

**THIS SERVICES AGREEMENT is made this day DD MMM YYYY**

**BETWEEN**

- 1 **XXX** a Company registered in England under number NNNNNNNN whose registered office is at XXX (hereinafter known as the "**Company**"); and
- 2 **Comm21 Ltd** a company registered in England and Wales under number 05671321 whose primary place of business is at The Belfry, Solent Business Park, Fareham, Hampshire. PO15 7FJ (hereinafter known as the "**Supplier**").

**WHEREAS:**

- A. The Supplier is engaged in the business of providing Services in relation to telecommunications services, including but not limited to telephone systems, calls and lines, VoIP, Wi-Fi, mobile airtime contracts and devices, call recording and managed video conferencing services and has reasonable skill, knowledge and experience in these fields.
- B. In reliance upon that skill, knowledge, and experience the Company wishes to engage the Supplier to provide certain services to customers of the Company, and the Supplier has agreed to accept the engagement on the terms and conditions of this Agreement.

**NOW IT IS HEREBY AGREED** as follows:

**1. Definitions and Interpretations**

1.1 In this Agreement where the context admits:

<b>"Commencement Date"</b>	means the date on which this Agreement comes into force pursuant to Clause 5 below;
<b>"Confidential Information"</b>	means information which is secret or confidential relating to any person, firm or Company or to the business or personal affairs of any person firm or Company and includes without limitation information relating to the costs of operation or production costs or sales pieces or purchase costs of any goods or services (other than information about costs or prices contained in any published price list), sales volumes, names and addresses of all former & existing customers, and any trade secrets;
<b>"Customer Service Agreement"</b>	means the contract between the Supplier and the Company or End User for the provision of Services, the cost, duration and Service Level Agreement applicable to those Services, attached hereto as Schedule B
<b>"Effective Date"</b>	means the date on which the Services commence and User Licences and Site Licences are chargeable pursuant to Clause 4 below and as shown in the Customer Service Agreement (CSA);
<b>"End User"</b>	means a person to whom the Company resells Services ;
<b>"Initial Order"</b>	means the orders from the Company to the Supplier for the Services and Service Installation as set out in the Solution Supply Agreement (Appendix C) and/or the Network Services Agreement (Appendix D).

<b>"Intellectual Property"</b>	means patents, trademarks, service marks, rights (whether registered or unregistered) in any designs, applications for any of the foregoing, trade or business names and copyright;
<b>"Period Service Fee"</b>	means the charges for the Services set out in the CSA.
<b>"Premises"</b>	means such Premises as may be notified from time to time by the Company to the Supplier and accepted by the Supplier;
<b>"Restricted Information"</b>	means, in relation to either party, information which is disclosed to that party by the other party pursuant to or in connection with this Agreement (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such).;
<b>"Services"</b>	means the services to be provided by the Supplier to the Company or End User as summarised in the Service Schedule attached hereto as Schedule A and detailed in the Customer Service Agreement attached hereto as Schedule B;
<b>"Service Installation"</b>	means project set-up, including but not limited to Professional Services and hardware and software installation, required to install and configure the Services;
<b>"Supply Agreement"</b>	means the list hardware and software provided by the Supplier to the Company or End User including the cost, delivery and payment terms attached hereto as Schedule C;
<b>"TUPE Regulations"</b>	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as may be amended from time to time).

1.2 Unless the context otherwise requires, each reference in this Agreement to:-

- 1.2.1 "writing", includes a reference to any communication effected by electronic mail, facsimile transmission or similar means;
- 1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
- 1.2.3 "this Agreement" is a reference to this Agreement and each of the Schedules, as amended or supplemented at the relevant time;
- 1.2.4 a Schedule or an Appendix is a schedule or appendix to this Agreement
- 1.2.5 a clause or paragraph is a reference to a Clause of this Agreement or a paragraph of the relevant Schedule

1.3 In this Agreement:-

- 1.3.1 any reference to the parties includes a reference to their respective personal representatives, heirs, successors in title and permitted assignees;
- 1.3.2 any reference to a person includes any body corporate, unincorporated association, partnership or any other legal entity;
- 1.3.3 words importing the singular number include the plural and vice versa; and
- 1.3.4 words importing any gender include any other gender.

1.4 The headings in this Agreement are for convenience only and shall not affect its interpretation.

## **2. Provision of the Services**

- 2.1 The Supplier shall throughout the continuance of this Agreement provide Services with reasonable care and skill to the Company and the Company shall promptly obtain, maintain and make available all necessary assets, equipment, premises, vehicles, personnel, capital and other facilities required for the provision of Services.
- 2.2 The Company shall be permitted to resell Services to an End User subject to compliance with the terms of this Agreement.
- 2.3 The Supplier shall provide the Services described in the Customer Services Agreement (CSA) attached hereto as Appendix A at the Premises.
- 2.4 The Supplier shall ensure the Services are available for use to the level defined in Service Level Agreement (SLA) attached hereto as Appendix B and shall observe the fault categories, response and resolution times, service availability and maintenance terms contained therein.
- 2.5 Subject to clause 5.5, in the event that the Supplier commits any breach of any of the terms and conditions of this Agreement by failing to provide any of the Services or commits any breach which otherwise adversely affects the provision of the Services, the Supplier has the right to remedy such breach within 21 days of notice from the Company.

## **3. Company's Obligations**

- 3.1 The Company shall allow the Supplier and its personnel access at all reasonable times to the Premises for the purpose of providing the Services.
- 3.2 The Company shall provide the Supplier with any information reasonably required before the commencement of the services.
- 3.3 The Company and the Supplier shall each use reasonable endeavours to keep each other informed of any special requirements (including statutes and codes of good practice) applicable to the carrying out of the Services. To the extent necessary and appropriate the Supplier shall promptly take steps to comply with such special requirements. These steps shall not give rise to any increase in the fees payable pursuant to the Service unless agreed in writing between the parties.
- 3.4 The Company shall comply with all relevant legislation and codes of practice including but not limited to OFCOM pertaining to the use of the Services and shall indemnify the Supplier against all liability for misuse of Services in contravention thereof.
- 3.5 In the event that the Company or any third party, not being a subcontractor of the Supplier, shall omit or commit anything which prevents or delays the Supplier from undertaking or complying with any of its obligations under the Agreement, then the supplier shall notify the Company as soon as possible and the Supplier will have no liability in respect to any delay in the provision of the service.
- 3.6 The Company will ensure that specific people within the End User are identified as authorised to make Service Calls to the Supplier and provide the Supplier with a list of these authorised people.
- 3.7 The Company shall notify the Supplier either orally or in writing as soon as practicable of any fault in Equipment or any work or maintenance that may be necessary.

- 3.8 The Company shall at all times comply with all reasonable instructions, requests and advice, given by the Supplier during the resolution of faults.
- 3.9 The Company shall not allow any equipment provided by the Supplier to be moved, interfered with or tampered with without first notifying the Supplier in writing and shall at all times comply with all reasonable advice given by the Supplier in relation to the operation and care of said equipment.
- 3.10 The Company shall obtain and pay for any licenses, way-leaves, suitable private wires, jack sockets or any other items reasonably necessary for the operation of Supplier provided equipment and as specified in relevant Service installation documentation agreed by the parties
- 3.11 The Company shall ensure the End User maintains an environment and clean electrical supply suitable to support efficient operation of the Supplier provided equipment, and shall comply with the reasonable directions of the Supplier relating to said equipment's positioning, installation, care and use.
- 3.12 Where the End User uses the Supplier's services to access the Internet, the Company shall ensure that it does not use said services to engage in:
  - 3.12.1 Unlawful, fraudulent, criminal or otherwise illegal activities
  - 3.12.2 Sending, receiving, publishing, posting, distributing, disseminating, encouraging the receipt of, uploading, downloading, recording, reviewing, streaming or using any material which is offensive, abusive, defamatory, indecent, obscene, unlawful, harassing or menacing or a breach of the copyright, trademark, intellectual property, confidence, privacy or any other rights of any person.
  - 3.12.3 Sending or uploading unsolicited emails except in accordance with the Privacy and Electronic Communications Regulations 2003.
  - 3.12.4 Knowingly or negligently transmitting or uploading any electronic material (including, without limit, files that contain viruses, corrupted files, or any other similar software or programmes) which is known or likely to cause, interrupt, damage, destroy or limit the functionality of any computer software, hardware or telecommunications equipment owned by the Supplier or any other Internet user or person.
  - 3.12.5 Activities that invade another's privacy, cause annoyance, inconvenience or needless anxiety to any person.
  - 3.12.6 Activities that are in breach of any other third party's rights, including downloading, installation or distribution of pirated software or other inappropriately licensed software, deletion of any author attributions, legal notices or proprietary designations or labels in any file that is uploaded, falsification of the origin or source of any software or other material
  - 3.12.7 Anything that may disrupt or interfere with the Supplier's network or services or cause a host or the network to crash.
  - 3.12.8 Launching "denial of service" attacks; "mail bombing" attacks; or "flooding" attacks against a host or network.
  - 3.12.9 Making excessive use of, or placing unusual burdens on, the network, for example by sending or receiving large volumes of email or excessively large email attachments.

- 3.12.10 Circumventing the user authentication or security process of a host or network.
  - 3.12.11 Creating, transmitting, storing or publishing any virus, Trojan, corrupting programme or corrupted data.
  - 3.12.12 Collecting, streaming, distributing or accessing any material that the Company knows, or reasonably should know, cannot be legally collected, streamed, distributed or accessed.
  - 3.12.13 For the avoidance of doubt the Company undertakes to ensure that any End Users are legally obliged to comply with Clause 3 and that the Company's obligations therein shall apply mutatis mutandis to such End Users.
- 3.13 The Company shall not supply services to an End User from its own or another source which compete with the Services during the term of this Agreement.
- 3.14 The Company shall:
- 3.14.1 submit all advertisements and promotional materials relating to the resale of Services to an End User to the Supplier prior to intended publication and not publish such advertisements or materials unless previously approved in writing by the Supplier. If there are no written objections within 7 days from the Supplier such material will be deemed approved;
  - 3.14.2 comply with all legal or regulatory requirements from time to time in force relating to the distribution and sale of the Services;
- 3.15 The Company shall have sole responsibility for setting the price at which it resells the Services to End Users provided, however, that the Company shall not resell Services to End Users at a rate less than 10% greater than the transfer price from the Supplier.
- 3.16 Both parties agree not knowingly to contact or otherwise solicit business from businesses which are already clients or prospective clients of the other party and in the event such contact is made to desist immediately on being made aware by the other party.

#### **4. Payment**

- 4.1 The Company shall pay the Supplier for the Service Installation within 30 days net of invoice date unless agreed in writing by the Supplier. All Service Installation charges must be paid in full before the Effective Date
- 4.2 Payment of the Period Service Fee for nominated Services may be governed by a separate Customer Service Agreement (CSA) and nothing in this agreement shall contradict the terms contained therein. Payment for all other Services shall be under the terms set out below.
- 4.2.1 The first period payment period shall start on the Effective Date.
  - 4.2.2 The Company shall pay the first Period Service Fee so that it is received in cleared funds by the Supplier prior to the Effective Date and in any event shall be received no later than 45 days following the date of the Initial Order or the date of this Agreement, whichever is the earlier date, unless agreed in writing by the Supplier.

- 4.2.3 The Company shall pay each subsequent Period Service Fee so that it is received in cleared funds by the Company no later than the first day of each period payment period.
- 4.3 Charges for variable costs, including but not limited to phone call charges, shall be made monthly in arrears and payment made by Direct Debit within 7 days net of invoice date unless agreed in writing by both parties in advance.
- 4.4 Any amount not paid when due shall bear a late payment charge at the current rate set out under the Late Payment of Commercial Debts (Interest) Act 1998 (as amended).
- 4.5 In addition, the Supplier may, after seven days written notice has been served, at its sole option and without prejudice to any other remedies it may have, suspend the performance of the Services, at any time after any payment from the Company to the Supplier shall have become due and payable. Any such suspension shall not constitute, or be deemed to constitute, a breach of the Supplier of its contractual obligations under this Agreement, and shall not entitle the Company to any damages or any other remedies, and shall not relieve the Company from its contractual obligations under this Agreement. The Supplier reserves the right to charge the Company any applicable costs incurred by it in connection with the reinstatement of the Services following any such suspension.
- 4.6 The non-payment by the Company of any amount that is due and payable to the Supplier under this Agreement shall constitute a material breach of this Agreement.

## **5. Duration and Termination**

- 5.1 This Agreement shall come into force on the date above written and shall continue for the period set out in the Service Schedule, subject to the following provisions.
- 5.2 This Agreement can be extended by mutual written consent of the parties by amendment to the Service Schedule.
- 5.3 Either party may terminate specified Services by giving to the other not less than three months' written notice, to expire on or at any time after the Expiration Date of said Service.
- 5.4 Either party may terminate this Agreement by giving to the other not less than three months' written notice, to expire on or at any time after the Expiration Dates for all Services have elapsed.
- 5.5 Either party may forthwith terminate this Agreement by giving written notice to the other party if:-
- 5.5.1 that other party commits any other breach of any of the provisions of this Agreement and, if the breach is capable of remedy, fails to remedy it within 21 days after being given written notice giving full particulars of the breach and requiring it to be remedied;
  - 5.5.2 an encumbrancer takes possession, or where that other party is a company, a receiver is appointed, of any of the property or assets of that other party;
  - 5.5.3 that other party makes any voluntary arrangement with its creditors or, being a Company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);

- 5.5.4 that other party, being an individual or firm, has a bankruptcy order made against it or, being a Company, goes into liquidation (except for the purposes of amalgamation or re-construction and in such a manner that the Company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other party under this Agreement);
  - 5.5.5 anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to that other party;
  - 5.5.6 that other party ceases, or threatens to cease, to carry on business;
  - 5.5.7 control of that other party is acquired by any person or connected persons not having control of that other party on the date of this Agreement;
  - 5.5.8 that the other party commits a material breach of any of the provisions of this Agreement.
- 5.6 For the purposes of Clause 5.5.1, a breach shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects.
- 5.7 The rights to terminate this Agreement given by this Clause 5 shall not prejudice any other right or remedy of either party in respect of the breach concerned (if any) or any other breach.

## **6. Effects of Termination**

- 6.1 Upon the termination of this Agreement for any reason:-
- 6.1.1 any sum owing by either party to the other under any of the provisions of this Agreement shall be immediately payable;
  - 6.1.2 all equipment provided by the Supplier to the Company or any End User as part of the Service shall be immediately returned to the Supplier at the Company's expense.
    - 6.1.2.1 Equipment not returned within 10 working days shall be invoiced to the Company at full list price which the Company agrees to pay within 7 days;
    - 6.1.2.2 Equipment returned in a damaged or un-serviceable condition shall be invoiced to the Company at full list price which the Company agrees to pay within 7 days.
  - 6.1.3 clauses 1, 7, 8 and 11 shall remain in effect;
  - 6.1.4 any rights or obligations to which any of the parties to this Agreement may be entitled or be subject before its termination shall remain in full force and effect; and
  - 6.1.5 termination shall not affect or prejudice any right to damages or other remedy which the terminating party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which any party may have in respect of any breach of this Agreement which existed at or before the date of termination.
  - 6.1.6 subject as provided in this Clause 6, and except in respect of any accrued rights, neither party shall be under any further obligation to the other.

- 6.2 Each party shall (except to the extent referred to in Clause 7.3) forthwith cease to use, either directly or indirectly, any Restricted Information, and shall forthwith return to the other party any documents in its possession or control which contain or record any Restricted Information.
- 6.3 For the avoidance of doubt the Company undertakes to ensure any End Users are legally obliged to comply with Clause 6.2 and that the Company's obligations therein shall apply mutatis mutandis to such End Users.

## **7. Confidentiality**

- 7.1 Each party undertakes that, except as provided by Clause 7.3 or as authorised in writing by the other party, it shall, at all times during the continuance of this Agreement and for 5 years after its termination:-
- 7.1.1 keep confidential all Restricted Information;
  - 7.1.2 not disclose any Restricted Information to any other person;
  - 7.1.3 not use any Restricted Information for any purpose other than as contemplated by and subject to the terms of this Agreement;
  - 7.1.4 not make any copies of, record in any way or part with possession of any Restricted Information; and
  - 7.1.5 ensure that none of its directors, officers, employees, agents or advisers does any act which, if done by that party, would be a breach of the provisions of sub-clauses 7.1.1 - 7.1.4 above.
- 7.2 Either party may:-
- 7.2.1 disclose any Restricted Information to:-
    - 7.2.1.1 any sub-contractor or supplier of that party;
    - 7.2.1.2 any governmental or other authority or regulatory body; or
    - 7.2.1.3 any employee or officer of that party or of any of the aforementioned persons;to such extent only as is necessary for the purposes contemplated by this Agreement, or as required by law, and in each case subject to that party first informing the person in question that the Restricted Information is confidential and (except where the disclosure is to any such body as is mentioned in 7.2.1.2 above or any employee or officer of any such body) obtaining and submitting to the other party a written undertaking from the person in question, as nearly as practicable in the terms of this Clause, to keep the Restricted Information confidential and to use it only for the purposes for which the disclosure is made; and
  - 7.2.2 use any Restricted Information for any purpose, or disclosure it to any other person, to the extent only that it is at the date of this Agreement, or at any time after that date becomes, public knowledge through no fault of that party, provided that in doing so that party does not disclose any part of that Restricted Information which is not public knowledge.
- 7.3 The provisions of this Clause shall continue in force in accordance with their terms, notwithstanding the termination of this Agreement for any reason.



- 7.4 Nothing in this Agreement shall prevent the Supplier from announcing, without limitation, through advertising or other promotional material, that it is providing or has provided the Services to the Company.
- 7.5 For the avoidance of doubt the Company undertakes to ensure that any End Users are legally obliged to comply with Clause 7 and that the Company's obligations therein shall apply mutatis mutandis to such End Users.

## **8. Force Majeure**

- 8.1 For the purposes of this Agreement "Force Majeure" means, in relation to either party, any circumstances beyond the reasonable control of that party (including, without limitation, any strike, lock-out or other form of industrial action).
- 8.2 If any Force Majeure occurs in relation to either party which affects or may affect the performance of any of its obligations under this Agreement, it shall forthwith notify the other party as to the nature and extent of the circumstances in question.
- 8.3 Neither party shall be deemed to be in breach of this Agreement, or shall otherwise be liable to other, by reason of any delay in performance, or the non-performance, of any of its obligations under this Agreement, to the extent that the delay or non-performance is due to any Force Majeure of which it has notified the other party, and the time for performance of that obligation shall be, by agreement of the parties, reasonably extended accordingly.
- 8.4 If the performance by either party of any of its obligations under this Agreement is prevented or delayed by Force Majeure for a continuous period in excess of 90 days, the parties shall enter into discussions with a view to agreeing upon such alternative arrangements as may be fair and reasonable or the other party shall be entitled to terminate this Agreement by giving 21 days' written notice to the party so affected.

## **9. Nature of the Agreement**

- 9.1 Each party shall be entitled to perform any of the obligations undertaken by it and to exercise any rights granted to it under this Agreement through any other member of its group, subject to the approval of the other party to this Agreement (such approval not to be unreasonably withheld) and provided that any act or omission of that other Member shall, for all the purposes of this Agreement, be deemed to be the act or omission of the party in question.
- 9.2 Subject to Clause 9.1 this Agreement is personal to the parties and neither party may assign, mortgage, or charge (otherwise than by floating charge) [or sub-license] any of its rights hereunder, or sub-contract or otherwise delegate any of its obligations hereunder, except with the written consent of the other party.
- 9.3 This Agreement contains the entire agreement between the parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the parties.
- 9.4 Each party acknowledges that, in entering into this Agreement, it does not rely on any representation, warranty or other provision except as expressly provided in this Agreement, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

- 9.5 No failure or delay by either party in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right, and no waiver by either party of a breach of any provision of this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.
- 9.6 If any provision of this Agreement is held by any court or other competent authority to be invalid or unenforceable in whole or in part, this Agreement shall continue to be valid as to its other provisions and the remainder of the affected provision.

## **10. Costs**

- 10.1 Subject to any provisions to the contrary each party to this Agreement shall pay its own costs of and incidental to the negotiation, preparation, execution and carrying into effect of this Agreement.
- 10.2 The Supplier reserves the right to recover costs reasonably incurred in collecting payment for Services in the event of a breach of the payment terms in Clause 4 by the Company.

## **11. Notices and Service**

- 11.1 Any notice or other information required or authorised by this Agreement to be given by either party to the other shall be given by:-
- 11.1.1 sending it by pre-paid registered post; or
  - 11.1.2 sending it by e-mail, facsimile transmission or comparable means of communication;
  - 11.1.3 to the other party at the address given in Clause 11.4
- 11.2 Any notice or information given by post in the manner provided by Clause 11.1.1 which is not returned to the sender as undelivered shall be deemed to have been given on the second day after the envelope containing it was so posted; and proof that the envelope containing any such notice or information was properly addressed, pre-paid, registered and posted, and that it has not been so returned to the sender, shall be sufficient evidence that the notice or information has been duly given.
- 11.3 Any notice or information sent by e-mail, telex, cable, facsimile transmission or comparable means of communication shall be deemed to have been duly given on the date of transmission, provided that a confirming copy of it is sent as provided in Clause 11.1.1 to the other party at the address given in Clause 11.4 within 24 hours after transmission.
- 11.4 Service of any document for the purposes of any legal proceedings concerning or arising out of this Agreement shall be effected by either party by causing it to be delivered to the other party at its registered or principal office, or to such other address as may be notified to it by the other party in writing from time to time.

## **12. Time**

The Supplier shall use all reasonable endeavours to complete the services within estimated time frames but time shall not be of the essence in the performance of any Services save for provisions in the Customer Service Agreement.

### **13. Relationship of the Parties**

- 13.1 Nothing in this Agreement shall constitute, or be deemed to constitute, a partnership between the parties nor, except as expressly provided, shall it constitute, or be deemed to constitute an agency of any other party for any purpose.
- 13.2 Subject to any express provisions to the contrary in this Agreement, the Supplier shall have no right or authority to and shall not do any act, enter into any contract, make any representation, give any warranty, incur any liability, assume any obligation, whether express or implied, of any kind on behalf of the Company or bind the Company in any way.
- 13.3 The Supplier and the Company acknowledge and agree that the provision of or cessation of all or part of the Services at any time and any arrangements contemplated by this Agreement are not intended to constitute a relevant transfer for the purposes of the TUPE Regulations.
- 13.4 Each of the parties hereto covenants with the other that for the period of this Contract and for 12 calendar months following its termination it will not directly or indirectly induce or attempt to induce any employee of the other party who has been engaged in the provision, receipt, review or management of the Support or otherwise been involved in connection with this Contract to leave the employment of that other party. This paragraph shall not prohibit the employment of any person recruited through an employment agency, if neither party nor any person connected with them has encouraged that agency to approach the relevant individual, or the placing of a public advertisement for a post available to members of the public generally or the employment of any person who answers such an advertisement.
- 13.5 The Company estimates the impact that a breach of Clause 13.4 would have upon its business which is herein specified as liquidated damages in the amount of one times the current gross annual salary of the personnel concerned. The Supplier accepts that this is a reasonable estimate of the loss and agrees to pay the same upon demand in the event of its breach of Clause 13.4. The Supplier may demand and the Company may pay similar damages in the event of the Company's breach of Clause 13.4.
- 13.6 Nothing in this Clause 13 shall prejudice the right of the non-breaching party to seek injunctive relief

### **14. Intellectual Property**

- 14.1 The Supplier is the beneficial owner of all Intellectual Property arising out of or in connection with the provision of the Services to the Company.
- 14.2 Subject to all payments due under this Agreement having been paid, to the Supplier, the Company shall have an irrevocable, royalty free, non-exclusive licence to use all Intellectual Property arising out of or in connection with the provision of the Services to the Company during the term of this Agreement.

### **15. Liability**

- 15.1 Any act or omission of any subsidiary, employee, contractor, representative or agent of the Company involved in the performance of this Agreement shall be considered in relation to this Agreement as an act or omission of the Company.

- 15.2 In this clause, "Liability" means any and all liability of the Supplier in contract, tort (including, without limitation, negligence) or otherwise whether arising out of, in connection with or in relation to the Services or the supply or non-supply of the Services or otherwise under or in connection with this Agreement.
- 15.3 Nothing in this Agreement shall limit the Supplier's liability for (i) personal injury or death caused by its negligence; or (ii) fraudulent misrepresentation.
- 15.4 Subject to 15.3 above, the Supplier shall have no Liability for any of the following losses or damage (whether such losses or damage were foreseen, foreseeable, known or otherwise):
- 15.4.1 loss of revenue, loss of actual or anticipated profits (including for loss of profits on contracts), loss of the use of money, loss of anticipated savings, loss of business, loss of opportunity, loss of goodwill, loss of reputation or loss of, damage to or corruption of data; or
  - 15.4.2 any indirect or consequential loss or damage howsoever caused (including, for the avoidance of doubt, whether or not such loss or damage is of a type specified in 15.4.1 above).
- 15.5 The Supplier shall have no Liability to the Company for any loss or damage arising from any failure by the Company to comply with its obligations under this Agreement, including without limitation the provisions of clause 3.
- 15.6 Without prejudice to the other sub-clauses of Clause 15, where the provision of Services involves the Supplier being appointed as part of a project team, liability for loss and/or damage arising under or in connection with the provision of Services shall be limited to that proportion of the Company's loss and/or damage which it would be just and equitable to require the Supplier to pay having regard to the extent of the Supplier's responsibility for the same and on the basis that all other relevant consultants and contractors shall be deemed to have provided contractual undertakings on terms no less onerous than this Clause 15.6 to the Company in respect of the performance of their services in connection with the project and that there are no exclusions of or limitation of liability nor joint insurance or co-insurance provisions between the Company and any other party referred to above and on the basis they shall be deemed to have paid to the Company such proportion which would be just and equitable for them to pay having regard to the extent of their responsibility.
- 15.7 Notwithstanding anything to the contrary contained elsewhere in this Agreement, the total liability of the Supplier arising under or in connection with the provision of Services to the Company shall not exceed the aggregate commission paid to the Company in the preceding 12 months.
- 15.8 The Company shall on demand indemnify the Supplier from and against all losses incurred by the Supplier as a result of any breach by or on behalf of the Company of the terms of this Agreement.

## **16. Data protection**

Each party may use the other party's details for the purposes of fulfilling their obligations under this Agreement and for the ongoing administration of the Services subject to compliance in full with all applicable laws relating to Data Protection.

## 17. Anti-bribery and Money Laundering

Each party shall provide all necessary cooperation so as to ensure that the other party is able to meet its obligations under The Proceeds of Crime Act 2002 and Money Laundering Regulations 2007 and The Bribery Act 2010.

## 18. Sub-Contracting

The Supplier may sub-contract the performance of any of its obligations under this Agreement without the prior written consent of the Company, provided however that where the Supplier sub-contracts the performance of any of its obligation under this Agreement to any person, it shall be responsible for every act or omission of the sub-contractor as if it were an act or omission of the Supplier itself.

## 19. Set Off

- 19.1 The Company may not withhold payment of, or make any deduction from, any invoice or other amount due to the Supplier
- 19.1.1 by reason of any right of set-off or counterclaim which the Company may have or allege to have or for any reason whatsoever; or
- 19.1.2 as a consequence of late or withheld payment by an End User for any reason whatsoever.
- 19.2 The Supplier retains the right throughout the term of this Agreement and pursuant to Clause 6.1.1 to set-off the Company's debt against the Deposit or any other monies held on account from the Company. The Supplier is under no obligation to use its right of set-off as a remedy for late payment pursuant to Clause 4 except as specified in Clause **Error! Reference source not found.**

## 20. Non-Circumvention

Both parties hereby irrevocably agree not to circumvent or attempt to circumvent the provisions of this Agreement & affirm that in every case that they will act with the highest standards of ethics in their dealings with the other party.

## 21. Applicable Law and Jurisdiction

- 21.1 This Agreement shall be governed by, and construed in accordance with English Law.
- 21.2 In relation to any legal action or proceedings to enforce this Agreement or arising out of or in connection with this Agreement ("proceedings") each of the parties irrevocably submits to the exclusive jurisdiction of the English courts and waives any objection to proceedings in such courts on the grounds of venue or in the grounds that the proceedings have been brought in an inconvenient forum.

**IN WITNESS WHEREOF** this Agreement has been duly executed the day and year first before written.

Signed by **XXX**

Signed by **XXX**

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On behalf of Company

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On behalf of Comm21 Limited

## Appendix A: Customer Service Agreement (CSA)

The Services supplied by Comm21 Ltd to the Company are as set out below.

Services which are procured by the Company, provided to the Company and accepted by the Company subsequent to the preparation of this Services Schedule shall form part of this Schedule and be covered by the terms of this Agreement whether or not they are written hereunder.

A table of services shall be completed for Services that are resold by the Company to each End User.

End User name or reference: **XXX**

Comm21 Reference	Service Description	Qty	Period Service Fee (per Service)	Effective Date	Expiration Date
<b>Period Service Fee (Total)</b>					

All prices are shown in GBP£ (pounds Sterling), exclusive of sales taxes at the prevailing rate.

This schedule is subject to amendment from time to time. Where additional services are supplied to the Company this Schedule will be revised and an Effective Date and revised Expiration Date applied to the amendment.

Schedule Approved by **XXX**

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On behalf of the Company

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Schedule Approved by **XXX**

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On behalf of Comm21 Ltd

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## Appendix B: Service Level Agreement (SLA)

This agreement is between Comm21 Ltd and The Customer detailed below.  
It incorporates Comm21' Terms and Conditions. Please visit  
[www.comm21.co.uk/terms.html](http://www.comm21.co.uk/terms.html) for the last terms applicable to this order

Comm21 Ltd, The Belfry,  
Solent Business Park, Fareham PO15 7FJ  
Tel: 03444 777 600 Fax: 03444 777 602

SERVICE PROVISION DETAILS:				INVOICE DETAILS (if different):			
Name:				Name:			
Address:				Address:			
		Post code:				Post code:	
Contact:				Contact:			
Phone:				Phone:			
E-mail:				E-mail:			
Contract Number:		MC-XXXX		SERVICE DETAILS			
Start date:				System:		Splicecom/ ShoreTel/ Meraki	
Minimum term:		36 months		Service level:		Platinum/Gold/ Silver/ Other	

### COVERAGE

Days	Mon - Fri/ 7 days a week
Hours	09:00 - 17:00 UK Local Time/ 24 hours
Exclusions	UK public holidays/ None

### RESPONSE SPEED

90% service affecting	Within 4 hours of Customer Service receiving the fault report
50% service affecting	Within 4 hours of Customer Service receiving the fault report

### ADDITIONAL OPTIONS

Included change requests	Y/ N	Quantity		Frequency	Monthly
Proactive health checks	Y/ N	Frequency	Biannually		

### SYSTEM

Quantity	Model/ License	Serial Number(s)





The Customer hereby agrees to purchase the service(s) referred to in this agreement and to be charged at the rates included in this agreement and on Comm21' Terms and Conditions of Maintenance. The Customer agrees to have read these Terms and Conditions and agrees to be bound by them together with any specific terms set out in, or deemed to form part of this order form. The minimum period of this agreement is detailed in this agreement and starts from the date of provision of service. The contract will come into effect on the date of signature below. All prices are quoted excluding VAT.

<p>Signed by a duly authorised representative for and on behalf of:</p> <p><b>Company:</b> Comm21 Ltd</p> <p><b>Signed:</b></p> <p><b>Name:</b></p> <p><b>Position:</b></p> <p><b>Date:</b></p>	<p>Signed by a duly authorised representative for and on behalf of:</p> <p><b>Company:</b></p> <p><b>Signed:</b></p> <p><b>Name:</b></p> <p><b>Position:</b></p> <p><b>Date:</b></p>
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## Appendix D: Network Services Agreement

This is an agreement between Comm 21 Ltd and The Customer detailed below.  
It incorporates Comm 21' Terms and Conditions. Please visit  
[www.comm21.co.uk/terms.html](http://www.comm21.co.uk/terms.html) for the last terms applicable to this order

Comm 21 Ltd, The Belfry  
Solent Business Park, Fareham. PO15 7FJ  
Tel: 03444 777 601 | Fax: 03444 777 602

INSTALLATION DETAILS:				INVOICE DETAILS (if different):			
Name:				Name:			
Address:				Address:			
		Post code:				Post code:	
Contact:				Contact:			
Phone:				Phone:			
E-mail:				E-mail:			
SUMMARY OF SERVICES IN THIS AGREEMENT				PAYMENT			
Fixed Lines				Method			
Fixed Calls				Minimum Term			

NEW/ MIGRATED SERVICE DETAILS:							
Number	Type	Qty	Migration/ New	Connection Fee		Monthly Charge	
				Unit	Total	Unit	Total
				<b>Totals</b>	<b>£</b>		<b>£</b>

EXISTING SERVICES TO CEASE				ADDITIONS: (where applicable)			
Number	Type	Qty	Date to				
				iBill Access		E Billing	
				Extension Level Billing		E Billing Itemisation	

CALL RATES					
Tariff					
Headline rates					
Destination	Peak	Off-peak	Weekend	Set up	Minimum
UK Local					
UK National					
UK Mobile: EE/Voda/O <sub>2</sub>					
UK Mobile: Three					
International One*					

\* International One includes the following fixed-line destinations: Austria, Australia, Belgium, Canada, Denmark, France, Germany, Holland, Italy, Luxembourg, Norway, Republic of Ireland, Spain, Switzerland and the United States of America.  
This list may be subject to change and will be reflected in the latest tariff sheet.

ADDITIONAL ITEMS, DESCRIPTION of SERVICES, INSTRUCTIONS or VARIATIONS

By signing below, you, The Customer hereby agree to purchase the service(s) referred to above and to be charged at the rates included in this agreement and on Comm 21' Terms and Conditions. You agree to have read these Terms and Conditions and agree to be bound by them together with any specific terms set out in, or deemed to form part of this order form. The minimum period of this agreement is detailed in this agreement and starts from the date of connection and subsequent provision of services. Written and agreed changes of tariff and provisions of service will also have a minimum period equal to the period set out in this agreement unless specified in writing or advised on this order form. The contract will come into effect on the date of signature below. All prices are quoted as excluding VAT.

Signed by a duly authorised representative for and on behalf of: <b>Company:</b> Comm 21 Ltd  <b>Signed:</b>  <b>Name:</b>  <b>Position:</b>  <b>Date:</b>	Signed by a duly authorised representative for and on behalf of: <b>Company:</b>  <b>Signed:</b>  <b>Name:</b>  <b>Position:</b>  <b>Date:</b>
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