as set out in clause 6.1 of this Schedule; and
- (b) the Consultancy Service.

1.2 The Basic Service shall consist of:

- (a) routine maintenance of the Maintained Equipment at such intervals as PACE may reasonably determine to be necessary in order to keep the Maintained Equipment in good working order; and
- (b) repair of any defect in or malfunction of the Maintained Equipment which is discovered by PACE representatives during the course of routine maintenance checks or is reported to PACE by the Customer from time to time.

2. USE OF SERVICE(S)

2.1 All reports of defects in or malfunctions of the Maintained Equipment must be made by telephone, facsimile transmission or in writing, as appropriate, by a representative of the Customer and otherwise in such a manner as PACE may reasonably require from time to time.

2.2 If the Customer moves the Maintained Equipment from the Site to a new site, without prejudice to any other rights that PACE may have, PACE may make a reasonable increase to the Support Fee as shall be necessary to take account of any increased costs that it shall incur in providing the Services at the new site.

2.3 If PACE's services are requested without any reasonable justification, or by reason of any defect in or malfunction of the Maintained Equipment due to causes not covered under the

Contract, the Customer shall be liable to pay PACE's standard charges from time to time in force for such services.

2.4 Pursuant to the Consultancy Service PACE shall:

- (a) provide the Customer from time to time in writing with such up to date and accurate information as to the application and use of the Maintained Equipment as may be available to PACE and as PACE may reasonably determine to be necessary or desirable to be provided; and
- (b) use its reasonable endeavours to respond promptly, during normal working hours, by telephone, facsimile transmission or in writing, as appropriate, to any request from the Customer for information concerning the application and use of the Maintained Equipment, or the repair of any defect in or malfunction of the Maintained Equipment.

3. CHARGES

- 3.1 In consideration of provision of the Basic Service, the Customer shall, within 7 days of receipt of an invoice from PACE, pay PACE the Support Fee, provided that PACE may in writing waive the Support Fee in respect of the first year of the Contract with the agreement of the Customer.
- 3.2 The price payable by the Customer at each anniversary for the following years services will be adjusted to account for any additions made to the maintained equipment during the course of the preceding maintenance year, and in addition, PACE reserves the right to increase the Basic Fee at any time in the event that significant additions are made to the maintained equipment during the course of a maintenance year. To reflect the age of the Maintained Equipment, PACE may increase the annual Support Fee by up to 5% per annum (for the avoidance of doubt which is in addition to the cost of the cover for any other additional equipment that is to be covered).
- 3.3 In consideration of the provision of the Consultancy Service the Customer shall pay to PACE charges calculated at the rate of £195.00 per hour for the time spent by PACE's representative in providing the Consultancy Service to the Customer; PACE shall invoice the Customer for the Consultancy Service monthly in arrears or at such other intervals as may be agreed from time to time between the parties, and the Customer shall, within 7 days after the receipt of each invoice from PACE, pay to PACE the amount shown in the invoice.
- 3.4 The Customer shall, within 7 days after the receipt of an invoice from PACE, reimburse PACE for all travelling, accommodation and other expenses reasonably incurred by any representatives of PACE in connection with the performance by PACE of its obligations under the Contract.

4. CONTRACT TERM

The minimum term of the Contract is 24 months from the Commencement Date.

5. SERVICE LEVEL AGREEMENT

- 5.1 PACE shall use its reasonable endeavours to supply minor spare parts and replacement components required to maintain the Maintained Equipment in good working order, and no extra charge will be made for the supply. If, however, the Maintained Equipment is damaged otherwise than by fair wear and tear or the Maintained Equipment requires a major spare part or replacement component (as to whether either of which events has occurred PACE's decision shall be final and binding on the Customer), PACE may charge the Customer for supplying the same.
- 5.2 Spare parts and replacement components supplied by PACE shall become part of the Maintained Equipment and parts and components removed from it shall become PACE's property.
- 5.3 If PACE determines that it is necessary to move the Maintained Equipment or any part of the Maintained Equipment from the Site in order to carry out any repairs, and as a consequence a significant part of the Customer's operations are affected, PACE shall use its reasonable endeavours to supply on loan to the Customer equivalent equipment while the Maintained Equipment or the part in question is being repaired.
- 5.4 If any part of the Maintained Equipment can no longer be maintained in good working order by fitting replacement spare parts or the whole of the Maintained Equipment is damaged beyond economic repair otherwise than by PACE's fault (as to whether either event has occurred, PACE's decision shall be final and binding on the Customer), PACE may terminate the Contract with respect to all or part of the Maintained Equipment immediately on notice to the Customer, and shall credit to the Customer the corresponding value of the Support Fee to the unexpired period that has been invoiced and paid by the Customer.

6. SUPPORT LEVELS AND FAULT RESOLUTION

- 6.1 Response times for the Basic Service shall be PACE using its reasonable endeavours to respond to calls for service from the Customer categorised as intermittent faults, minor failures and major failures within:
- (a) 16 working hours for non-critical items such as intermittent faults and failure of handsets;
 - (b) 8-16 working hours for minor failures and defaults, such as failure of an extension card; and
 - (c) 4 working hours for major failures and faults, which shall be categorised as partial switch or transmission equipment failure which affects 20% (or greater) trunk or extension ports.
- 6.2 For the purposes only of determining the period of time within which PACE's representative makes an attendance pursuant to clause 6.1, any period between the end of normal working hours and the next Business Day shall be disregarded. If the Customer reports a defect in or malfunction of the Maintained Equipment after normal working hours on any day, then unless

PACE expressly agrees otherwise, the report shall be deemed to be made at the beginning of normal working hours on the next Business Day, and this clause shall take effect accordingly.

6.3 Routine maintenance of the Maintained Equipment shall be carried out by one of PACE's suitably qualified and duly authorised representatives attending the Site at such times during normal working hours as may be agreed in advance between PACE and the Customer from time to time.

6.4 If PACE's representative discovers a defect in or malfunction of the Maintained Equipment in the course of routine maintenance, he will use all reasonable endeavours to repair it at the Site, but if that is not reasonably practicable (for example in the time available), PACE's representative will seek to make suitable arrangements with the Customer for:

- (a) a further visit to be made to the Site during normal working hours for the repair of the defect or malfunction; or
- (b) if the Maintained Equipment is inoperative as a result of the defect or malfunction, its repair at the Site outside normal working hours; or
- (c) if it is not reasonably practicable for the defect or malfunction to be repaired otherwise, the removal of the Maintained Equipment (or where practical, the part of the Maintained Equipment in question) for the purpose of repair.

7. EXCLUSIONS

7.1 The Basic Service shall not apply to any design defect in the Maintained Equipment, or any defect or malfunction which is due to faulty materials or workmanship in manufacture.

7.2 If on investigation PACE reasonably determines that any defect in or malfunction of the Maintained Equipment is the result of any of the matters referred to in clause 7.1, the Customer shall be liable for all costs incurred by PACE in investigating and determining its cause, as if that work formed part of the Consultancy Service.

7.3 Except as expressly provided in the Contract or as agreed between the parties in writing, PACE shall have no obligation to provide any of the Services to the Customer outside normal working hours.

SCHEDULE 3 – FIXED WIRE

DEFINITIONS

In this Schedule, the following definitions (as well as those found at clause 1 of the main body of these Conditions) apply:

BT: British Telecommunications Plc;

Calling Line Identifier: telephone number(s) as set out in the Order;

Early Termination Fee: means the fees payable in respect of clause 3.4 of this Relevant Schedule;

Manual Access: the insertion of the unique PACE access code by the Customer pre-programming computer modem or telecommunications equipment or by manual dialing of the access code;

Monthly Call Spend: the monthly call spend for each Calling Line Identifier as set out in the Order;

MLU Access: the automatic insertion of the unique PACE access code by a unit provided by PACE;

PACE Designated Carrier Network: the telecommunications system which PACE runs under the PACE licence;

PBX: an approved private automatic branch exchange;

PBX Access: the automatic insertion of the unique PACE access code by the Customer procuring that the maintainer of its PBX upgrades the software and the PBX so that the access code is inserted.

It is the Customer's responsibility to procure that the maintainer of the PBX carries out the software upgrade correctly;

Services: such of the indirect access services requested by the Customer, the Customer's requirements for which are set out in the Order.

1. SERVICES SUPPLIED

The indirect access services comprise:

- (a) The routing of calls from the Site(s) over the PACE Designated Carrier Network to the destination telephone number that has been dialled, using exchange lines provided to the Site by BT. Calls are routed over the PACE Designated Carrier Network by inserting a unique PACE access code (which PACE will notify to the Customer) in front of the destination telephone number dialled. The access code may be inserted by the Manual Access method, the PBX Access method, or the MLU Access method. It may be uneconomic for the Customer to route certain calls over the PACE Designated Carrier Network and at the request of the Customer, PACE will provide to the Customer a list of telephone codes which should not be routed over the PACE Designated Carrier Network; and

- (b) If the Customer meets PACE's requirements (which PACE will notify the Customer on request), the provision of a call detail capture device on the Site to provide management information relating to the incoming and outgoing calls made to and from the Site.

2. USE OF SERVICE(S)

In respect of MLU Access, the Customer must provide to PACE a designated carrier network test and termination point from the BT designated carrier network.

3. CHARGES

3.1 The Charges for the Services shall be such charges, costs, disbursements, tariffs and expenses as agreed between PACE and the Customer in writing, or in default, as set out in the "PACE Telecom Ltd Access Business Prices" tariff from time to time. Unless otherwise stated in the Order, peak rate call charges apply from 07:00 to 19:00, Monday to Friday, weekend rate call charges apply from midnight on Friday to midnight on Sunday and off peak rate call charges apply at all times when peak or weekend call charges do not apply.

PACE will invoice the Customer monthly in arrears for call charges and in advance for line rental and services charges and will collect payment by direct debit from the Customer's account on or around 7 Business Days following the date of invoice. If PACE is unable to collect payment from the Customer using this method PACE will require the Customer to pay all sums due under the Contract on demand.

This payment method is a contractual requirement and any customers not paying via this method will be charged a monthly fee.

3.1 PACE may at any time change the charges specified in the 'PACE Telecom Ltd Access Business Tariff' or other relevant PACE tariff by:

- (a) decreasing the charges without notice; or
- (b) increasing the charges by giving the Customer (where practicable) 30 days written notice.

3.2 PACE may, on seven days written notice to the Customer, stipulate a reasonable monetary limit that will apply to all charges due or which may become due to PACE from the Customer, whether or not they have been billed by PACE. If at any time the amount of charges payable to PACE (whether or not billed) exceeds the stipulated monetary limit, PACE will immediately notify the Customer and any amounts incurred in excess of the stipulated monetary limit will immediately become due and payable.

3.3 PACE reserves the right to reclaim its losses (in setting up the service and administration) by charging the Customer if:

- (a) The Customer does not achieve the Monthly Call Spend in respect of any month over the Term; or
- (b) The Contract, or any of the Calling Line Identifiers, are terminated prior to expiry of the Minimum Term, or any of the Calling Line Identifiers stop billing or passing traffic.

In (a) above, the charge will be 20% of the Monthly Call Spend for each month that the Monthly Call Spend is not attained.

In (b) above, the charge will be based upon the Customer's average monthly spend under this Contract (when the Customer has been using the Service normally), multiplied by the number of complete months remaining until the Contract which would otherwise have expired (up until the Minimum Term).

3.4 Unless otherwise stated in the 'PACE Telecom Ltd Access Business Tariff' or other relevant PACE tariff, call prices are quoted by the minute. The duration of each call is measured in one second increments, and then rounded up to the nearest second. Each call is charged excluding VAT. Based on the duration, the ex VAT cost of each call is then calculated and the result rounded up to the nearest penny. VAT is then added where applicable to the total of all charges on the Customer's invoice.

4. CONTRACT TERM

The minimum term of the Contract is 24 months from the Commencement Date or the duration of the 'call commitment plan' if set out in the Order.

5. SERVICE AVAILABILITY AND PERFORMANCE

5.1 PACE may at any time change the PACE Designated Carrier Network, the Services or the Equipment:

- (a) if it needs to do so to comply with any applicable safety or other statutory requirements; or
- (b) where the change does not materially detract from the quality or performance of the Services (in the reasonable opinion of PACE).

5.2 PACE will pay for any change to the PACE Designated Carrier Network, Services or Equipment made under clause 5.1.

6. SUPPORT LEVELS AND FAULT RESOLUTION

If PACE provides assistance to the Customer for the resolution of a fault, but it is subsequently discovered that the fault lies with neither the Equipment or the PACE Designated Carrier Network, the Customer shall pay PACE for the resolution of the fault on a time and materials basis at the reseller current rates from time to time.

SCHEDULE 4 – MOBILE (SERVICES PROVIDED THROUGH THE PACE NETWORK)

DEFINITIONS

In this Schedule, the following definitions (as well as those found at clause 1 of the main body of these Conditions) apply:

AIT: means the Artificially Inflated Traffic and occurs where the flow of calls to any particular revenue share service is, as a result of any activity on or on behalf of the party operating that revenue share service, disproportionate to the flow of calls which would be expected from good faith commercial practice and usage of the network.

Airtime: the wireless airtime and network capacity procured from the Network Operator.

Airtime Account: an account set up by PACE to accrue credits owing to the Customer from which Airtime can be purchased from PACE by the Customer.

Airtime Application: the PACE Airtime Application form, or any other PACE application form used by the Customer to apply for the Wireless Services.

Business Mobiles Contract: the Mobile Services order form signed by the Customer setting out the Services and/or Sale Equipment to be supplied by PACE to the Customer pursuant to these Conditions.

Device: a wireless device, or Equipment incorporating a SIM Card.

Disconnection Notice: a notice to disconnect one or more SIM Cards from the Wireless Services given pursuant to clause 6.1 of this Relevant Schedule.

End-User Licensed Software: any software, the licence terms for which are governed by a separate agreement with the licensor of such software typically by means of a "click-wrap" or "shrink-wrap" licence agreement.

Equipment Account: an account set up by PACE to accrue credits owing to the Customer from which Equipment can be purchased from PACE by the Customer.

GSM Gateway: a device (not designed or adapted to be capable of being used whilst in motion) for wireless telegraphy designed or adapted to be connected by wireless telegraphy to the PACE wireless telecommunications network or the wireless telecommunications system of another network operator and used solely for the purpose of sending and receiving messages conveyed by means of the PACE wireless telecommunications.

Line Rental Charge: the non-usage dependent part of the Charges, payable on a monthly basis per SIM Card.

Mobile Extension: the service which uses certain wireless extension technology in conjunction with a private circuit or virtual private circuit and that enables certain Devices to operate as part of the Customer's wireless private or virtual private voice network.

Network Operator: the network operator who operates the wireless network or networks to which the SIM Cards are connected.

Numbers: the numbers allocated to PACE by the Network Operator and in turn allocated by PACE to SIM Cards.

PACE Price List: the notes, descriptions of, criteria for use of, and the list of prices and tariffs which are charged to customers for Equipment, Wireless Services and which is supplementary to the Charges.

Replacement List Price: the Charges applicable to Equipment which is not supplied in conjunction with a new SIM Card and which Charges shall be available from PACE upon request from the Customer.

SIM Card: the subscriber identity module supplied by the Network Operator (and which shall at all times remain the property of the Network Operator), which is allocated to the Customer by PACE, and which contains the Number.

SMS: the short message service, which enables text messages to be sent to, and received from Devices.

Software: any software (excluding End-User Licensed Software) supplied to the Customer by PACE, the Network Operator or any other supplier under the terms of or in respect of the Contract.

Value Added Wireless Services: the value added Wireless Services such as installation, insurance, field services, repair etc. as may be made available from time to time by PACE to Customers on a non-discriminatory basis and details of which appear on the PACE Price List.

Wireless Services: the provision by PACE to the Customer of Airtime, Equipment, GPRS bearer, Mobile Extension, Mobile Web, SMS, SMS Land to Mobile Text Messaging Service and/or any other Wireless Services, which PACE may from time to time provide.

1. SERVICES SUPPLIED

1.1 PACE agrees to provide the Wireless Services during the Term.

1.2 PACE reserves the right to add to, substitute, or to discontinue any Value Added Wireless Service at any time. PACE does not guarantee the continuing availability of any particular Value Added Wireless Service.

1.3 The Customer agrees not to use SMS for the purpose of marketing or advertising anything to users of wireless services without the consent of those users.

1.4 The Customer agrees that in respect of SMS, PACE is acting as a wireless service provider and as such has no knowledge of, involvement with, or liability for the specific content of any text messages sent to the Customer's SIM cards, which do not originate from PACE.

1.5 Certain elements of the Wireless Services are dependent on the Customer having suitable infrastructure available and/or using an appropriate Device and in the event that the Customer is unable to provide suitable infrastructure, or fails to use an appropriate Device, then:

(a) some of the Wireless Services may not function correctly ("the Affected Services");

(b) PACE reserves the right not to provide the Customer with the Affected Services;

(c) PACE shall have no liability for the Customer's inability to receive the Affected Services.

1.6 During the Minimum Term, the Customer shall not be permitted to transfer a SIM card from the tariff which that SIM Card was originally connected to under the Contract to another tariff except where PACE at PACE's absolute discretion agrees to do so and confirms such a change in writing to the Customer.

1.7 PACE cannot set usage limits and the Customer will be liable for all Charges incurred by its use of the Wireless Services. PACE may monitor the Customer's usage of the Wireless Services for the purpose of controlling PACE's credit risk and the Customer's exposure to fraudulent usage.

1.8 PACE reserves the right to bar service to any Equipment supplied under the Contract wherein PACE's opinion that Equipment is not being used in a manner which PACE would reasonably expect including but not limited to where the Equipment is:

(a) used in conjunction with a SIM Card connected to a tariff other than one which the Customer has ordered under the Contract;

(b) used in conjunction with a SIM Card allocated to any other PACE customer's account;

(c) used solely or predominantly on a roaming basis; or

(d) not used on the PACE Network within 45 days from the date of dispatch by PACE, or during any other period of 30 consecutive days; unless PACE and the Customer have agreed in writing otherwise.

1.9 PACE reserves the right to bar a SIM Card from making calls (other than calls to emergency services) and/or disconnect any SIM Card supplied under the Contract if such SIM Card is not being actively used in a manner which PACE would reasonably expect to be proper use including but not limited to where the SIM Card has not been used:

(a) within 30 days of activation of the SIM Card by PACE on the tariff which the Customer has ordered under the Contract; or

(b) for any subsequent 30 day period thereafter; and PACE will unbar/reconnect any such SIM Card once PACE is satisfied, acting reasonably, that the SIM Card is to be used properly by the Customer to make use of the Wireless Services provided under the Contract, which proper use must be explained to PACE within 30 days of the date on which the SIM Card is barred/disconnected.

1.10 The Customer, at the Customer's expense, shall return to PACE any Equipment, supplied by PACE, which Equipment:

- (a) has been barred pursuant to clause 1.8 of this Schedule;
- (b) was Equipment supplied in conjunction with a SIM Card which has been disconnected pursuant to clause 1.8 of this Schedule and which has not been reconnected by PACE, and in the event that the Customer fails to return any such Equipment within two (2) weeks of written notice from PACE to do so, then the Customer agrees to pay PACE the Replacement List Price of the Equipment as specified in the PACE PriceList.

1.11 In the event that the Customer sells any Equipment in breach of the Contract, the Customer agrees that liquidated damages equal to the Replacement List Price of the Equipment, as set out in the PACE Price List at the date on which PACE invokes its right to recover liquidated damages under this clause 1.11, shall immediately be due and payable from the Customer to PACE.

2. USE OF SERVICE(S)

2.1 The Customer undertakes with PACE that throughout the Term it will use its reasonable endeavours to:

- (a) not to use the SIM Card and/or Devices and/or other Equipment and the Wireless Services for any purpose other than that for which it was designed or intended; and
- (b) notify PACE immediately (and to confirm in writing) on becoming aware that any Device of SIM Card has been lost or stolen or that any person is making improper or illegal use of the Device, SIM Card or the Wireless Services. The Customer will be responsible for any Charges incurred as a result of unauthorised use of any Device, or SIM Card, or the information contained within a SIM Card, until PACE has received a request from the Customer to suspend the Wireless Services to that Device or SIMCard.

2.1 The Customer undertakes with PACE that through the Term it will, and will take all reasonable steps to ensure that its employees will:

- (a) pay the standard charges levied by PACE from time to time applicable to repair work on Equipment which is outside (in scope or time) the warranty provided under the Contract; and
- (b) use the Equipment and any Software (including any End-User Licensed Software) in accordance with any user guide or other reasonable instruction of any manufacturer or supplier of the same or reasonable instruction of PACE and not to copy, reverse engineer or modify the Software or the End-User Licensed Software in any way save as permitted by law;
- (c) not to use the Service in any way to generate AIT;
- (d) not, without the prior written consent of PACE which may be withheld at PACE's absolute discretion, establish, install or use a GSM Gateway so that telecommunication services are provided via a GSM Gateway to third parties; and

- (e) not use the Wireless Services in a manner which is inconsistent with a reasonable customer's good faith use of the Wireless Services or the PACE cellular telecommunications network;
- (f) not use the Wireless Services fraudulently or in connection with a criminal offence or for the purpose of sending unsolicited text messages or any material which is offensive, abusive, indecent, defamatory, obscene or menacing, a nuisance or a hoax or which breaches any person's intellectual property rights or rights of privacy or is otherwise unlawful; and
- (g) not use the Wireless Services in any way which causes annoyance, inconvenience or needless anxiety as set out in the Communications Act 2003.

2.2 The Customer may establish, install or use a GSM Gateway for its own private purposes only, provided that it adheres at all times to PACE's policies in respect of the use of private GSM Gateways.

2.3 The Customer agrees that it is procuring the SIM Cards, Equipment and Wireless Services solely for its own use and furthermore that it will not resell or otherwise act as any form of distributor in respect of the SIM Card, the Equipment, or the Wireless Services.

2.4 Where the Customer accepts the terms of a licence in respect of any End-User Licensed Software, then those licence terms shall take precedence over any terms within the Contract relating to End-User Licensed Software and shall exclusively comprise the Customer's sole rights and remedies in respect of such End-User Licensed Software.

3 CHARGES

3.1 The prices and tariffs payable by the Customer to PACE for Equipment and Airtime are as set out in the Airtime Application and any prices and tariffs not set out in the Airtime Application shall be as set out in the PACE Price List. For the avoidance of doubt, any data and/or mobile usage in excess of your agreed monthly allowance shall be charged at the then current PACE tariffs in force from time to time.

3.2 All Charges shall be based upon call and billing data recorded by PACE. The Customer acknowledges that roaming calls may take longer to be billed than other types of calls.

3.3 Any credits accrued in the Equipment Account and/or Airtime Account may be used solely for the purposes of offsetting Charges for Equipment and/or Airtime respectively, do not have any monetary value, and the Customer is not entitled to:

- (a) use any credits accrued in the Equipment Account to offset Airtime Charges or vice versa;
or
- (b) offset any credits accrued in the Equipment Account or the Airtime Account against any outstanding debt; or

(c) any payments from any credits accrued in the Equipment Account or the Airtime Account; or

(d) any future use of credits accrued in the Equipment Account or the Airtime Account upon termination of the Contract.

3.4 PACE shall on a monthly basis, submit to the Customer one or more invoice(s) which shall itemise Charges for the Wireless Services.

3.5 PACE reserves the right to review any credit applied to the Contract. PACE may require from the Customer a deposit as security for payment of Charges. The Customer may request the return of any deposit paid at the expiry of any 12 month period but the decision to return any deposit prior to termination of the Contract will be at the discretion of PACE. PACE reserves the right to set off any deposit against the Charges. PACE may require the Customer to pay by direct debit. If the parties agree that payments of the Charges to PACE are to be made by credit card and if payments of Charges are not made on the due date PACE is authorised to debit the Customer's nominated credit card company with all Charges due and payable to PACE.

3.6 Unless otherwise stated in the PACE Price List, call prices are quoted by the minute. The duration of each call is measured in one second increments, and then rounded up to the nearest second. Each call is charged excluding VAT. Based on the duration, the ex VAT cost of each call is then calculated and the result rounded up to the nearest penny. VAT is then added where applicable to the total of all charges on the Customer's invoice.

3.7 Unless other stated in the PACE Price List all calls are subject to a minimum charge of £0.02.

3.8 Unless otherwise stated in the PACE Price List peak rate call Charges apply from 07:00 to 19:00, Monday to Friday; weekend rate call Charges apply from midnight on Friday to midnight on Sunday and off peak rate call Charges apply at all times when peak or weekend call Charges do not apply.

3.9 PAC codes requested by the Customer shall be charged at £50 per telephone mobile number.

3.10 Bolt-ons shall be added to any Early Termination Fee if applicable.

4 CONTRACT TERM

The minimum term of the Contract is 24 months from the Commencement Date.

5 SERVICE LEVEL AGREEMENT

The Customer acknowledges that the provision of Airtime is subject to the geographic extent of Airtime coverage and local geography, topography and/or atmospheric conditions and/or other physical or electromagnetic interference and/or the number of users trying to access the

Wireless Services in any particular location that may from time to time adversely affect the provision of the Airtime in terms of line clarity and call interference.

6 SERVICE AVAILABILITY AND PERFORMANCE

- 6.1 A Disconnection Notice may be given by the Customer in respect of a SIM Card at anytime.
- 6.2 Within 30 days from receipt of a Disconnection Notice PACE will disconnect the relevant SIM Card or SIM Cards from the Wireless Services.
- 6.3 In the event that the Customer gives a Disconnection Notice resulting in disconnection of a SIM Card prior to the expiry of the Minimum Term for that SIM Card, the Customer will pay to PACE any applicable Early Termination Fee.
- 6.4 Upon the termination of the Contract (for whatever reason) PACE will disconnect all SIM Cards (and any other Equipment) from the Wireless Services.
- 6.5 The Contract will automatically terminate upon the disconnection of the last SIM Card from the Wireless Services.

7 EXCLUSIONS

The Customer acknowledges that the Wireless Services may be dependent upon End-User Licensed Software and if the Customer does not accept the licence terms relating to any End-User Licensed Software, PACE shall have no liability whatsoever for any failure to provide the Wireless Services to the Customer where the Wireless Services depend on the use of the End-User Licensed Software.

8 CLAWBACK

- 8.1 In the event that the Customer has received the benefit (or retains the benefit) of a special offer, such as a free handset or a cash back credit / notional credit (“**Credit**”) provided by PACE, and the Customer defaults with PACE or terminates its contract with PACE before the minimum term of said contract, then:
 - (a) the Customer shall within 3 working days return all such property to PACE which was the subject of the special offer;
 - (b) the Customer shall immediately cease to be entitled to receive the benefit of any Credit with immediate effect and shall not be able to “cash in” any Credit; and
 - (c) any cash back credit shall immediately become worthless and defunct.
- 8.2 For the avoidance of doubt a Credit has no monetary value whatsoever save for its use within the Contract (during the Term) to set off against any monies owing to PACE in accordance with the terms of the Contract and provided that the Customer is not in breach of the terms of the Contract. Any Credit which has not been used by the Customer for 12 months or more shall be

at the discretion of PACE whether to allow to be utilised or not. For the further avoidance of doubt the Customer is not entitled to “cash in” any Credit upon expiry of the Term.

SCHEDULE 5 – MOBILE (SERVICES PROVIDED VIA A THIRD PARTY NETWORK OPERATOR)

DEFINITIONS

In this Schedule, the following definitions (as well as those found at clause 1 of the main body of these Conditions) apply:

Airtime: the wireless airtime and network capacity procured from the Network Operator.

Device: a wireless device, or Equipment incorporating a SIM card.

Mobile Extension: the service which uses certain wireless extension technology in conjunction with a private circuit or virtual private circuit and that enables certain Devices to operate as part of the Customer’s wireless private or virtual private voice network.

Network Operator: the network operator who operates the wireless network or networks to which the SIM cards are connected.

SMS: the short message service, which enables text messages to be sent to, and received from Devices.

Wireless Services: the provision by the Network Operator to the Customer of Airtime, Equipment, GPRS bearer, Mobile Extension, mobile web, SMS, SMS land to mobile text messaging service and/or any other Wireless Services, which the Network Operator may from time to time provide.

1. SERVICES SUPPLIED

PACE agrees to procure the provision of the Wireless Services during the Term through the Network Provider.

2. USE OF SERVICE(S)

The Customer acknowledges that the Wireless Services shall be provided through the Network Operator therefore PACE has no liability whatsoever in relation to the same.

3. CHARGES

3.1 The prices and tariffs payable by the Customer to the Network Operator shall be as set out in the Business Mobiles Contract/Airtime Agreement. Charges will be incurred if you exceed your allowance, as detailed in your mobile contract. The Network Operator shall bill the Customer directly for the Services.

3.2 PAC codes requested by the Customer shall be charged at £50.00 per mobile number.

4. CONTRACT TERM

The minimum term of the Contract is 24 months from the Commencement Date.

5. SERVICE LEVEL AGREEMENT

The Customer acknowledges that the provision of Airtime is subject to the geographic extent of Airtime coverage and local geography, topography and/or atmospheric conditions and/or other physical or electromagnetic interference and/or the number of users trying to access the

Wireless Services in any particular location that may from time to time adversely affect the provision of the Airtime in terms of line clarity and call interference.

6. CLAWBACK

6.1 In the event that the Customer has received the benefit (or retains the benefit) of a special offer, such as a free handset or a cash back credit / notional credit (“**Credit**”) provided by PACE, and the Customer defaults with the Network Operator or terminates its contract with the Network Operator before the minimum term of said contract, then:

- (a) the Customer shall within 3 working days return all such property to PACE which was the subject of the special offer;
- (b) the Customer shall immediately cease to be entitled to receive the benefit of any Credit with immediate effect and shall not be able to “cash in” any Credit; and
- (c) any cash back credit shall immediately become worthless and defunct.

6.2 For the avoidance of doubt a Credit has no monetary value whatsoever save for its use within the Contract (during the Term) to set off against any monies owing to PACE in accordance with the terms of the Contract and provided that the Customer is not in breach of the terms of the Contract. Any Credit which has not been used by the Customer for 12 months or more shall be at the discretion of PACE whether to allow to be utilised or not. For the further avoidance of doubt the Customer is not entitled to “cash in” any Credit upon expiry of the Term.

SCHEDULE 6 – BROADBAND

DEFINITIONS

In this Schedule, the following definitions (as well as those found at clause 1 of the main body of these Conditions) apply:

Access Network: the copper, radio or fibre optic lines owned and operated by wholesale partners which connect Customer Sites to the Pace network.

ADSL: means Asymmetric Digital Subscriber Line which is a data transfer technology using a copper line offering greater bandwidth downstream than upstream.

Broadband Services: this refers to any ADSL, SDSL or FTTC services as defined below.

Core Network: the switching and routing infrastructure used to connect the solution components and provide Customers with Internet or private WAN access.

CPE: means Customer Premises Equipment, such as a router or switch, supplied by PACE to access the Broadband Services.

Fibre broad (FTTC): means Fibre to the Cabinet which is a data transfer technology using a copper line to the cabinet and fibre to the Site of the Customer offering greater bandwidth downstream than upstream.

Internet Peering: where traffic breaks out from the PACE Core Network to the Internet.

Migration authority code (MAC): a code required for the seamless transfer of broadband services from the incumbent service provided.

Public switched telephone network (PSTN): a copper wired network carrying analogue voice data.

SDSL: means Symmetrical Digital Subscriber Line which is a digital transfer technology offering equal down and upstream bandwidth running over a pair of copper wires.

1. SERVICES SUPPLIED

1.1 The Contract includes the supply and usage of the Broadband Services utilising the PACE Core Network and where necessary, wholesale partner Access Networks, to transmit data between the Site and Internet Access.

1.2 Details surrounding the Broadband Services including the access network utilised, data transfer speed and the configuration for the Broadband Services and any associated Equipment are set out in the Order.

2. USE OF SERVICE(S)

- 2.1 PACE may be required to carry out additional work in order to provide the Broadband Services at the Site. Where these excess construction charges are incurred by PACE, PACE reserves the right to pass on these charges to the Customer.
- 2.2 If by use of PACE's service monitoring system, or through the Customer's own means, the Customer detects a service fault the Customer must inform PACE as soon as possible.

3. CHARGES

- 3.1 The Charges for the Broadband Services shall be as set out in the Order.
- 3.2 Most Broadband Services are sold with a defined monthly data transfer usage allowance. Usage above this level is charged per gigabyte (GB).
- 3.3 If the Broadband Service that the Customer selected has a monthly data transfer allowance or 'fair usage policy', PACE reserves the right to charge for any excess usage or contact the Customer to discuss a better suited package.
- 3.4 In respect of the Equipment to be supplied by PACE as part of the Broadband Services the Customer must pay to PACE £300 before installation of the Equipment or such higher amount if the Customer requests a higher specification of Equipment.
- 3.5 If the Customer requests replacement Equipment (due to fault) then PACE may charge for postage at their standard rates.
- 3.6 Upon the expiry of the Term for whatever reason or if a line is transferred to another service provider utilising a MAC (in addition to an Early Termination Fee (if applicable)) the Customer shall pay PACE a "termination fee", the amount of which is set out in the Order.

4. CONTRACT TERM

The minimum term of the Contract is 24 months from the Commencement Date.

5. SERVICE LEVELS AGREEMENT

- 5.1 PACE shall use its reasonable endeavours to provide the Broadband Services within 10 Business Days of request from the Customer whilst confirmation that the Broadband Service is available will be provided within 1 Business Day. All installations are subject to Site survey.
- 5.2 There will be a 10 day training period for ADSL connections to reach their maximum stable rate, during which the CPE should be left on and not re-booted, even though the Broadband Services may be temporarily unavailable. This does not apply to Fibre broadband.
- 5.3 An 'order matching reference' number will be required for simultaneous ADSL and PSTN provides. The provision lead time will be 8 Business Days from receipt of that reference number

if the Customer has chosen an alternative PTSN provider. Failure to provide this reference number will result in a delay. The provision lead time for a new PSTN and ADSL, simultaneous provide will be 10 Business Days from receipt of the order.

- 5.4 Orders cannot be modified once they have reached their point of no return which is usually 1 Business Days prior to completion but may be earlier.
- 5.5 Transfer of ADSL from services from another service provider will take 6 Business Days and confirmation of this request will be received within 1 Business Day. Transfer of FTTC services where no engineer appointment is required will take 8 Business Days. A MAC code will be required to process the transfer and the order cannot be progressed until this has been received.
- 5.6 Should the Customer wish to transfer its ADSL service to another provider, PACE will issue the MAC code within 5 Business Days.
- 5.7 The service package may not be downgraded to a level below that which has been agreed within the Contract. In the event that an upgrade or downgrade is performed, the billing rate will be changed effective from the 1st day of the next month. Upgrades or downgrades do not affect the current contractual term.

6. SERVICE AVAILABILITY AND PERFORMANCE

- 6.1 Broadband connectivity is a reasonable endeavours product and therefore a service availability target cannot be quoted against individual ADSL, SDSL or FTTC circuits.
- 6.2 In line with the Ofcom Code of Practice, the Customer will be advised of the likely download speed that will be received, along with the minimum and maximum throughput on that line before the Customer purchases the Broadband Services. However, these speeds are indicative and cannot be guaranteed as ADSL is a rate adaptive product.
- 6.3 FTTC offers a minimum download speed of 12Mbps. Minimum upload speeds for the “2Mbps” upload product will be the higher of 4% of the downstream speed or 128kbps. Minimum upload speed for the “10mbps” upload product will be the higher of either 22.5% of the downstream speed or 2Mbps.
- 6.4 Annex M (ADSL2+ only) will guarantee upstream throughput equivalent to 85% of the end user’s upstream synchronisation speed during working house (Monday to Friday, 8.00am – 5.00pm, excluding public and bank holidays).
- 6.5 Elevated best efforts (ADSL2+ and Fibre broadband only) guarantees 100% 2Mb throughout working house (Monday to Friday, 8.00am – 5.00pm, excluding public and bank holidays). Only applicable where original profile is at least 2Mbits.

7. SUPPORT LEVELS AND FAULT RESOLUTION

- 7.1 All details of the opening hours for technical support are available upon request.
- 7.2 In the event of a fault, the standard target time to repair will be forty eight (48) hours. If the fault is reported outside the hours of 8.00am – 5.00pm Monday to Friday, excluding bank and public holidays, it will be treated as if it was reported at the start of the next Business Day. This assumes BT Maintenance Class 5 is applied.
- 7.3 In the event of a fault, if BT Maintenance Class 4 is applied, the target time to repair will be 24 hours, excluding applicable parked time. If BT Maintenance Class 14 is applied, the target time to repair will be 8 hours, excluding applicable parked time. These are both available 24 hours a day, 7 days a week, 365 days a year, including bank and public holidays.
- 7.4 BT Maintenance Class 5 operates 24 hours a day, seven days a week (including UK public and bank holidays). PACE will acknowledge receipt of a fault report and clear the fault within 48 clock hours (“Requisite Period”) of receipt of the fault report, excluding any allowable parked time. If an engineering visit by BT to a Site is required, then BT will respond during BT Normal Working Hours.
- 7.5 BT Maintenance Class 4 operates 24 hours a day, seven days a week (including UK Public and Bank Holidays). For engineering visits by BT to a Site (PACE or End User premises or a BT exchange) 0800-1800 Monday to Sunday including UK regional public and bank Holidays) but for FTTC, Saturdays and Sundays will be subject to availability and not guaranteed. PACE will respond to a fault within 4 clock hours of receipt of the fault report and will clear the fault within 24 clock hours of receipt of the fault report, excluding any allowable parked time.
- 7.6 BT Maintenance Class 14 which operates for both the reporting of faults and clearance of faults, 24 hours a day, seven (7) days a week including UK bank and public Holidays. PACE will clear the fault within 8 hours of receipt of the fault report, excluding any allowable parked time.
- 7.7 The target time to repair is measured from when PACE first detects the fault or is notified of it by the Customer of a fault, to the time when the Customer is informed of the resolution via email or a phone call.
- 7.8 If an engineer visit is required, the clock will be parked from the time of booking until the scheduled appointment. Parked time is defined as any period where PACE cannot progress the repair of a fault.
- 7.9 Some engineering visits either by PACE or their agents may be chargeable. Any charges will be detailed before the engineer is booked.
- 7.10 If an engineer visit is scheduled and does not go ahead through no fault of PACE, an abortive charge of £195.00 will be levied.

8. EXCLUSIONS

- 8.1 Broadband is dependent on an underlying PSTN service. If the fault is found with the underlying service, a separate Services Specific Schedule/Appendix will apply to that fault where PACE does not supply the PSTN, the above broadband service schedule does not apply.
- 8.2 The Service Level Agreement does not apply where the fault is a result of the CPE or customer configuration.
- 8.3 All service levels will be suspended when BT or other Network Partners declare a major incident or implement the MBORC (Matters Beyond Our Reasonable Control) process.

SCHEDULE 7 – HOSTED VOIP

DEFINITIONS

In this Schedule, the following definitions (as well as those found at clause 1 of the main body of these Conditions) apply:

Carrier Interconnects: infrastructure providing the origination or termination of PSTN calls via a range of carrier network partners.

CPE: Customer Premises Equipment including IP telephony handsets, headsets and conferencing terminals.

Genband A2 Platform: the application servers that provide the fully integrated multimedia features as well as the switching capability to route integrated multimedia features as well as the switching capability to route calls in and out over both IP and traditional PSTN networks.

Hosted VoIP: the provision of the PACE hosted Voice over IP solution allowing customers to remotely connect to an off-site telephony system to make and receive voice calls.

1. SERVICES SUPPLIED

- 1.1 The Service concerns the supply and usage of the PACE Hosted VoIP services utilising PACE's Core network, the Genband A2 Platform and our Carrier Interconnects to provide the facility to make/receive voice calls over a data connection along with multimedia features.
- 1.2 The Site, the configuration for the Services and any associated Equipment are set out in the Order.
- 1.3 PACE will be responsible for all software updates to the Genband A2 Platform and will inform the Customer of any major changes.
- 1.4 Where PACE provides IP telephony CPE equipment will be tested and verified as compatible with the Services.

2. USE OF SERVICE(S)

- 2.1 To enable use of the Services the Customer requires a suitable data connection in order to ensure service compatibility and premium voice quality. A PACE data connection is recommended. PACE cannot agree to any Service Levels for the Services where data connectivity is being provided by a third party.
- 2.2 To enable use of the Services the Customer will be required to purchase compatible hardware to the minimum recommended specification, or utilise the provided software. PACE cannot provide Service Levels for the service when hardware/software not provided by PACE is being used.

- 2.3 Hosted VoIP is not intended to be a like for like replacement for fixed telephony services and may not support all the features of PSTN or PBX services.
- 2.4 It is the Customer's responsibility to ensure passwords to VoIP accounts are secure and regularly changed. PACE does not keep customer passwords on record, but may change the password at any time for good reasons.
- 2.5 If a geographic number is not available, may issue the Customer with a non-geographic number.
- 2.6 The service can be used to make emergency 999 calls. In order to connect the Customer's 999/112 call to the emergency services PACE is required to pass on the Customer's location information (address and caller line identification number) to the National Emergency Location information database. This is so PACE can provide the Customer's whereabouts in instances where the Customer is unable to do so. It is the Customer's responsibility to provide PACE with the correct address details. By default PACE will add the Customer's main billing address to PACE's emergency services register which will mean that on making a 999 call the emergency services will have a default location. This will also ensure that the call is flagged as being a VoIP call so that the emergency services operator will ask the caller to confirm their current location.

3. CHARGES

Any installation charges, on-going rental charges and Equipment charges will be as set out in the Order. These charges apply as soon as the VoIP solution is installed and is functioning.

4. CONTRACT TERM

The minimum term of the Contract is 36 months from the Commencement Date.

5. SERVICE LEVEL AGREEMENT

- 5.1 PACE will use reasonable endeavours to provide a new VoIP service within 2 Business Days. However depending on the chosen numbering options, activation and porting of a number from another service provider will increase this lead time.
- 5.2 To activate a new geographic or non-geographic number, the target standard lead time is usually 3 Business Days. Porting a number in from another provider will usually take up to 10 Business Days when porting from a single analogue line, and usually up to 20 Business Days when porting from an ISDN30, however the Customer acknowledges it may take longer.

6. SERVICE AVAILABILITY AND PERFORMANCE

- 6.1 PACE aims to provide a continuous and high quality service, however there may be occasion out of PACE's control which could result in loss of service or reduced voice quality, for example, the weather, power disruptions, or failures of the Customer's internet service provider (ISP) or broadband connection. The Customer should also understand that in such

circumstances all services (including 999/112 public emergency call services) will also be unavailable.

6.2 Where the components of the service are outside of PACE's direct control, PACE cannot make any guarantees on the availability or performance of this service.

6.3 The components of the Hosted VoIP service where PACE does have direct control include the core network, Genband A2 platform and carrier interconnects. PACE will use reasonable endeavours to meet a monthly availability target for the Hosted VoIP service of 99%.

6.4 From time to time PACE may have to upgrade the platform which may result in temporary loss of service however PACE shall endeavour to do the same out of hours.

7. SUPPORT LEVELS AND FAULT RESOLUTION

7.1 PACE always aims to repair a service affecting fault within 1 Business Day wherever it is reasonably possible to do so. The redundancy built into the underlying components of Hosted VoIP means that, in many cases, faults can be resolved in a much shorter space of time.

7.2 Fault resolution is measured from the time when PACE first detects the fault or is notified of it by the Customer, to the time when PACE informs the Customer of the resolution via email or phone call.

7.3 Whilst PACE aims to use all reasonable endeavours to avoid any downtime on hosted VoIP, some faults may relate to network services provided to PACE by a third party and hence are outside of PACE's direct control.

7.4 Some engineering visits either by PACE or their agents may be chargeable. Any charges will be detailed before the engineer is booked.

8. EXCLUSIONS

8.1 Where connectivity and/or equipment is provided by an alternative provider, PACE is not responsible for loss of service or disruption for voice quality.

8.2 Where the Customer has not maintained a secure password, PACE is not responsible for loss of any kind.

8.3 PACE is not able to guarantee the transfer of telephone numbers to other service providers should the Customer wish to cancel the Services. This is dependent on holding a porting agreement with the new provider in question.