

# Sunley Communications Ltd Contract Terms and Conditions

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## Contract Terms & Conditions for the supply of: Line Rentals, Call charges and Direct / Indirect Hosted Telephony Services

These Terms and Conditions constitute an Agreement between you, the end user, and SCL. These Terms and Conditions apply to the use by you of telephone line and voice related communication and other services provided by us and access to information and services provided by third parties (hereinafter the Service) and the use of the software program(s) (hereinafter Software) and any associated documentation which may be included in the delivery (hereinafter Accompanying Material) that you, the end user, are now taking into use. You should read these terms carefully. By using the Service, you will be deemed to have accepted and will be bound by these Terms and Conditions.

### 1. Definitions

- a) 'Agreement' means these conditions together with the Verbal Contract or Order Form, covering Services and Equipment supplied by us, including any such Services or Equipment subsequently requested by you.
- b) 'BT' means British Telecom Plc
- c) 'Call Bundle' means a fixed volume in minutes of calls to numbers of specific call types.
- d) 'Equipment' means the Multi Line Dialler(s) ("MLD"), Smart Box(es), connectors, cables and/or other associated equipment supplied to you by us under this Agreement.
- e) 'Eligible Business' means a business that has 11 or more employees, (a business that has taken a free installation of digital lines is deemed to be an Eligible Business).
- f) 'MCP' means Minimum Contract Period, the fixed contract period you entered into.
- g) 'NGN' means any non-geographic number used by you for any of our NGN services.
- h) 'Order Form' means the order form for SCL goods and services.
- i) 'Services' means the products and services you have requested from us on your Order Form or by Verbal Contract.
- j) 'Standard Tariff' means our default non discounted tariff.
- k) 'SCL Network' shall mean any network or lines used by SCL to carry calls on your behalf.
- l) 'The Telecommunications Act' means the Telecommunications Act 1984 (including any subsequent amendments).
- m) Verbal Agreement means the recorded agreement over the telephone made between you and a SCL distributor or representative. n) 'we' or 'us' means Sunley Communications Ltd trading as SCL
- o) 'you' means the customer with whom we make this Agreement (or any person or organisation that we reasonably believe is authorised to act on your behalf).

### 2. About this Agreement

2.1 This Agreement replaces any other oral or written agreements we have with you for the Services or Equipment. Any alterations to this Agreement must be made in writing and signed by a director of SCL.

#### 2.2 The Equipment

All Equipment supplied under this Agreement shall at all times remain our property. You may not remove or alter any identification mark on or interfere with any Equipment nor may you hold yourself out as or infer that you have ownership, interest or rights in any Equipment. If you lose, damage or otherwise fail to return any Equipment upon termination of this Agreement, you will have to pay SCL the cost of replacing any such Equipment.

#### 2.3 Duration

Each Service is subject to an initial MCP of 36 months (unless you specifically agreed to an alternative MCP at the time you entered into the Verbal Agreement or you wrote the words "24 month minimum contractual period" in the special requirements section of the Order Form), or if you are an Eligible Business and you agreed (in either case) to an alternative MCP, from the date on which it is made available to you, or the date of installation of the Equipment, whichever is the earlier, unless you have notified us that you have not received the Equipment or that the Equipment has not been programmed. The MCP applies independently to each line and/or telephone number in respect of which the Service is being provided and/or items of Equipment covered by this Agreement. Once the MCP has been completed;

- a) if you are an Eligible Business this Agreement will automatically continue in respect of each Service for a subsequent MCP of 12 months at a time until terminated in accordance with clause 2.4(b) below, or b) if you are not an Eligible Business and have not entered into a subsequent MCP, this Agreement shall continue until terminated by you, by giving not less than 90 days' notice, or otherwise in accordance with clause 2.4(b) below.

#### 2.4 Ending this Agreement

- a) You may cancel any Service without penalty by notifying us at any time prior to such Service becoming available to you.
- b) You may end this Agreement for any line, telephone number and/or telephony services at any time (subject only to you having completed the agreed initial MCP, or if applicable, a subsequent MCP, for the line, telephone number and/or telephony service you wish to terminate) by giving us not less than 90 days' notice, (provided that if you are an Eligible Business such notice must expire on the anniversary of the date on which the applicable service for that line, telephone number and/or telephony service was first made available to you), and paying any outstanding line rental, standing charge(s), subscription charges and call usage charges. Under such circumstances we will not make any charges for cancellation. For the avoidance of doubt the Agreement will remain in place for any other line or telephone number in accordance with the provisions of clause 2.3 above. However you will be responsible for any costs you incur in reprogramming your equipment, the cost of any calls made by you on the SCL Network after the end of this Agreement howsoever arising and the cost of returning any Equipment which we supplied to you under this Agreement.
- c) We may end this Agreement if any licences you have to run your telecommunications equipment, or connect it to our Services, are amended or cease to be valid.
- d) Either party may end this Agreement if:
  - i) the other breaks the terms of this Agreement and, after written notice, does not remedy the breach within 14 days; or
  - ii) the other is unable to pay its debts as stated in section S123 of the Insolvency Act 1986 (or any subsequent amendments); or

- iii) a liquidator (or other professional relevant to bankruptcy) is appointed to manage all or some of the others assets or operations (other than for the purpose of amalgamation or reconstruction); or iv) the other enters into an arrangement or composition with its creditors; or
- v) a court or creditor appoints a receiver, administrator, or makes a winding-up or bankruptcy order against the other.
- e) Upon termination of this Agreement all Services may be ceased without notice.
- f) If any Services forming part of this Agreement are terminated by you for any reason other than validly in accordance with clauses 2.4(a) or 2.4(b) you will:
  - i) reimburse SCL for all costs incurred by us in transferring your Services to us and/or subsequently incurred as a result of the termination in transferring your Services to another service provider; and
  - ii) pay SCL the agreed line rental and other fixed monthly charges (eg: inclusive call packages) from the date of termination up until the end of the MCP or expiry of 90 days' notice, whichever shall be the later, or if you are an Eligible Business up until the end of the MCP or the next anniversary date of the Service(s) as applicable, whichever shall be the later; and
  - iii) if no other Services remain live on this Agreement, pay a single lump sum amount in respect of the remaining period of this Agreement up until the end of the MCP or expiry of 90 days' notice which ever shall be the later or if you are an Eligible Business up until the end of the MCP or the next anniversary of each Service, whichever shall be the later, calculated by taking the average of the last full three months call spend or the minimum call spend of £25 per month per account whichever shall be the greater, multiplied by the number of full months remaining.

#### 2.5 Exclusive supply

For the duration of this Agreement you are not entitled to use any other service provider or network to carry any of your outbound call traffic on any lines and/or telephone numbers to which this Agreement relates. In the event we become aware that you are doing so, we shall be entitled at our discretion to apply a surcharge of £15 per month to the cost of each Service we are supplying under this Agreement.

### 3. The Services

- a) We will use reasonable efforts to make the Services available but owing to the nature of telecommunications networks, it is impossible to provide a fault free service and the quality of the Services depends on both the quality of the network to which you are connected and also on other telecommunications networks to which the person you are calling is connected. It is your responsibility (and not ours) to ensure that your equipment is in working order so as to enable the provision of our Services We may use whichever network(s) we consider appropriate to supply these services to you, and may change the network(s) we are using at any time and without notice provided this does not affect the price(s) which we are charging you. b) In the event you request assistance from us to program or reprogram any telecommunications equipment in your possession, and we agree to provide such assistance, we shall not be liable for any loss or damage as a result of any problems arising thereafter howsoever caused.
- c) We will use reasonable efforts to deliver and install any Equipment (or provide any new Services) on the agreed date. Any date specified shall not be a term of this Agreement but an estimated date only and may be subject to a site survey. We accept no responsibility for failure to meet the agreed delivery and installation date. All prices quoted to provide a new Service are subject to survey.
- d) We undertake to exercise reasonable care in the installation operation and maintenance of the Equipment. '
  - e) Upon notification of a fault by you, we will use reasonable efforts during normal working hours to rectify such faults provided that the fault has arisen from normal and proper use of the Equipment and Services. Where there is a network fault on any lines that we provide to you on the BT or any other network, we will use appropriate engineers to repair the fault within the timescales of your selected maintenance package. You agree to pay any charges we incur for the repair of any faults affecting your lines arising from your equipment or resulting from your negligence. In the event of a delay in repairing any network fault, our liability to you is limited to any compensation we may receive from BT or any other network provider in respect of that delay. f) In order to assist you in maximising your savings from using our Services, your signature on the Order Form or Verbal Agreement constitutes our authority to act as your agent in arranging for the transfer from BT or any other carrier(s) or network(s), to us of any line rental services requested with this Agreement and the implementation of carrier pre-selection on your phone lines (as requested by you in writing or verbally or subsequently requested by you to us) using whichever carrier(s) or network we may choose at our sole discretion from time to time, and accordingly to notify BT of such carrier(s) or network on your behalf if we deem necessary.
  - g) If you wish to transfer your line rental and/or numbers to or away from SCL it is your responsibility to provide SCL with a complete list of all numbers that are required to be ported, you will also be responsible (unless otherwise agreed in writing as part of this agreement) to cancel any lines services with your existing provider that are no longer required. SCL will not take responsibility for any losses due to line numbers that are deleted by the losing network provider which do not appear on the porting list at the time of the transfer/porting request. If at any time you choose to port your Line number(s) which can be made up of PSTN, ISDN, DDI SNDDI and VoIP line numbers away from SCL whether during or at the completion of the MCP, you will be liable for a porting out administration fee of £20 for each number required.
  - h) SCL does not warrant, represent, undertake or guarantee that:
    - (i) you will not be charged by your access provider for the conveyance of any call; and
    - (ii) your access provider will convey any call to the SCL Network.
  - i) You may request additional Services to be provided by us at any time by post, fax, email or telephone. fully Services provided by us pursuant to such a request will be subject to our standard terms and conditions in exactly the same way as if you had signed a new Order Form requesting the Service(s).
  - j) If you have applied for our line rental Service and you have a residential line, you will be charged our business line rental (and not residential) rates on that line.
  - k) Upon receipt of a telephone call addressed to the NGN allocated to you, we will use all reasonable skill and care to deliver it to the telephone number requested by you in your original Agreement (or as subsequently amended by you). We will use our reasonable endeavours to implement any change to the telephone number to which your calls are being delivered within three working days from receipt of a written request from you.
  - l) We may withdraw any NGN from you on thirty days' notice if it has not been used during a period of ninety consecutive days.
  - m) You will give us not less than thirty days' written notice prior to television or other mass market advertising of the NGN allocated to you, and provide us with a forecast of the expected number of calls. We shall use reasonable endeavours to route the forecast calls in full but we shall not be liable for any failure to route the telephone calls to your line provider, or their failure to route such calls to you.
  - n) We accept no responsibility for any costs or losses incurred due to any errors in issuing NGN(s) or any other telephone number. You are therefore strongly advised to test fully all new telephone numbers and NGN(s) and until you have done so successfully, if you use the number in advertising, on stationary or give the number to anybody or incur any other expenses, it is done so entirely at your own risk.
  - o) In the event you request us to provide additional routing features or any other Services in addition to our standard NGN service, we will use our reasonable endeavours to provide them. Any such additional features or Services may be subject to both an initial charge and an additional monthly line rental, and it may be necessary to change the NGN allocated to you to provide the additional features or Services you have requested.
  - p) It is unlikely, but we may need to change the NGN or any other number allocated to you from time to time, or to use a different network or carrier. SCL will not be liable for any costs you incur as a result of such a change. We will let you know if this is going to affect the Services and in such circumstances we will not be liable for loss of profits or' revenue, loss of use, lost business or missed opportunities, wasted expenditure or savings you might have made.
  - q) If you choose to port your NGN number(s) away from SCL we will charge you a porting out administration fee of £75 for each NGN.
  - r) If you have applied for our IPCall Service, we will act as your agent in transferring or connecting your line(s) to our Local Loop Unbundled 'LLU' network. CPS is not available to BT Basic or Virgin Media customers, or on lines connected to most LLU networks.
  - s) If you require an additional phone line(s) installation and/ or connection, charges may apply. If the new line(s) we provide is connected to an LLU exchange then you may be unable to use another company to supply you with a broadband service while retaining your line rental with us, you may also be unable to transfer the line to another supplier of landline telephony services.

#### 4. Charging and billing

- a) We will calculate your monthly invoice using the prices shown in our current price list for the tariff applicable to the Services you have requested.
- b) We reserve the right to increase or decrease our charges and/or introduce new charges from time to time. If we increase any of our charges (except in so far as may be necessary to reflect any increase(s) in the cost to us of providing line rental services and related services or changes in VAT or government legislation), and we believe that increase is likely to be to your significant disadvantage (i.e. an overall increase of more than 10% to the amount we are charging you) we will give you at least 14 days' prior notice, and in such circumstances you may cancel the Service to which the increase relates with immediate effect by notifying us before any increase takes effect. In all other circumstances, you will be notified of any price changes on your next monthly bill. Continued use by you of the Service beyond the 14 days' notice shall constitute acceptance by you of the price changes. Where we have installed lines free of charge and you wish to cancel that Service due to a price increase in line rental services you will need to pay a pro-rata percentage of the initial cost of providing that Service before this Agreement can come to an end.
- c) We reserve the right to make changes to these terms from time to time and/or to introduce new terms from time to time if there are changes to the law or amendments to the terms and conditions upon which we are able to obtain Services from the networks or carriers we are using or otherwise if we consider it necessary.
- d) Please note that the charges for the Services contained in your monthly statement will be calculated using data recorded by the carriers and networks which we use, and not from any data recorded by you. In the event of any dispute, the call data record from the carrier or network shall be deemed to be conclusive evidence of that call. You are responsible for all call charges for the Services, howsoever incurred, whether or not such calls were made with your authority or knowledge.
- e) We reserve the right to charge you for all costs incurred as a result of carrying out maintenance or repair work which in our reasonable opinion is a result of you not using the equipment in accordance with the manufacturers' or our instructions or is as a result of damage or abuse by you, or where your Equipment requires reprogramming as a result of abuse or negligence by you.
- f) SCL may set a credit limit on your account at anytime and require a deposit if you wish the credit limit to be increased. If we have reason to believe any amount due from you may not be paid, or if your call usage in any month is materially greater than any bill previously paid to us by you, we may ask for a reasonable, non interest bearing deposit to be used as security. Should you refuse to pay a reasonable deposit within the timeframe requested we may withdraw access to the Services. We will be able, at any time, to use this deposit to payoff any charges you owe us unless you have informed us of reasonable grounds for disputing such charges, in which case we shall provide reasonable justification prior to making any such deductions.
- g) Where we have received a deposit pursuant to clause 4(f) above, it will be returned to you on request once the period we have agreed to hold the deposit for has expired, provided that a satisfactory payment history has been established.
- h) Unless you have requested us to provide line rental services, you will still receive a regular bill from BT (or other existing carrier) for your line rental and any calls not routed on the SCL Network.
- i) If you are not an Eligible Business and have come to the end of the initial MCP and have not entered into a subsequent MCP, we reserve the right to transfer you onto our Standard Tariff until you either enter into a new MCP or terminate your service with us.

#### 5. Access to premises

You will ensure that we (or our representatives) have access to the premises where any relevant Equipment is sited or where it is necessary to enable us to arrange for any new lines requested by you to be connected to the BT network or any other network of our choosing, and provide any reasonable assistance we request. All work carried out at your premises is chargeable in accordance with our then current price list.

Please note that:

- i) we normally carry out work by appointment and during normal working hours. Occasionally we may ask to work at other times to ensure we provide the best possible service. You are not obliged to provide access outside normal working hours if you do not wish to do so;
- ii) if you request that we work outside normal working hours we may charge you a reasonable rate for any work we agree to carry out following any such request;
- iii) if we, or our representatives are unable to gain access to your premises for a pre-arranged appointment, you will be liable for a missed appointment charge; and
- iv) you must ensure at your own cost that a suitable electricity supply, if required, is within three metres of the proposed BT network termination point in your premises.

#### 6. Using the Services

- a) You will be responsible for the safe keeping and safe and proper use of any Equipment we have installed.
- b) You shall notify us immediately of any loss or damage to the Equipment and shall indemnify us for any such loss or damage.
- c) You agree to:
  - i) use the Services and Equipment in accordance with the Telecommunications Act 2003 (as amended) (the 'Act') and any relevant licences;
  - ii) use the Services and Equipment only as a means of communications for which they are provided;
  - iii) ensure your own equipment conforms with the standards required under the Act, is in good working order, and safe to our reasonable satisfaction; and
  - iv) inform us of any change(s) or proposed change(s) to your address, telephone or fax number(s).
- d) You agree not to:
  - i) connect any attachments other than those approved for use with the Services or Equipment under the Act; or
  - ii) contravene the Act or any relevant licences or laws; or
  - iii) use the Services as means of transmitting any material that is defamatory, offensive, or of an abusive, obscene, or menacing nature. e) Any telephone or other number(s) allocated by us in connection with the Service shall remain our property at all times. You will not be able to transfer them to another company at any time (either during the term of this Agreement or after it has terminated) unless we have agreed in writing, and no such transfer shall take place until all payments due under this Agreement have been received by us in full including any reasonable administration charges relating to the transfer of such number(s) as we may determine.

#### 7. Paying your bill

- a). You must pay to us the installation fee or programming fee where applicable, any monthly (or other periodic) line rental or inclusive call package charges (billed in advance or in arrears), the call charges (billed after the calls are made), the Minimum Commitment (see 7(i) and 7(n)) any other charges incurred in respect of the Services, with no right of set-off. Installation and programming charges must be paid prior to any work being carried out by us. All other fees and charges must be paid by you within 14 days of the date of any invoice. By giving us your bank details you are agreeing to pay all charges in connection with the Services by direct debit and authorising SCL to deduct each month sufficient funds from your nominated bank account to pay for the Services requested and/or used by you each month. In the event our request for payment is rejected due to insufficient funds or cancellation, you will be charged a £5 administration charge on your next monthly statement.
- b) All charges for our Services are set out in our current tariff which is available from us upon request. This may change from time to time and we shall write to you with details of any changes, or notify you of such changes on your monthly bill.
- c) We strongly recommend that you pay your bill by direct debit. We will consider accepting payment by other methods but we will then charge you each month an administration fee of the greater of £10 or 10% of the value of any bill not paid by direct debit, until such direct debit is put in place, unless we have agreed otherwise in writing.
- d) We may also collect any overdue payment from any debit or credit card whose details you have provided to us at any time in connection with the payment of any goods or services from us or otherwise.
- e) We may charge interest calculated daily at a rate of 3% above the then current base rate of Barclays Bank plc on any amount you fail to pay by the due date whether before judgement or after until we receive payment of that amount. You agree to pay any fees, including legal fees, or expenses reasonably incurred by us in collecting or attempting to collect any amount owed by you.

f) All calls are charged in increments of 1 second and rounded up to the nearest whole 1p or the minimum call charge if the cost of the call is below the minimum call charge. If you have selected a saver or sharer Call Bundle, this will only include calls to UK local and national geographic numbers (beginning 01,02,03). If you have selected a flex Call Bundle, this will include calls to UK local and national geographic numbers (beginning 01,02,03) together with calls to UK mobiles. The duration of each of these calls is rounded up to the next whole minute and deducted from your allowance; any inclusive minutes remaining at the end of the month are lost. Qualifying minutes which form part of the Call Bundle(s) selected by you are specific to the Calling Line Identity (CLI) they are applied to and cannot be shared across other CLIs on the account with the exception of sharer bundles which will be shared across all the lines on a single account, but allocated sequentially to each line in the order they were entered on our systems until all qualifying minutes have been used up. You can only add a single Call Bundle per telephone number (CLI), but you can have multiple Call Bundles on your account, although we reserve the right to restrict the total number of bundles for technical reasons if necessary. All calls outside, or in excess of, an inclusive Call Bundle will be charged at the then specified tariff. Call Bundle charges will be pro-rated during the first and last month.

g) You can ask us to change the inclusive Call Bundle relating to any telephone number at any time, but once a Call Bundle has commenced a Call Bundle must always remain attached to that CLI. Such change(s) will take effect from the start of the following calendar month. You will be charged a £10 administration fee for each change.

h) Where a Flex bundle is purchased, we reserve the right to cancel the selected bundle and charge all calls at the standard specified tariff if the percentage of minutes calling mobiles in any month is greater than 50% of the total volume of minutes in the selected bundle.

i) A minimum monthly call spend of £25 applies in respect of each monthly bill we produce unless you have selected a tariff for which a higher minimum monthly call spend is required or we have installed lines free of charge in respect of which a higher minimum monthly call spend is required (the "Minimum Commitment"). In the event your total call spend with us during any calendar month is less than the Minimum Commitment, you will be charged the amount of the Minimum Commitment instead of the lower actual cost of the calls you have made. Any Minimum Commitment will be calculated on a pro-rata basis in respect of the first and last month of this Agreement. j) If we have reasonable cause to believe any of your calls are not being routed on the SCL network, and if we are providing line rental services, we reserve the right to increase the price we charge you for the line rental services and other standing charges by 25% with immediate effect.

k) VAT (where applicable) will be added to all our charges, together with any other applicable taxes, levies or charges which may from time to time be introduced or varied.

l) If you wish to challenge an item on your bill, you must do so within three months of the date of the bill.

m) If any Service is disconnected due to non-payment, you will be responsible for any disconnection charges. Reconnection will be at our discretion and you will be responsible for all applicable reconnection charges.

n) where we have installed digital lines free of charge, you must meet the following Minimum Commitment call spend each month, or we will top up to this level:

1 off ISDN2 = £50 pm, 2 off ISDN2 = £100 pm, 3 off ISDN2 = £130 pm,

4 off ISDN2 = £150 pm, 1 off ISDN30 = £150 pm

## 8. Maintenance of your equipment

You will allow us (or an agent authorised by us) or arrange for your own maintenance engineer both at your own cost to reprogram your equipment if requested by us at any time in order to enable us to provide the Services in an efficient manner. In the event any necessary reprogramming is not carried out within 10 working days of your being advised by us of the need for such work to take place, we shall have the right to suspend the Services at our sole discretion and in such circumstances we will continue to charge you the average of the last three months full call charges until this Agreement is terminated by you on the later of the end of the MCP or 60 days' notice or if you are an Eligible Business the later of the end of the MCP or the next anniversary date of each Service. We will charge you for any maintenance or repairs you request.

## 9. Suspending the Services

a) Without prejudice to our other rights and remedies, we can suspend the provision of the Services immediately without telling you and without notice if:

i) we believe the Service is being used in an unauthorised way or for criminal activities or is in contravention of the Act and any other relevant licenses or for the transmission of any material which is of a defamatory, offensive, abusive, obscene or menacing nature; or

ii) you fail to pay any of our proper charges when due or commit a substantive breach of this Agreement; or

iii) your credit limit is exceeded; or

iv) we are aware or have reason to believe that this Agreement has been entered into fraudulently or we are satisfied that fraudulent or improper use of your equipment and / or the Service is taking place; or v) we have reason to believe that any amount due from you may not be paid; or

vi) if we are unable to establish a direct debit authority using the bank details you have provided to us at any time or

vii) your direct debit instruction is refused or cancelled; or

viii) you do anything (or allow anything to be done) which we think may damage or affect the operation of the networks; or

viv) there are reasons outside of our control.

b) In the above cases this Agreement does not come to an end and you are still liable for all monthly (or other periodic) charges including line rental charges due during any period of suspension. In certain of the above circumstances, all outbound calls may be routed directly to our overdue account team in which case you will hear an automated announcement advising you of the reason why your call could not be completed as dialled. If you have arranged call forwarding on your line, then we cannot accept responsibility for any loss or embarrassment caused to you in the event that someone calling your number also hears this message when their call is forwarded. Any stored voicemail greetings or messages may be lost.

c) If you are unable to use all of the services for a continuous period of three days because:

i) there is a technical failure of the SCL Network; or ii) they are being tested, modified or maintained; or iii) access is denied to us

then you will receive a credit against your monthly (or other periodic) charges, which will represent that part of the monthly (or other periodic) charges relating to the period of suspension. ftly such line rental credit is only payable in respect of the period commencing 48 hours after any fault has been reported to us by you and provided you continue to notify us no less frequently than 48 hourly thereafter until such time as the reported fault has been repaired.

## 10. Responsibilities and jurisdiction

a) This Agreement is governed by the laws of England where your principal address is located in England, Wales or Northern Ireland and by Scottish law where your principal address is located in Scotland.

b) We will be liable to you if our negligence causes death or personal injury.

In all other circumstances our maximum liability in respect of any incident or series of incidents under this Agreement is limited to £5000 in total and we will not be liable for loss of profits or revenue, loss of use, lost business or missed opportunities, wasted expenditure or savings you might have made.

c) There may be occasions when we are unable to provide the Services because of something outside our reasonable control. We will not be liable to you if that is the case, and if you choose to use an alternative carrier or network then we will not be responsible for that carrier's charges, and you will remain liable for any charges for Services from us pursuant to this Agreement.

d) We may take instructions from someone whom we have reasonable grounds to believe is acting with your permission. In such circumstances we will not be liable for any resulting loss, damage or inconvenience.

## 11. Miscellaneous

- a) You should use the address shown overleaf or on the last bill we sent to you (if different) as the address for any correspondence to us. If you need to send notice to us, you may do so in writing by registered post, by e-mail to the [support@sunleygroup.com](mailto:support@sunleygroup.com) or by telephone to 01992645040. Where notice is sent by email, acknowledgement or read receipt of such email will provide proof of service. We will always send important notices to you relating to our Services in writing, which may be printed on your monthly bill. Notices can also be delivered by hand or first class (or equivalent) post to the other's address as stated overleaf or subsequently notified to the other. If notices are sent by post, they shall be deemed to have arrived at their destination 48 hours after posting.
- b) We reserve the right to transfer this Agreement to any third party at any time whereas you may not transfer or assign this Agreement to anyone else unless we have agreed in writing beforehand.
- c) In the event that at any time a line provider (eg: BT) suspends or terminates telephony service to you, SCL shall have no obligation to notify you nor to continue to provide the Services in relation to that line.  
SCL at their sole discretion may change the carrier(s) or network provider being used to route your call traffic at any time and without notice.
- d) Failure by either of us to enforce our rights under this Agreement shall not prevent you or us (as the case may be) from taking further action. If either party waives a breach of the agreement that waiver is limited to that particular breach. If any part, term or provision of this agreement is held to be unenforceable, the validity or enforceability of any remaining terms will not be affected.
- e) We may share your information with credit reference agencies and other companies for use in credit decisions, for fraud prevention and to pursue debtors. Such agencies can share this information with their customers. In addition, we can pass these details to other people in relation to enquiries concerning the prevention and detection of crime or the apprehension or prosecution of offenders or as may be required by law or legal proceedings, and finally, unless you tell us otherwise, we may disclose your name, address and mobile phone number to third parties in order for them to operate a directory service.
- f) If you telephone us, or if we telephone you, your call may be monitored or recorded.
- g) We cannot be held responsible for the failure of any directory service to hold or include any of your telephone numbers.
- h) Your personal data will be securely held and will not be disclosed to third parties for their marketing purposes. Unless you have opted out on the Order Form or Verbal Agreement, we may however send you information about offers, products or other services we provide, or from other organisations which we believe may be of interest to you. We may contact you in future to give you information about any of our services, which we believe may save you money unless you have opted out as before.
- i) The Company or business named in this Agreement is the customer and legally responsible for all aspects of this Agreement, including payment of all liabilities and costs incurred. We will only take instructions from the named contact who has signed the Order Form (or is confirmed as the customer in the Verbal Contract) on behalf of the Customer or someone else who we have reasonable grounds to believe is acting with your permission or authority, and in such circumstances we will not be liable for any resulting loss, damage or inconvenience. By supplying a password or details of an additional named contact on the account to us at a later date, you are authorising us to disclose any information we hold relating to your SCL account to the additional named contact. You warrant that the person signing the Agreement is an authorised signatory on any bank accounts whose details are provided to us for direct debit purposes. You may request that we send your monthly invoices and correspondence addressed jointly to both yourself and the additional named contact if required.
- j) You may have the right to refer certain disputes to arbitration in accordance with arbitration procedures set up by the network operator under its license, details of which are available from us upon request.
- k) If requested by you at the time you entered in the Verbal Agreement or on your Order Form, we will register your telephone numbers with the Telephone Preference Service so you do not receive telemarketing calls at your premises.
- l) In the event that you move premises without informing us, you will remain liable for all charges associated with any Services being provided to that address until we have been properly notified that you are no longer occupying those premises. In such a case our Agreement does not come to an end and you are still liable for all monthly (or other periodic) charges including line rental charges due during each period. We also reserve the right to end any Service we have been providing to you, without notice, in such circumstances and we will not be liable for any resulting loss, damage or inconvenience. You will be liable for any associated charge if Services are ended under this clause.

### The Direct Debit Guarantee

This Guarantee is offered by all Banks and Building Societies that take part in the Direct Debit Scheme. The efficiency and security of the Scheme is monitored and protected by your own Bank or Building Society. If the amounts to be paid or the payment dates change, we will advise you of this in advance by at least five working days. If an error is made by SCL or your Bank or Building Society, you are guaranteed a full and immediate refund from your branch of the amount paid. You can cancel a Direct Debit at any time by writing to your Bank or Building Society. Please also send a copy of your letter to us.

## Contract Terms & Conditions for the supply of: INTERNET SERVICE PROVISION

These Terms and Conditions constitute an Agreement between you, the end user, and SCL. These Terms and Conditions apply to the use by you of on-line information, communication and other services provided by us and access to information and services provided by third parties (hereinafter the Service) and the use of the software program(s) (hereinafter Software) and any associated documentation which may be included in the delivery (hereinafter Accompanying Material) that you, the end user, are now taking into use. You should read these terms carefully. By using the Service, you will be deemed to have accepted and will be bound by these Terms and Conditions.

### 1. COMMENCEMENT AND DURATION OF THIS AGREEMENT

This Agreement commences on the date we accept your request to receive the Service (the "Commencement Date") and will continue for a Minimum Contract Period (MCP) as stated on your lease line network service agreement form and then indefinitely after the MCP has ended until terminated by either of us giving one calendar months notice in writing to the other. All Internet provisions and related services are subject to a Minimum Contract Period and commencement is subject to there not being any technical reason preventing us from providing the Service. You can only cancel your Internet service within the minimum contract period by paying in full the remaining monthly subscriptions/rentals applicable calculated up to the expiry of the contract ; thereafter, you may terminate at any time by giving us 30 days written notice.

### 2. THE SERVICE

- a) You must pay us all charges relating to your use of the Service from the Commencement Date in accordance with the provisions of Clause 4 below. You are responsible for providing a suitable PC, modem, router (if applicable) and any other items of hardware or communications equipment necessary to enable you to access the Service. Our Internet Services are only available to you if you have a valid contract for the use of a BT analogue direct exchange line (whether that is invoiced to you by BT or another service provider) which terminates on a master socket in your premises. Broadband may not be available on any extension sockets that you have installed. During connection of your broadband service, you may experience a temporary interruption to the normal voice service on your analogue line. You will only be able to use the broadband Service whilst the analogue line remains connected by BT and you are responsible for ensuring all charges relating thereto are paid to your BT line service provider.
- b) We are unable to guarantee that the Service will be available fault-free. If a fault occurs, you should report the fault by telephone, e-mail or in writing to the support service. We may suspend the Service, including for scheduled periods of downtime, where necessary for operational reasons such as repair, maintenance or improvement of the Service or because of an emergency. Except in the event of an emergency, we will try to give you as much notice as possible of any periods of downtime of the Service by posting a notice on the Portal or sending you an e-mail or by any other reasonable means. We will restore the Service after suspension as soon as we reasonably can.
- c) The provision of ADSL on a BT line in order to use one of our broadband Services is subject to a line test and survey. We can only provide Broadband Services in areas of the United Kingdom in which we are technically able and we will endeavour to provide the Broadband Service you have selected, however the speed may be affected at times due to contention or network congestion. If we cannot provide you with broadband, we will notify you as soon as possible. We may impose such restrictions on your use of our broadband Services as we may feel are appropriate at our sole discretion in order to maintain a high quality service to all our customers.
- d) You agree not to publish on or over the Service any information, software or other content which violates or infringes upon the rights of any others or which would be offensive, abusive, indecent, defamatory, obscene or otherwise unlawful, or would be considered offensive by an average person.
- e) We do not engage in the active screening of on-line material and will be entitled, but shall not be obliged, to edit or delete any information, software or such other content which you or any of your Designated Users may place on-line at any time at our sole discretion.
- f) You are solely responsible for evaluating the accuracy and completeness of any content that may appear on-line and the value and integrity of any goods and services offered by third parties.
- g) We do not generally monitor the content of information sent and received using the broadband Service, however we reserve the right to do so if necessary.

### 3. REGISTRATION FOR THE SERVICE AND SECURITY

- a) In order to register for the Service, set up an account and to designate authorised users of your account (herein "Designated Users") you must be, and you represent and warrant that you are, at least 18 years of age. You acknowledge that you are aware that areas accessible on or through the Service may contain material that is unsuitable for persons under eighteen (18) years of age and you agree to supervise usage of the Service by any minors who you permit to use the Service.
- b) You confirm and warrant that all the information supplied by you when you register for the Service is true, complete and accurate in all respects and you agree to notify us immediately of any changes to that information.
- c) You are responsible for ensuring that no unauthorised access is obtained to the Service through your account.
- d) You will be entirely liable for all activities conducted and charges incurred through your account whether by you or any of your Designated Users.
- e) In order to access the Service via ADSL you will be issued a unique user name and password.
- f) To establish additional email accounts, you will need to select your own email address(es) and password(s). You are responsible for the security and proper use of all these passwords and must take all necessary steps to ensure these passwords are kept confidential, used properly and not disclosed to unauthorised people.
- g) You must inform us immediately if you have any reason to believe that any password has become known to someone not authorised to use it or if any password is being or is likely to be used in an unauthorised way.

- h) If we have reason to believe that there is likely to be a breach of security or misuse of the Service we may change any or all of your passwords and notify you accordingly.
- i) If you forget any password, you may contact our Support Line by telephone. Subject to satisfying the security checks in operation, you will be given a new password to enable you to use the Service.

#### 4. PAYMENT

- a) All broadband monthly subscriptions are invoiced monthly in advance and commence on the date your broadband service is connected.
- b) If the broadband service we are providing has a limit on the amount of data you can download free of charge each month, and you exceed that free limit, then you will be charged for any excess data in accordance with our current published tariff. Any such chargeable data is payable monthly in arrears. Unless specifically notified to the contrary, fixed monthly charges will (where applicable) be incurred from the day on which the relevant service is made available for you to use. You must pay all charges within 14 days of the date of any invoice. Where a customer for the Service has an account with us for other Services, payment will be collected by direct debit or such other means as may be accepted by us at our sole discretion. New customers must supply their credit card details and we will collect all payments due in respect of the Service from the credit card details supplied unless we have agreed an alternative payment method with you.
- c) The charges for all our Services are set out in our tariff guide, available on request. This may change from time to time and we shall write to you with details of any changes, or notify you of such changes on your monthly bill.
- d) We strongly recommend that you pay for the Service by direct debit. We will charge you each month an administration fee of 10% of the value of each bill until such time as a valid direct debit is in place. If the amount of money in your bank of building society which covers your direct debit is not enough to meet your monthly payment, or if you cancel your direct debit or change to a new bank without notifying us, so that we have to send you a reminder or make another request for payment, we will make an additional administration charge of £15 which we will add to your next monthly bill or statement.
- e) If you owe us money and this is not paid when it should have been paid, a late payment surcharge of 1 % of the balance outstanding on your account will be added to your next monthly bill. In addition we reserve the right to pass on any costs that we incur in the collection of any overdue amount from you, including legal fees and/or agency charges.
- f) On registration for the Service (or at any time later on), we may set a credit limit on the amount of charges you may incur. As our billing system is not updated instantly when you use the Service, you may exceed the credit limit, but if this happens, you will still be liable for all charges.
- g) VAT (where applicable) will be added to all our charges

#### 5. VARIATION OF CHARGES AND TERMS

- a) We reserve the right to increase or decrease our charges and/or introduce new charges from time to time, and we will give you at least 14 days prior notice. If we increase our charges by more than 10% you may cancel this Agreement with immediate effect by notifying us before any increase takes effect.
- b) We reserve the right to make changes to these terms from time to time at our sole discretion. If such a change materially adversely affects the Service, you may terminate this Agreement immediately. c) We shall be entitled to change the number you dial to access the Service from time to time, or use a different network or carrier.
- c) We may discontinue or modify any aspect of the Service at any time, such modifications becoming effective immediately upon publication. Any material modification will be notified to you in writing. By continuing to use the Service following any such modification, you will be deemed to have accepted such modification.
- d) We may require you to change your Domain Names, URL or e-mail address and we may suspend the Service if we reasonably believe that any Domain Name, URL or e-mail address you are using is, or is likely to be, offensive, abusive, defamatory or obscene or otherwise in breach of any term of this Agreement.

#### 6. SUSPENSION OF THE SERVICE

We can suspend the provision of the Service immediately without telling you and without notice if:

- a) we believe the Service is being used in an unauthorised way or for criminal activities;
- b) you fail to pay any of our proper charges when due or commit a substantive breach of this Agreement;
- c) your credit limit is exceeded;
- d) we are aware or have reason to believe that this Agreement has been entered into fraudulently or we are satisfied that fraudulent or improper use of the Service is taking place;
- e) we have reason to believe that any amount due from you may not be paid; • if your direct debit instruction is refused or cancelled;
- f) you may not do anything (or allow anything to be done) which we think may damage or affect the operation of the Service; or
- g) there are reasons outside of our control. In the above cases this Agreement does not come to an end and you are still liable for any monthly charges in respect of any period of suspension. However, if you are unable to use the Service for a continuous period of 3 days because;
- h) there is a technical failure of the Service;
- i) they are being tested, modified or maintained; or
- j) access is denied to us

you will receive a credit against any monthly charge you have paid, which will represent that part of the monthly charge relating to the period of suspension.

## 7. ENDING OF THIS AGREEMENT

- a) Each Service is subject to an initial MCP of 36 months (unless you specifically agreed to an alternative MCP at the time you entered into the Verbal Agreement or you wrote the words "24 month minimum contractual period" in the special requirements section of the lease line network services agreement form, or if you are an Eligible Business and you agreed (in either case) to an alternative MCP, from the date on which it is made available to you, or the date of installation of the Equipment, whichever is the earlier, unless you have notified us that you have not received the Equipment or that the Equipment has not been programmed. The MCP applies independently to each Service being provided and/or items of Equipment covered by this Agreement. Once the MCP has been completed; if you are an Eligible Business this Agreement will automatically continue in respect of each Service for a subsequent MCP of 12 months at a time until terminated in accordance with clause (b) below, or b) if you are not an Eligible Business and have not entered into a subsequent MCP, this Agreement shall continue until terminated by you, by giving not less than 30 days' notice, or otherwise in accordance with clause (b) below. Upon ending of this Agreement whether because you have completed the minimum contract period. or either party has given notice for early termination under any terms contained in this agreement and in accordance with clause (b) below you will become liable to pay any outstanding monthly rentals and all monthly rentals that are due up to the expiry of the minimum contract period calculated by multiplying the monthly rental amount by the remaining term in months.
- b) You may end this Agreement immediately by writing to us if;
- we do not do what we have to do under this Agreement and fail to put it right within 7 days of being asked in writing to do so; or
  - the Service is permanently no longer available to you.
- We may end this Agreement immediately by writing to you if:
- you do anything (or allow anything to be done) which we reasonably believe may damage or affect the operation of the Service or you become bankrupt or make any arrangement with creditors or go into liquidation or become subject to an administration order or a receiver is appointed over any of your assets; or
  - you do not do what you have to do under this Agreement (e.g. your failure to pay charges) and do not put it right within 7 days of being asked by us in writing to do so; or
  - we are no longer able to provide the Service to you on a permanent basis; or
  - we are directed to do so by any competent authority.
- c) When this Agreement comes to an end you shall cease all use of the Service and destroy the Software, archival copy and Accompanying Material and confirm to us in writing that you have done so. If we terminate this Agreement with you and provided that you are not in breach of any of these Terms and Conditions we will repay to you the appropriate proportion of any usage charges for the Service which you have paid in advance.
- d) We offer a range of unlimited broadband services all subject to a minimum contract term of 36 months.  
On all these services we offer free connection and on the Basic Service a free ADSL modem or on Network Broadband a free 4-port router. You can only cancel this service within the minimum contract term by paying the full line rental up to the expiry of the contract; thereafter, you may terminate at any time by giving us 30 days written notice.
- e) Any equipment supplied by us to enable you to use the service (e.g. modems or routers) remain our property at all times and must be returned to us upon termination of this Agreement, unless originally purchased by you from us at its full unsubsidised retail price.
- f) There is a connection charge (currently £50) which is payable to BT in order to provide ADSL service on any BT phone line. Where this has been paid by us and you subsequently cancel broadband within the first twelve months, you will have to pay this connection charge to us, in addition to any early termination fee which may be payable.

## 8. INDEMNITY

- a) You warrant that:-
- your use of the Service will not violate any law, regulation or treaty and that such use will not be in breach of the intellectual property rights of any person; and
  - your use of the Service may only be for lawful purposes; and
  - you shall not use or authorise or permit anyone else to use the Service for any use that is prohibited by these Terms and Conditions; and
  - you warrant that you are entitled to use any trademark or name that you are seeking to use in any Domain Name(s) uniform resource locator (URL) or e-mail address.
- b) You shall indemnify and hold us harmless against all claims, liabilities, losses, damages, costs and expenses incurred or suffered by us (including, but not limited to claims in respect of defamation, breach of copyright or other intellectual property right infringement) by reason of a breach by you of any of your obligations set out in these Terms and Conditions.

## 9. LIABILITY AND EXCLUSIONS

- a) We shall be liable to you if our negligence directly causes death or personal injury. In all other circumstances our liability to you under this agreement is subject to a maximum of £5000 in any calendar year.
- b) Except as expressly provided in these terms and conditions and to the extent permitted by law we exclude all liability whether in contract, tort (including liability for negligence) or otherwise for the accuracy, suitability, quality or completeness of any on-line content and the value and integrity of goods and services offered by third parties.
- c) The Service allows you to access the Internet: The Internet is separate from the Service and use of the Internet is at your own risk and subject to any applicable laws or further terms and conditions. We have no responsibility for any goods, services, information, software or any materials you obtain using the Internet:
- d) We shall not be liable for any indirect or consequential damages whatsoever including, without limitation, damages or losses relating to business profits, lost savings, business interruption, loss of business information or data, or other pecuniary loss arising out of the use of the services, software or accompanying material, even if we or the other party or person has been advised of the possibility of such damages.



- e) There may be occasions when we are unable to provide the services, or the downstream and/or upstream bandwidth available to you may be reduced. We will not be liable to you if that is the case, and if you choose to use an alternative Internet service provider then we will not be responsible for that provider's charges.
- f) Email anti-spam and anti-virus is provided free of charge to all our broadband customers. Whilst we use all reasonable endeavours to keep these up to date, we are not liable for any loss or damage to customers' equipment, software or data due to any failure of these services or otherwise. We strongly recommend all broadband customers install a suitable firewall and ensure it is properly configured to prevent unauthorised access to your PC and/or network.

#### 10. COPYRIGHT

The content on the Service is protected as a collective work under applicable copyright law

- a) Except as expressly authorised on-line or in these Terms and Conditions, the copying, redistribution, or publication by you or any of your Designated Users of any such content is prohibited.
- b) Information, software or other content placed by you or any of your Designated Users in the public areas of the Service grants us the right to copy and otherwise use in connection with the Service, such information, software or other content. Subject to this grant any rights you may have in such information, software or other content are retained by you.
- c) Copyrighted material must not be placed on the Service without the permission of the owner(s) or person(s) they specifically authorise. Only the owner(s) or such authorised person(s) may upload copyrighted material to the Service.
- d) Except as expressly provided by copyright law, copying, redistribution, or publication must be with our express permission or the relevant copyright owner, if other than ourselves. Permission must be specified on-line or obtained directly from us or the relevant copyright owner, if other than ourselves.
- e) Unless otherwise provided, any authorised copying, redistribution, or publication of copyrighted material must be for your own private and personal use and not for any commercial purposes and any changes to or deletion of author attribution or copyright notices are prohibited.
- f) Downloaded software may not be reverse engineered unless specifically authorised by the owner of the software's patent and/or copyright.

#### 11 FORCE MAJEURE

Neither party will be liable to the other for any failure to deliver the Service or for any breach by it of this Agreement, where such failure or breach is due to a reason outside the reasonable control of such party, including, but not limited to, failure of a third party telecommunications provider, lightning, exceptionally severe weather, fire, explosion, war, riots, industrial disputes, acts of terrorism, government action or regulation or national or local emergency. If such failure to deliver continues for more than 3 months after the commencement of such failure, then either party may terminate this Agreement on notice in writing to the other party.

#### 12 MISCELLANEOUS

- a) We offer a range of unlimited broadband services all subject to a minimum contract term of 1 year.  
On all these services we offer free connection and on the Basic Service a free ADSL modem or on Network Broadband a free 4-port router. You can only cancel this service within the minimum contract term by paying the full line rental up to the expiry of the contract; thereafter, you may terminate at any time by giving us 30 days written notice.
- b) The first broadband USB modem on the Basic Service on each account is supplied free of charge (modems are only provided to customers migrating their broadband service to us if they are no longer able to use their existing modem). Any additional modems requested are subject to a charge of £19.99 each. Our USB modems are supplied with one free filter. Additional filters, (if requested) will be charged at £5 each on your next monthly bill.
- c) All broadband monthly subscriptions are invoiced monthly in advance and commence on the date your broadband service is connected
- d) There is a special helpline number 01992 645040 for all Internet related queries. Calls are charged at fixed national rates from a standard landline. The charge for calling this number from mobile phones varies and may be significantly higher. The helpline is open Monday-Friday, 8am-8pm (excluding bank holidays)
- e) We reserve the right to transfer this agreement to any third party at any time whereas you may not transfer this agreement to anyone else unless we have agreed in writing beforehand.
- f) You may request additional services to be provided by us at any time by post, by fax, by email or by telephone. Any services provided by us pursuant to such a request will be subject to our standard terms and conditions in exactly the same way as if you had signed a new application form requesting the service(s).
- g) Failure by either of us to enforce our rights under this agreement shall not prevent you or us (as the case may be) from taking further action.
- h) We will always send important notices to you relating to our services in writing, which may be printed on your monthly bill. You may send notices to us by post, by telephone, by email or by fax. If notices are sent by post, they shall be deemed to have arrived at their destination 48 hours after posting.
- i) If you telephone us, or if we telephone you, your call may be monitored or recorded.  
j) This document, our marketing literature and tariff booklet, together with the checklist (from the front) and the important information (on the reverse) of the customer application form, is intended to contain all the terms of the contract between you and us. If there is any difference between what anyone has told you and these terms and conditions, then these terms and conditions will prevail. In the event of any inconsistency between the various documents we have provided to you, then these terms shall prevail. Any alterations to our terms and conditions must be made in writing and signed by a director of SCL.
- k) Your data will be held securely and will not be disclosed to third parties for their marketing purposes.  
We may however send you information about offers, products or other services we provide, or from other organisations which we believe may be of interest to you. We may contact you in future to give you information about any of our services, which we believe may save you money unless you have informed us that you prefer not to receive this information.
- l) We may use the information held by credit reference agencies to help make credit decisions or for fraud prevention. We may disclose information about you and your account to credit reference agencies. Such agencies can share this information with their customers. In addition, we can pass these details to other people in relation to enquiries concerning the prevention and detection of crime or the apprehension or prosecution of offenders

or as may be required by law or legal proceedings.

- m) You agree to follow any reasonable instructions that we may give you about the services. This includes giving us access to your premises.
- n) You agree to look after any of our equipment in your premises. If you have not done so, and the equipment has been damaged, you will have to pay us for any repair or replacement
- o) We may take instructions from someone who we have reasonable grounds to believe is acting with your permission. In such circumstances we will not be liable for any resulting loss, damage or inconvenience.
- p) If any part, term or provision of these Terms and Conditions is held to be illegal or unenforceable, the validity or enforceability of the remainder of these Terms and Conditions will not be affected.
- q) The headings in these Terms and Conditions are inserted for reference only and shall not affect the interpretation of these Terms and Conditions.
- r) If either party waives a breach of this Agreement that waiver is limited to that particular breach.
- s) If you are a consumer, the terms of this Agreement will not affect any rights which you may have under any act of parliament and which cannot be excluded by Agreement. If you have any doubts about your statutory rights, please contact your local Trading Standards department or Citizens Advice Bureau.
- t) This contract is governed by the laws of England where the customer's home address is located in England, Wales or Northern Ireland, and by Scottish law where the customer's address is located in Scotland.

# Contract Terms & Conditions for the supply of: SYSTEM SUPPORT AND MAINTENANCE SERVICES

These Terms and Conditions constitute an Agreement between you, the end user, and SCL. These Terms and Conditions apply to the use by you of SCL's engineering support and site maintenance service, communication and other services provided by us and access to information and services provided by third parties (hereinafter the Service) and the use of the software program(s) (hereinafter Software) and any associated documentation which may be included in the delivery (hereinafter Accompanying Material) that you, the end user, are now taking into use. You should read these terms carefully. By using the Service, you will be deemed to have accepted and will be bound by these Terms and Conditions.

## 1. DEFINITIONS

In these Terms and Conditions:

Agreement means any agreement made subject to the Terms and Conditions laid out herein and on SCL websites. MCP means Minimum Contract Period, the fixed contract period you entered into. Company means Sunley Communications Limited, whose registered office is at The Mearns, 6 Flamstead End Rd, Cheshunt, Hertfordshire, EN8 0HH. Customer means any person or organisation with whom the Company enters into an Agreement subject to these Terms and Conditions. Contextual references to his/her/it's or he/she/it within these Terms and Conditions are references to the Customer. Customer Content means any programming, software, coding, graphics, files or scripts, WAV recordings located within the web space or voice & data systems allocated to the Customer by the Company as part of the Service. Service/Support means services described on the Company's website and in current Company literature, together with such Value Added Services as may be provided by the Company to the Customer. Service Commencement Date means the date identified as the delivery date on the Company invoice to the Customer. Domain Name means the unique name registered by the Company. To avoid confusion, an example of a domain name in use as a website address is: [www.sunleygroup.com](http://www.sunleygroup.com) and an example of a domain name in use for e-mail is: [support@sunleygroup.com](mailto:support@sunleygroup.com). PSTN Telephone numbers are unique public telephone numbers provided for use with some Company Services. User name means such sequence of alpha numeric characters as are used from time to time by the Customer to identify himself to other users of other computers to which the Company is from time to time connecting or otherwise forwarding data to and from the Customer. Internet Address means such sequence of alpha numeric or numeric only characters as are used from time to time by the Customer to identify himself and or his/her computer or computers to other users of other computers to which the Company is from time to time connecting or otherwise forwarding data to and from the Customer. Password means the alpha numeric characters chosen and used exclusively by the Customer at his/her own risk for the purpose of securing and maintaining the exclusivity of his/her access to the Company's service. fixed monthly support fee's means fixed charges made on a monthly bases made by the company in relation to the ongoing support & maintenance of the customers Voice and/or Data network. Out of Scope means works for the supply installation of any products and/or services delivered to the customer that are not covered under the monthly support & maintenance fees.

### 2.. About this Agreement

2.1 This Agreement replaces any other oral or written agreements we have with you for the Services or Equipment. Any alterations to this Agreement must be made in writing and signed by a director of SCL.

### 2.2 The Equipment

All Equipment supplied under this Agreement shall at all times remain our property. You may not remove or alter any identification mark on or interfere with any Equipment nor may you hold yourself out as or infer that you have ownership, interest or rights in any Equipment. If you lose, damage or otherwise fail to return any Equipment upon termination of this Agreement, you will have to pay SCL the cost of replacing any such Equipment.

### 2.3 Duration

System Support & Maintenance Service is subject to an initial MCP of 36 months (unless you specifically agreed to an alternative MCP of 12 months at the time you entered into the Verbal Agreement or you wrote the words "12 month minimum contractual period" in the special requirements section of the Order Form), or if you are an Eligible Business and you agreed (in either case) to an MCP of 36 months, from the date on which it is made available to you, or the date of installation of the Equipment, whichever is the earlier, unless you have notified us that you have not received the Equipment or that the Equipment has not been programmed. The MCP applies independently to each line and/or telephone number in respect of which the Service is being provided and/or items of Equipment covered by this Agreement. Once the MCP has been completed;

a) if you are an Eligible Business this Agreement will automatically continue in respect of each Service for a subsequent MCP of one year at a time until terminated in accordance with clause 2.4(b) below, or b) if you are not an Eligible Business and have not entered into a subsequent MCP, this Agreement shall continue until terminated by you, by giving not less than 90 day's notice, or otherwise in accordance with clause 2.4(b) below.

### 2.4 Ending this Agreement

a) You may cancel any Service without penalty by notifying us at any time prior to such Service becoming available to you.

b) You may end this Agreement for any location at any time (subject only to you having completed the agreed initial MCP, or if applicable, a subsequent MCP, for the site/location you wish to terminate) by giving us not less than 90 day's notice, (provided that if you are an Eligible Business such notice must expire on the anniversary of the date on which the applicable service for that site location was first made available to you), and paying any outstanding, invoices for works done outside of the maintenance agreement, standing charge(s). Under such circumstances we will not make any charges for cancellation. For the avoidance of doubt the Agreement will remain in place for any company site/location in accordance with the provisions of clause 2.3 above. However you will be responsible for any costs you incur in reprogramming your equipment, the cost of any engineering call outs made for you on the after the end of this Agreement howsoever arising and the cost of returning any Equipment which we supplied to you under this Agreement.

c) We may end this Agreement if any licences you have to run your telecommunications equipment, or connect it to our Services, are amended or cease to be valid.

d) Either party may end this Agreement if:

i) the other breaks the terms of this Agreement and, after written notice, does not remedy the breach within 14 days; or

ii) the other is unable to pay its debts as stated in section S123 of the Insolvency Act 1986 (or any subsequent amendments); or

iii) a liquidator (or other professional relevant to bankruptcy) is appointed to manage all or some of the others assets or operations (other than for the purpose of amalgamation or reconstruction); or iv) the other enters into an arrangement or composition with its creditors; or

v) a court or creditor appoints a receiver, administrator, or makes a winding up or bankruptcy order against the other.

e) Upon termination of this Agreement all Services may be ceased without notice.

f) If any Services forming part of this Agreement are terminated by you for any reason other than validly in accordance with clauses 2.4(a) or 2.4(b) you will:

i) reimburse SCL for all costs incurred by us in transferring your Services to us and/or subsequently incurred as a result of the termination in transferring your Services to another service provider; and

ii) pay SCL the standard engineering rate and other charges (eg: remote programming, project management) from the date of termination up until the end of the MCP or expiry of 60 days' notice, whichever shall be the later, or if you are an Eligible Business up until the end of the MCP or the next anniversary date of the Service(s) as applicable, whichever shall be the later; and

iii) if no other Services remain live on this Agreement, pay a single lump sum amount in respect of the remaining period of this Agreement up until the end of the MCP or expiry of 60 days' notice which ever shall be the later or if you are an Eligible Business up until the end of the MCP or the next anniversary of each Service, whichever shall be the later, calculated by taking the average of the last full three months spend based on SCL's invoices to you for any telecoms related services, multiplied by the number of full months remaining.

### 2.5 Exclusive supply

For the duration of this Agreement you are not entitled to use any other service provider to which this Agreement relates. In the event we become aware that you are doing so, we shall be entitled at our discretion to apply a surcharge of £100 per month to the cost of each location we are supplying under this Agreement. The Company reserves the right to refuse any application for the Service.

## 3. THE SERVICE

3.1 SCL support & maintenance service Contracts cover provides You with the advice and labour (whether remote or on-site as specified in your contract) involved in determining and fixing faults, whether caused by hardware, software or user.

3.2 Should a fault be hardware failure we will not charge You for any part(s) replaced if itemised as covered in the maintenance schedule, and all engineering time related to the hardware replacement and if required system rebuild. Where possible, we will attempt to replace parts with identical units but reserve the right to use compatible parts where identical parts are unavailable. Standard charges will apply for part(s) & labour should the system fault be deemed to have been caused by any un-authorised engineering access to the system administration terminal, by the client or any third party, failure or damage caused by any hardware/software not specified on the maintenance schedule, or a system failure caused by external power failure or/and surges.

3.3 Our ability to fix a problem may from time to time be limited to the quality and build of the hardware or software in use on Your System; at which point we will investigate and discuss alternative solutions with You. Where non-Microsoft software requires our support, we will help where we can, but You will be expected to have third party support in place for either You or The SNS to liaise with where necessary.

3.4 We will not service any equipment that is still under any non-SCL warranty unless given authority to do so by You. Any valid warranty claim is Your sole responsibility, not SCL.

3.5 SCL service support contracts do not include the supply, installation or configuration of any new hardware or software not already in use on the contract start date.

3.6 This Agreement shall remain in force for the minimum term as stated on this support & maintenance agreement overleaf, from acceptance of the Customer's application, being the date on which the company's order form was signed by the Customer or the date on which the Customer notified his/her agreement with and acceptance of these Terms and Conditions while completing the Company's ordering form procedure.

**4. CHANGE OF USERNAME, INTERNET ADDRESSES AND PASSWORD**

The Company shall have the right from time to time to change the Customer's allocated Username, Internet Addresses and or Password for the purpose of network maintenance, enhancement, modernisation or other work deemed necessary to the operation of the Internet.

**5. PAYMENTS**

5.1 Charges for the support services shall be paid by the Customer to the Company in advance annually, quarterly or monthly unless any other payment method has been agreed in writing between the Company and the Customer or as detailed on the Service contract order form.

5.2 Voice call charges will be billed monthly and in arrears. Failure to pay a call charge invoice within 31 days of receipt will result in termination of inbound and outbound voice services. The Company retains the right to permanently cease its services to the Customer after failure to pay for the services provided to the Customer and retain ownership of inbound 001 numbers.

5.2 The Company reserves the right to vary from time to time all charges for the Service with one month's notice to the Customer.

5.3 All payments shall be due to the Company net on presentation of invoice unless otherwise specified on the invoice or in writing from the Company to the Customer. Invoices will be presented to the Customer on or before their due date, with the exception of invoices for any set-up fees which are due in advance of any service provision or number registration charges which are due immediately at the time of registration.

5.4 Invoices will be presented by electronic mail to the e-mail address given in the Agreement, or in writing and delivered by Royal mail post to the relevant address given in the Agreement or to such e-mail address or postal address as the recipient may have notified to the Company. 5.5 Interest payable on demand whether before or after judgement shall accrue from day to day on overdue amounts at the rate of 5% above Barclays Bank PLC base rate + VAT if applicable. ...

5.6 Payments made other than by Direct Debit shall incur an administration and handling fee of £2.00 per month.

**6. USAGE AND ACCEPTABLE USE POLICY**

The Customer hereby agrees to:

6.1 Refrain from transferring any illegal material to or from other users of the Service and the other privately owned and operated services to which the Company may from time to time provide access.

6.2 Refrain from sending and from causing, allowing or enabling to be sent, any menacing, offensive, abusive or annoying messages whilst using the Service via the Company or any other ISP.

6.3 Refrain from sending and from causing, allowing or enabling to be sent, any bulk or mass unsolicited commercial e-mail messages (UCE), colloquially referred to as SPAM, or SPAM over Internet Telephony (SPIT) whilst using the Service via the Company or any other ISP.

6.4 Not divulge their password to any third party and use all reasonable endeavours to keep the same confidential and inaccessible to third parties.

6.5 Keep the Company informed of any change to the Customer's address and other such information as may affect provision of the service or payment of charges due.

6.6 Immediately cease to use and return any Internet Addresses allocated by the Company to the Customer on termination of this Agreement.

6.7 Not to announce by any means any or all Internet addresses allocated to or by the Customer as part of an Autonomous System. Customers hosting on shared servers who submit their site to such autonomous systems agree to pay a fee of £295 + VAT per month, or be responsible for any direct costs that are incurred by the Company as a result, whichever is the greater.

6.8 Not to use or permit the usage of the service in an unlawful manner or in contradiction of any published legislation or regulations or Codes of Practice governing or relevant to the Internet or PSTN.

6.9 To recognise this clause (Clause 6) and its associated sub-clauses as the Company's Acceptable Use Policy.

6.10 To include the above restrictions in any or all of the Customer's on selling conditions using the Company's service.

**7. EQUIPMENT**

7.1 Leased, rented or loaned equipment from the Company shall at all times remain the property of the Company.

7.2 The Customer agrees to maintain, at the Customer's expense, during the entire time this Agreement is in effect. comprehensive SCL or SNS General Liability Insurance for any leased, rented or loaned equipment supplied by the Company.

**8. LIABILITY**

8.1 To the extent permitted by the applicable law, the Company shall not be liable for any loss or damage howsoever caused, including:

a) Economic loss, including loss of profits, business revenue and goodwill.

b) Any claim made against the Customer by another third party.

c) Any loss or damage to the Customer caused by or arising from any act or omission of the Customer, any Value Added Service supplier or any other Customer, client or person.) Any loss or damage caused as a result of force majeure, Act of God or otherwise beyond the Company's control.

8.2 The Company's total liability for any loss or damage suffered by the Customer shall not exceed the lesser of £500 or the aggregate of all charges paid by the Customer for the Service supplied in the period beginning on the Service Commencement Date or its anniversary to the date when the event giving rise to the claim occurs.

8.3 Neither party excludes or limits its liability to the other for death or personal injury resulting from the proven negligence of either party, its employees or agents.

**9. CHANGES TO THE SERVICE**

If any Network Operator or third party supplier shall discontinue the provision Data services or other supply to the Company, or shall alter by modification, expansion, improvement, maintenance or repair of the data services or other supply, or any part thereof, provided to the Company, the Company shall be entitled to discontinue, alter, modify, expand, improve, maintain, repair, suspend, disconnect or otherwise change the Services as necessary.

**10. SUSPENSION**

The Service may be suspended by the Company without notice and without prejudice to the company's Rights of Termination under Clause 11 if:

10.1 the Customer fails to make any payment to be made to the Company on its due date for payment.

10.2 the Customer breaches any of the conditions in Clause 6 (Acceptable Use Policy)

10.3 the Customer does or suffers anything to be done which jeopardises the service or any network to which it is from time to time connected.

10.4 the Customer's credit limit (if applicable) has been exceeded or if the Customer is otherwise in breach of these Terms and Conditions. 10.5 No such suspension shall affect the liability of the Customer to pay charges and other amounts to the Company and, without limitation, the charges for Services will continue to accrue. During suspension the Company reserves the right to refuse to release the Customer's Internet Address or PSTN telephone numbers as issued by the Company.

**11. WARRANTIES**

11.1 Company Warranty. The Company represents and warrants that the Company has the power and authority to enter into and perform its obligations under these Terms and Conditions and under any Agreements incorporating these Terms and Conditions.

11.2 Customer Warranties. The Customer represents and warrants that: a) Customer has the power and authority to enter into its obligations under these Terms and Conditions and under any Agreements incorporating these Terms and Conditions

b) Customer Content, voice or data, does not and shall not contain any materials, advertising or services that are inaccurate or that infringe on or violate any applicable law, regulation or right of a third party.

11.3 Disclaimer of Warranty. The company (nor its licensors) does not make any warranties hereunder, expressed or implied and disclaims and excludes the implied warranties of merchantability and fitness for a particular purpose, usage of trade and course of dealings. The customer acknowledges that the hardware & support services are provided "As Is" and the customer understands that he/she assumes all risks regarding use, quality and performance (including without limitation in connection with uninterrupted access to services). Without limiting the foregoing, the customer Specifically acknowledges that service may Periodically be unavailable due to servicing, maintenance or other .

## 12. TERMINATION

12.1 By the Customer. The Customer may terminate this Agreement after completion of the minimum term by giving 3 month's written notice, which may expire at any time after from the initial date of commencement of service. If termination notice is not given by the customer in accordance with the terms herein on or before the expiry date of the minimum term then it is deemed by the company that the customer wishes to enter into an additional agreement equivalent to the initial minimum term as stated on the support & maintenance agreement. E-mail notification will not be accepted as notice of termination of Agreement.

12.2 By the Company. The Company may terminate this Agreement at any time and without notice:

a) if the Customer commits any breach of this Agreement including but without limitation non-payment of invoices for the Service.

b) by at least 1 month's written notice to the Customer.

12.3 The Company reserves the right to invalidate any Customer's User name, Internet Address or PSTN telephone number issued to the Customer following termination of this Agreement.

12.4 No refund of payments will be made to the Customer upon termination of the Agreement by either the Company or the Customer

12.5 The Customer shall at his/her own cost return to the Company all equipment cables and literature belonging to the Company within 5 days of final completion of the agreement and ensure that it arrives in good working order.

## 13. RIGHTS OF TERMINATION

13.1 Termination of the Agreement shall not affect any pre-existing liability of the Customer or affect any right of the Company to recover damages or pursue any other remedy in respect of any breach by the Customer of the Agreement.

13.2 On termination of the Agreement the right to the use of the Internet IP Addresses or PSTN telephone numbers allocated by the Company shall revert to the Company except where specific agreement has been reached in writing between the Company and the Customer for the transfer of the Internet Addresses or PSTN telephone numbers and the fee or other payment required by the Company in connection with such transfer has been paid by the Customer in addition to transfer fee detailed in clause 14.

13.3 In the event of termination of the Agreement by the Company on account of any breach of the terms and conditions thereof by the Customer, the Company shall be entitled to the balance of all support & maintenance charges which, but for such termination, would have accrued due up to the earliest date on which the Agreement would have been terminated by the Customer in accordance with the terms hereof.

13.4 In the event of termination of the Agreement by the Customer which is deemed by The Company to have been terminated by The Customer without proper notice or completion of the minimum term as applicable in clause 12.1) The Company shall be entitled to charge the balance of all fixed monthly support fee's which, but for such termination, would have accrued due up to the earliest date on which the Agreement would have been terminated by the Customer in accordance with the terms hereof.

13.5 In the event of termination of this agreement by the Customer which is deemed by The Company to have been terminated by The Customer without proper notice or completion of the minimum term as applicable in clause 11) The company shall also be entitled to make a charge based on the average of any charges made for "out of scope" works under this Agreement averaged over the previous 6 month or the total period dated back to the start of this agreement, whichever ever the less period, for which accurate invoice figures will have been recorded and then multiplied by the unexpired term left to run, to compensate for unexpired additional "out of scope" support charges to include but not limited to the supply, installation of any equipment, software or support services provided to The Client that would of accrued due up to the earliest date on which the Agreement could have been terminated by the Customer in accordance with the terms hereof.

## 14. USERNAME, DOMAIN NAME, INTERNET ADDRESSES AND PSTN TELEPHONE NUMBERS

14.1 The Company shall not be requested or required to release the User name, Domain Name, Internet Addresses or PSTN telephone numbers used by the Customer and may refuse to do so until this Agreement has been lawfully brought to an end and all sums due hereunder have been received by the Company, and the Customer has complied with all his/her obligations hereunder. Should the Company agree to Transfer of a Domain Name a £50.00 + VAT transfer fee which will be required to be received by the Company before the transfer is initiated. Should the Company agree to Transfer of PSTN telephone numbers a £100 + VAT per number or complete 001 range which will be required to be received by the Company before the transfer is initiated.

## 15. NOTICES

15.1 Any notices under or in connection with this Agreement shall be in writing and shall be delivered by Royal mail post to the relevant address given in the Agreement or to your email address via electronic mail.

15.2 Suspension notices for non-payment of Charges will be deemed as delivered by electronic mail to the e-mail address, or by facsimile to the relevant facsimile number, given in the Application or to such e-mail address or facsimile number as the Customer may have notified.

15.3 Any notice shall be duly given, if given by pre-paid first class mail, at the expiration of 48 hours after the envelope containing the same shall have been posted. In proving such service it shall be sufficient to prove that delivery was made or that the envelope containing such communication was properly addressed and posted as a pre-paid first class letter.

## 16. EXPENSES OF THE COMPANY

The Customer shall pay to the Company all costs and expenses (so that any legal fees shall be based on an indemnity basis) incurred by the Company in enforcing any of these Conditions, or exercising any of its other rights and remedies under the Agreement, including (without prejudice to the generality) all costs incurred in tracing the Customer in the event that legal processes cannot be enforced at the address last notified to the Company.

## 17. NON-WAIVER

The allowance of time to pay or any other indulgence by the Company in respect of payments due to it shall in no manner affect or prejudice the Company's right to payment together with interest provided under these Conditions.

Sunley Communications Ltd Sunley Network Solutions Ltd

## 18. INVALIDITY

If this Agreement or any part thereof shall be adjudged for any reason to be void, unenforceable or ineffective but would be adjudged to be valid, effective and enforceable if part of the wording were deleted or a provision were reduced in scope, this Agreement shall continue with such modifications as may be necessary to make its provisions (or if such be the case its remaining provisions) valid, effective and enforceable.

## 19. CONFIDENTIALITY

Each party hereto undertakes to the other that it shall keep, and shall procure that its directors and employees shall keep, secret and confidential and shall not use or disclose to any other person any information or material of a technical or business nature relating in any manner to the business, products or services of the other party which the first party may receive or obtain in connection with or incidental to performance of this Agreement, provided that:

19.1 the first party shall not be prevented from using any general knowledge, experience and skills not treated by the other party as confidential or which do not properly belong to the other party and which the first party may have acquired or developed at any time during this Agreement

19.2 the first party shall not be prevented from using the information or material referred to above to the extent such information or material comes into the public domain otherwise than through the default or negligence of the first party;

19.3 notwithstanding the above, either party shall have the right to communicate any information concerning the other party to any Government department or body or other authority established by statute or under subordinate legislation, where such information is required by law or is otherwise properly required under a regulation or a Code of Practice.

## 20. ASSIGNMENT

Neither party shall assign or transfer any of its rights or obligations under this Agreement save that the Company may assign to an Associated Company on notice.

## 21. CLAUSE HEADINGS

Clause headings are for ease of reference and are not part of this Agreement and accordingly shall not affect its Conditions.

## 22. OTHER PRINTED OR STANDARD CONDITIONS

All services are provided on the foregoing conditions which constitute the entirety of the Agreement to the exclusion of any other terms and conditions and no agreement, terms or conditions contained in any document sent by the Customer to the Company shall be of any effect with respect to the Agreement unless expressly accepted by a duly authorised officer of the Company in writing. The Customer acknowledges that the Customer has not relied on and shall not be entitled to rescind the Agreement or to claim damages or any other remedy on the basis of any representation, warranty, undertaking or statement which is not set out in these Conditions including any representation made by or on behalf of the Company in relation to the Service which has induced the Customer to enter into this Agreement with the Company.

## 23. VARIATION

The Company reserves the right to vary these terms and conditions as a result of changes required by its insurers, operational or administration problems, new legislation, statutory instruments, Government regulations or licences. These Conditions may not otherwise be varied or waived except by express written agreement between both parties.

## 24. SERVICE LEVEL GUARANTEE

24.1 The Company warrants that its voice services shall be available at a level of 99.7% per year. This warranty excludes:

a) Failures of local or third party circuits between the Company's network and the Customer's network.

b) Failures of network / equipment not operated by the Company.

c) Failures of network / equipment operated by the Customer.

24.2 In the event of suspension of service due to a technical fault in the network, force majeure or act of God, the Company will use all reasonable endeavours to resume service with minimum delay but will not be responsible for loss suffered by the Customer.

24.3 The Company may suspend the service from time to time for necessary technical reasons and network upgrades outside the 99.7% warranty as above provided that:

a) 12 hours notice via the Company's web site or e-mail has been given to the Customer

b) the period of suspension is not more than two hours

c) the time a suspension may occur is usually and where possible chosen to be between 0000 hours and 0600 hours local time.

24.4 Should the level of service not conform to the Service Level Guarantee, the Company will provide a credit to be offset against the next subsequent invoice to the Customer for the Service. No such credits shall apply or shall be valid if there should be any breach of this Agreement by the Customer.

## 25. DISTANCE SELLING

You have the right to cancel your order within 7 days under the distance selling laws of the UK and receive a full refund of any monies paid. If you wish your order to be actioned within these seven days it will be taken that you agree to waive this right. If you wish to enforce this right and have your order actioned after 7 days please notify us when placing your order. By accepting these terms and conditions and not notifying us that you wish your order to be actioned after 7 days you are waiving your right to a full refund within the 7 day period. If there is not a place on the order form to notify us please email [info@sunleygroup.com](mailto:info@sunleygroup.com) stating your wish not to waive this right.

## 26. ASSIGNMENT AND SUB-CONTRACTING

26.1 We may assign the contract with you or sub-contract the whole or any part of the performance of the services to any person, firm or company without your prior written consent.

26.2 You shall not assign or delegate or otherwise deal with all or any of your rights or obligations under the contract without our prior written consent.

## 27. APPLICABLE LAW

These Terms and Conditions constitute a binding document. The Customer should read them carefully and ensure that they contain everything he/she wants and nothing he/she/it is not prepared to agree to. These terms and conditions constitute the entire agreement between the Customer and the Company for the provision of the Service as provided by the Company and listed on the Company website [wvn.voiceflex.com](http://wvn.voiceflex.com) and supersede all prior agreements, understandings and representations whether oral or written.

This agreement is subject to the laws of England under the jurisdiction of the Courts of England and any alteration to part of the agreement shall not invalidate the remainder. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provision shall be enforced to the maximum extent permissible and the remaining portions of this Agreement shall remain in full force and effect.