



VoIP North Wales

VoIP North Wales Terms and Conditions

This Business Broadband Voice (VoIP) Terms and Conditions (“**Agreement**”) is hereby entered into and agreed upon by you, either an individual or an entity (“**You**” or “**Customer**”) and CATalyst Systems (North Wales) Ltd. (“**VoIP North Wales**”) for the Services (as Defined below). This Agreement is made and entered into as of the date that You accept it as Defined below (the “**Commencement Date**”).

BY ACCEPTING THIS AGREEMENT, EITHER BY INDICATING YOUR ACCEPTANCE, BY EXECUTING THIS AGREEMENT OR AN ORDER FORM THAT REFERENCES THIS AGREEMENT, YOU AGREE TO THIS AGREEMENT. THIS AGREEMENT IS A LEGALLY BINDING CONTRACT BETWEEN YOU AND VoIP North Wales AND SETS FORTH THE TERMS THAT GOVERN THE SERVICES PROVIDED TO YOU HEREUNDER. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THIS AGREEMENT. ANY CHANGES, ADDITIONS OR DELETIONS BY YOU TO THIS AGREEMENT WILL NOT BE ACCEPTED AND WILL NOT BE A PART OF THIS AGREEMENT.

THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Interpretation

1.1. Definitions

In this Agreement, unless the context otherwise requires, the expressions and terms listed in Schedule 1 (**Definitions**) shall have the meaning stated in that Schedule.

1.2. Construction of certain references

1.2.1 In this Agreement where the context admits:

1.2.1.1 references to statutory provisions shall be construed as references to those provisions as amended or re-enacted or as their application is modified by other provisions of which they are re-enactments (whether with or without modification);

1.2.1.2 the Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to Agreement includes the Schedules.

1.2.1.3 this Agreement shall be binding on, and enure to the benefit of, the parties to this Agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's successors and permitted assigns.

1.3. Precedence

Save for where the Order Form states otherwise, if there is an inconsistency between the Agreement, the Schedules or an Order Form, the following order of precedence shall apply to this Agreement and the documents referred to in it:

1.3.1 the Clauses in the main body of the Agreement;

1.3.2 the Schedules; and

1.3.3 the relevant Order Form.

Save where Clauses in the Agreement and its Schedules are specifically dis-applied or varied in any special conditions for a particular Order Form, in such a case, the special conditions in the relevant Order Form shall take precedence over the Clauses in the Agreement and the Schedules, if there is an inconsistency between the special conditions and the Clauses in the Agreement and the Schedules, solely in respect of the relevant Order Form.

2. Term of this Agreement

- 2.1 This Agreement shall commence on the Commencement Date and shall continue (subject to earlier termination in accordance with the express terms of this Agreement) for the Initial Contract Period.
- 2.2 Subject to clauses 9 and 16.2 of this Agreement, this Agreement shall, in all circumstances, continue in full force and effect, for the whole of the Initial Contract Period, and shall continue after the Initial Contract Period unless terminated by either Party giving not less than ninety (30) days' prior written notice, such notice not to expire, in any event, sooner than the expiry of the Initial Contract Period ("Notice"). In the event that no such Notice is given by either Party, the Agreement shall automatically continue in full force and effect after the Initial Contract Period, on a rolling annual basis of twelve (12) months each (each a "Subsequent Renewal Period"), unless and until either Party provides not less than ninety (30) days' prior written notice, such notice not to expire sooner than the expiry of the relevant Subsequent Renewal Period.
- 2.3 VoIP North Wales shall use its reasonable endeavours to make the Service available by the Start Date. However, the Start Date and any other dates given in this Contract are estimates provided for planning purposes only. VoIP North Wales shall have no liability for any failure to meet the Start Date or any other date as, save as expressly provided elsewhere in this Contract, time is not of the essence in relation to any matter.
- 2.4 No order shall be binding upon VoIP North Wales unless and until accepted by VoIP North Wales.

3. VoIP North Wales Obligations

- 3.1 VoIP North Wales shall use its best endeavours to provide the Services at the Premises by the date agreed with the Customer. In the event that the Customer moves Premises during the Term, and VoIP North Wales is able to provide the Service at the Customer's new address, the Service shall continue at the new Premises.
- 3.2 The Service is provided solely for use by the Customer in the course of the Customer's business.
- 3.3 VoIP North Wales shall use reasonable skill and care when providing the Service but does not guarantee that the Service shall be continuously available to the Customer or free from Service Failures.
- 3.4 VoIP North Wales shall not be obliged to provide the Service to the Customer if the Customer enters into this Contract otherwise than in the course of its business or uses the Service otherwise than in the course of its business, if the Customer is not located in a geographic location where the Service can be received, or where there is a technical reason why the Customer would not be able to receive the Service.
- 3.5 The Customer must immediately report any fault to VoIP North Wales via the Service Desk providing sufficient information to enable VoIP North Wales to investigate the problem. VoIP North Wales shall log the time of receipt of all such reports.

4. Customer Obligations

- 4.1 The Customer shall only use the Service in accordance with the terms of this Contract and any other reasonable operating instructions, including any installation or security instructions, given to the Customer by VoIP North Wales.
- 4.2 In order for VoIP North Wales to provide the Service, the Customer shall:
- 4.2.1 provide VoIP North Wales with the details of its Primary Line; and
 - 4.2.2 have a suitably enabled Business Broadband connection.

- 4.3 VoIP North Wales will provide and install the Equipment. The customer can install the equipment if preferred.
- 4.4 The Customer agrees not to use the Service in a way which would:
 - 4.4.1 contravene or cause VoIP North Wales to contravene any laws or regulations including, but not limited to, the Act, and any licence under the Act which is applicable to VoIP North Wales;
 - 4.4.2 contravene any reasonable operating instructions or other instructions (including, without limitation, any manual) which VoIP North Wales may provide from time to time;
 - 4.4.3 involve the sending of unsolicited marketing or advertising materials;
 - 4.4.4 result in the transmission or storage of any material which is intended to be a hoax Call to emergency services or the sending of any pornographic, obscene or abusive, defamatory, menacing or offensive nature or which would result in the breach of any third party's intellectual property rights, confidential information or privacy; or
 - 4.4.5 breach or cause VoIP North Wales to breach any Applicable Data Protection Laws.
- 4.5 The Customer shall:
 - 4.5.1 not install, use, copy, access or distribute any Software (including Third Party Software), nor allow any third party to do so, except as expressly permitted in accordance with this Contract or as otherwise authorised by VoIP North Wales and (in respect of Third Party Software) the relevant Licensor;
 - 4.5.2 not use the Service in respect of hazardous environments requiring fail-safe performance in which the failure of the Service or Software could lead to death, personal injury or severe physical, property or environmental damage. Examples of these environments include the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control or life support systems;
 - 4.5.3 not separate the components of the Software by installing them on different servers, or by upgrading or downloading them at different times; and
 - 4.5.4 not remove, modify or obscure any copyright, trademark or other proprietary rights notices that are contained in or on the Software.
- 4.6 Notwithstanding any provision to the contrary, the Software licence ("**Software Licence**") may be terminated by the manufacturer, supplier or licensor in accordance with its terms; and in addition (without prejudice to the generality of the foregoing) the Customer shall ensure that any Software is only used during the continuance of this Contract in accordance with a valid and subsisting Software Licence.
- 4.7 Except to the extent and in the circumstances expressly required to be permitted by law, the Customer shall ensure that neither it nor any third party shall copy, alter, modify, adapt, translate, decompile, disassemble or reverse engineer the Software.
- 4.8 The Customer agrees to indemnify, keep indemnified and hold harmless VoIP North Wales from and against any claims, proceedings or threatened proceedings from third parties and against any loss or damage suffered by VoIP North Wales arising from any breach by the Customer of its obligations under this Contract including this clause 4, and for all costs and expenses reasonably incurred by VoIP North Wales in investigating and defending any such claims, proceedings or threatened proceedings; such indemnity to continue notwithstanding the termination of this agreement by either party.

5. Charges and Payment

- 5.1 The Customer shall pay VoIP North Wales the Charges as specified in this Contract and as subsequently varied pursuant to this Contract. Charges shall be payable by the Customer with effect from the Start Date.
- 5.2 VoIP North Wales may vary all or any of the Charges at any time on giving not less than thirty (30) days' notice to the Customer. This notice may be included in an invoice to the Customer. Such increase shall not be more than the Retail Price Index (RPI) applicable at that time.
- 5.3 All Charges are stated exclusive of value added tax (VAT) or other applicable taxes. The Customer shall be responsible for paying VAT and other applicable taxes which shall be included in VoIP North Wales invoices at the applicable rate(s). Payment shall be by direct debit and a fee of £20.00 per incident for any cancelled, dishonoured or failed Direct Debits or cheques may be applied. If payment is not made by direct debit, an administrative charge of £5 per month shall be applied.
- 5.4 VoIP North Wales shall issue invoices for the Service in accordance with the billing dates specified in this Contract. Any delay by VoIP North Wales in invoicing any Charges shall not prohibit VoIP North Wales from raising an invoice at a later date in respect of the same nor shall it relieve the Customer of liability to pay for the same.
- 5.5 The Customer shall pay the Charges within fourteen (30) days of the date of the relevant VoIP North Wales invoice, unless otherwise agreed by VoIP North Wales. The Customer shall not be entitled to set-off, contra or withhold any payment due to VoIP North Wales against any sums of whatsoever nature that are due to the Customer from VoIP North Wales or that the Customer claims are due from VoIP North Wales, and time of payment of all sums under this Contract is of the essence.
- 5.6 Where Charges are not paid by the Customer in accordance with this clause 5, VoIP North Wales may require the Customer to pay all sums due under this Contract on demand, and reserve the right to charge Interest on all amounts overdue from the Customer on a daily basis (before as well as after any judgement) until the date of payment, at NatWest Bank base rate plus four percent (4%). Alternatively, if any sum owed by the Customer to VoIP North Wales under the Contract or any other contract with VoIP North Wales is not paid by the due date, VoIP North Wales may deduct this sum from any payment or credit due to the Customer under the Contract or any other contract with VoIP North Wales.
- 5.7 If you believe all or any part of an invoice is in error, you must notify VoIP North Wales Communications within 6- months (180) days of your receipt of the invoice. If you fail to do so, VoIP North Wales Communications will not be required to make any adjustment to the invoice, and you shall be deemed to have waived any right to contest the invoice.

6. Access to Premises and Information

- 6.1 The Customer shall provide to VoIP North Wales, or such third party nominated by VoIP North Wales, such information and documentation relating to the implementation, maintenance and support and/or administration of the Service as is necessary to enable VoIP North Wales and/or its contractors to implement, maintain and support and administer the provision of those Service.
- 6.2 The Customer shall ensure that VoIP North Wales, its contractors and/or any third party providing the Service are provided with such access to the computer equipment, software and network links owned by, licensed to and/or used by the Customer as may be reasonably necessary for the implementation, maintenance and support, administration and/or other performance of the Service.

7. Customer Equipment

- 7.1 The Customer shall obtain VoIP North Wales's prior consent before connecting any Customer Equipment to VoIP North Wales's network.
- 7.2 Any Customer Equipment must be technically compatible with the Service and not harm VoIP North Wales's network or another customer's equipment and, once connected, such Customer Equipment must

be used in compliance with any relevant instructions issued by VoIP North Wales, the Act and all applicable regulations, instructions and orders.

- 7.3 The Customer must ensure that any Personal Computer, data and other Customer Equipment used in connection with the Service is secure and protected from any risks (including viruses) that downloading any software may involve, by installing appropriate software.
- 7.4 If any Customer Equipment is lost, stolen or likely to be used in an unauthorised manner the Customer will be responsible for any charges incurred until Customer has informed VoIP North Wales.

8. Security of the Service

- 8.1 VoIP North Wales provides no guarantee or warranty as to the security of the Service and the Customer shall indemnify, keep indemnified and hold harmless VoIP North Wales from and against any claim or demand of whatsoever nature and howsoever arising as a result of the said security or any failure thereof.
- 8.2 Where the Customer is aware or becomes aware of any matter which the Customer knows or ought reasonably to be expected to know constitutes a threat to the security of the Service, then the Customer has a duty pursuant to this Contract immediately to advise VoIP North Wales of such matter.
- 8.3 The Customer is responsible for all use and misuse of any User IDs and Passwords giving access to the Service and must take all necessary steps to ensure that they are kept confidential, secure, used properly and not disclosed to unauthorised people.
- 8.4 Customer acknowledges that the Service may impair, or be impaired by, the uploading or downloading of data and/or the making or receiving of simultaneous Calls using the same broadband enabled connection, or by other circumstances beyond VoIP North Wales's reasonable control.

9. Termination

- 9.1 If at any time during the Term of the Agreement:
 - 9.1.1 the Customer commits a material breach of this Agreement and in case of a breach which is capable of remedy, fails to remedy the breach within thirty (30) days of written notice (for the avoidance of doubt, this clause 9.1 shall not apply to any material breach of this Agreement committed by VoIP North Wales), or
 - 9.1.2 a Party becomes insolvent,then the other Party shall have the right to terminate this Agreement forthwith.
- 9.2 VoIP North Wales shall also have the right to terminate this Agreement immediately upon written notice if:
 - 9.2.1 Customer fails to timely pay any and all undisputed amounts due and Customer fails to cure such non-payment within ten (10) days after receiving written notice of such non-payment from VoIP North Wales,
 - 9.2.2 there is a change of control of the Customer;
 - 9.2.3 there is a governmental prohibition or required alteration of the Service provided that necessitates such termination,
 - 9.2.4 any Third Party Service or any Third Party Software cease to be provided (in whole or in part) by any Third Party Service Provider to VoIP North Wales or for use or resale by VoIP North Wales for whatever reason;
 - 9.2.5 any Third Party Service Provider changes the terms of its provision of telecommunications services to VoIP North Wales for the Services beyond the reasonable control of VoIP North Wales;

- 9.2.6 any Third Party Services which are essential to the provision of the Service ceases to be available at all or at an appropriate capacity and there shall not be available any suitable replacement; or
- 9.2.7 any authorisation licence or other permission for VoIP North Wales or any Third Party Service Provider under the Act is revoked, withdrawn or not renewed for whatever reason.
- 9.3 In the event of termination of this Contract by VoIP North Wales pursuant to Clauses 9.1 or 9.2, during the Initial Contract Period the Customer shall be deemed to have repudiated this Contract and shall pay to VoIP North Wales, in addition to any unpaid Charges due at the date of termination, an amount equal to the remaining Charges for Services that the Customer would have incurred up to the end of the Initial Contract Period had the termination not taken place, less an accelerated payment discount at the Bank of England base rate current at the date of termination calculated on a daily basis to take account of early receipt. The provisions of this clause 9.3 are without prejudice to all and any other rights and remedies available to VoIP North Wales.
- 9.4 Where the Customer purports to terminate this Contract during the Initial Contract Period other than in accordance with clause 9.2, VoIP North Wales shall be entitled (without prejudice to all and any of its other rights and remedies) to treat such purported termination as a repudiatory breach and accept such repudiation by terminating this Contract in which case the Customer shall pay to VoIP North Wales, in addition to any unpaid Charges due at the date of termination, an amount equal to the remaining Charges for Services that the Customer would have incurred up to the end of the Initial Contract Period had the termination not taken place, less an accelerated payment discount at the rate of the Bank of England base rate current at the date of termination calculated on a daily basis to take account of early receipt.
- 9.5 The Customer shall indemnify, keep indemnified and hold harmless VoIP North Wales from and against any claim or demand of whatsoever nature and howsoever arising against VoIP North Wales and/or Hosting Service Provider as a result of termination pursuant to this clause 9.
- 9.6 Upon termination of this Contract each party shall return to the other party any Confidential Information of the other which it has in its possession.
- 9.7 Clause 4 (Customer Obligations), Clause 5 (Charges and Payment), Clause 12 (Intellectual Property), Clause 13 (Information and Confidentiality), Clause 14 (Data Protection), Clause 15 (Limitation of Liability) and Clause 16 (Force Majeure) and other terms and conditions forming part of the Contract which are agreed by the Parties to survive termination or which by their nature are clearly intended by the Parties to survive termination, shall survive and continue in full force and effect.

10. Suspension of Services

- 10.1 VoIP North Wales reserves the right to interrupt the service or change the technical specification of the Service for operational reasons (such as maintenance or service upgrades), because of an emergency or as required to conform with any applicable safety or other statutory requirements. In these circumstances where possible VoIP North Wales will give notice to the Customer of such interruption however, the Customer shall have no claim against VoIP North Wales for any such interruption.
- 10.2 VoIP North Wales may suspend the provision of the Service or any part thereof in its absolute discretion and without notice if:
- 10.2.1 the Customer fails, or VoIP North Wales believes the Customer will fail, to meet any of its obligations under this Contract including, but not limited to failure to make payment pursuant to clause 5;
- 10.2.2 technical limitations exist or arise which make the provision of the Service impossible or materially limit the functionality or performance of the Service;
- 10.2.3 in the opinion of VoIP North Wales the Customer's conduct may result in the breach of any law or is otherwise prejudicial to the interests of VoIP North Wales;

10.2.4 in the opinion of VoIP North Wales it is necessary for operational reasons such as upgrades to the Service or regular or emergency maintenance;

10.2.5 VoIP North Wales is obliged to comply with any order, instruction or request of a competent governmental, emergency services organisation or regulatory or other authority;

10.2.6 VoIP North Wales is entitled to terminate this Contract under clauses 9 or 16; or

10.2.7 any Third Party Service Provider temporarily suspends or takes out of use the Service for operational purposes.

10.3 VoIP North Wales shall, where practical, give the Customer notice of intention to suspend the Service and, in relation to suspension for the reasons stated in Clauses 10.2.2, 10.2.4. or 10.2.5 above, shall restore the Service as soon as VoIP North Wales is reasonably able to do so.

10.4 If VoIP North Wales exercises its right to suspend the Service this shall not restrict their right to terminate this Contract.

10.5 The Customer shall indemnify, keep indemnified and hold harmless VoIP North Wales from and against any claim or demand of whatsoever nature and howsoever arising against VoIP North Wales as a result of suspension pursuant to this clause.

11. Variation of Services

11.1 VoIP North Wales shall be entitled, upon giving not less than thirty (30) days' notice to the Customer where practical, to make variations and additions to the Service and these Terms and Conditions from time to time (acting reasonably) including:-

11.1.1 to improve or add to the Service;

11.1.2 to pass through any change made by any Third Party Service Provider to any Third Party Services;

11.1.3 in order to comply with any law or legal obligation (whether under common law, statute, tort or otherwise), or any change to any law or legal obligation;

11.1.4 in order to comply with any final order, provisional order, direction, notice, specification, designation or consent made by the Office of Communications; and/or

11.1.5 in order to maintain the integrity or security of the Service and/or any part of the systems use or to provide the Service.

For the avoidance of doubt, VoIP North Wales shall not be obliged to give any greater notice of any changes by a Third Party Service Provider than the Third Party Service Provider gives to VoIP North Wales.

11.2 VoIP North Wales may at any time change the Service if it needs to do so to comply with any applicable safety or other statutory requirements or where the change does not materially detract from the quality or performance of the Service.

11.3 In relation to any Third Party Services, including any elements which are sub-contracted to or supplied by third parties, and any third party premises that may host any systems used to provide the Service, the following terms will apply:

11.3.1 VoIP North Wales shall use all reasonable endeavours to monitor and supervise the supply of such Third Party Services, but, VoIP North Wales shall not otherwise be responsible for or liable for any

malfunction, failure, non-operation, default, or non-availability of such Third Party Services, unless due to VoIP North Wales's negligence or default;

11.3.2 if the third party changes its specifications for the Third Party Services after the date of this Contract, or that third party replaces the same with a new version, or ceases to supply the same, or VoIP North Wales decides to replace the same, VoIP North Wales shall be entitled (without prejudice to any of its other rights and remedies) to substitute for the Third Party Services an alternative which shall as far as is reasonably possible provide substantially the same functionality, and to make a reasonable resulting variation to the Charges and other terms of this Contract. VoIP North Wales would as far as practicable pre-plan this with the Customer;

11.3.3 if the third party increases its charges for the Third Party Services, VoIP North Wales shall be entitled to make a resulting increase to the Charges to pass on the cost increase in accordance with clause 5.3; and

11.3.4 VoIP North Wales may change the Third Party Service Provider at any time. In such case, this may involve a temporary suspension in the Service and re set-up.

11.4 If the Customer's broadband connection fails, there is a power cut of power failure or there is a failure outside of VoIP North Wales's control, the Service may also fail. VoIP North Wales shall not be liable to the Customer for any such failure to use the Service. In addition, the Service does allow calls to the emergency service numbers 999 or 110.

12. Intellectual Property

12.1 The Customer shall not use any trade names, trademarks or service marks of VoIP North Wales or the Licensors without the express written consent of VoIP North Wales (in respect of any trade names, trademarks or service marks owned by VoIP North Wales) or the relevant Licensor (in respect of any trade names, trademarks or service marks owned by any Licensor).

12.2 Copyright in all software, documents, drawings and information supplied to the Customer in connection with this Contract remain vested in VoIP North Wales or the copyright owner. Such software, documents, drawings and information are confidential and will not be copied, disclosed or used (except for the purpose for which they were supplied) without VoIP North Wales's prior written consent and in respect of Third Party Software, the prior written consent of the relevant Licensor.

13. Information and Confidentiality

13.1 The Customer will provide VoIP North Wales with any information which VoIP North Wales may reasonably require to enable to proceed with the performance of its obligations under this Contract.

13.2 The Customer acknowledges that VoIP North Wales reserves the right to review or edit any of the Customer's information (including but not limited to information about the communications such as origin, destination, duration, route and time) or third party information which the Customer uses in connection with the Services for the purposes of any of the following:

13.2.1 performing its obligations under this Contract;

13.2.2 correcting, maintaining and improving the Service;

13.2.3 monitoring the performance of the Service including the Customer's usage;

13.2.4 collating information to provide non-specific statistics to assist in VoIP North Wales business planning;

13.2.5 complying with applicable laws, regulations and statutory instruments; or

13.2.6 complying with any request for information or disclosure from a Court or other appropriately authorised body.

13.3 Neither party shall disclose to any third party without the prior written consent of the other party any Confidential Information which is received from the other party as a result of this Contract. Each party agrees that any Confidential Information received by it from the other party shall only be used for the purposes of the performance of its obligations and/or the exercise of its rights.

13.4 These restrictions shall not apply to any information which is or becomes generally available to the public other than as a result of a breach of an obligation under this clause 13, is acquired from a third party who owes no obligation of confidence in respect of the information, has been independently developed by the recipient, or is required by any Court of competent jurisdiction or by a governmental or regulatory authority or where there is a legal right, duty or requirement to disclose such Confidential Information.

14. Data Protection

14.1 VoIP North Wales and the Customer each agree to comply with their respective obligations under the Applicable Data Protection Laws and maintain all relevant registrations, including (in relation to the Customer) such registrations and consents as the Customer should obtain and maintain to enable VoIP North Wales to process personal data in connection with the performance by VoIP North Wales of its obligations under this Contract.

14.2 Except in respect of Customer Details, the use of which is governed by clause 14.3, if and to the extent that VoIP North Wales Processes Personal Data in the capacity of the Data Processor of the Customer in the course of performing its obligations under this Contract, VoIP North Wales shall act in accordance with the Customer's instructions in respect of the Processing of such Personal Data from time to time, and use appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction or damage.

14.3 Any and all Customer Details supplied by the Customer is held and may be used and disclosed in accordance with VoIP North Wales's current privacy policy available on the VoIP North Wales Website.

14.4 Notwithstanding anything to the contrary, VoIP North Wales shall be entitled to put any data obtained under or in connection with this Contract into a computerized directory in anonymised form and may use and disclose such data in order to enable VoIP North Wales to provide the Service and market other products and services to the Customer.

14.5 Notwithstanding anything to the contrary, the Customer agrees that VoIP North Wales shall be entitled, when required by law, to disclose to government agencies Passwords, decryption codes, and details of the Customer's information processed using the Service, upon written notice to the Customer.

14.6 The Customer agrees that VoIP North Wales may monitor and record calls made to or by VoIP North Wales or to the Customer (and/or any of their employees or personnel), for training purposes, to improve the quality of its customer services and to assist with complaint handling. The Customer undertakes to make its employees and personnel aware of the rights reserved by VoIP North Wales under this condition.

14.7 The provisions of this clause 14 shall survive the termination of this Contract.

15. Limitation of Liability

15.1 VoIP North Wales shall not be liable whether in contract, tort (including negligence), breach of statutory duty or otherwise for loss of profits, anticipated profits, production, business, business opportunity, goodwill, revenue, or anticipated savings (whether direct or indirect), loss of, corruption of, or damage to data or software (whether direct or indirect), any special indirect or consequential loss or damage or any loss suffered by any third party or any liability to any third party.

15.2 The total liability of VoIP North Wales (other than liability governed by clause 15.3) arising out of or in connection with this Contract (whether arising in contract, in tort, including negligence, as a result of breach of statutory duty or otherwise howsoever) is limited to a sum equivalent to the total of Charges

paid to VoIP North Wales in the previous twelve (12) months for any one cause of action or series of causes of action arising out of the same event, act or omission (the "**Per Claim Cap**") and, in the aggregate, to a sum equivalent to 200% of the Per Claim Cap for any and all causes of action arising in any twelve (12) month period.

- 15.3 VoIP North Wales's liability (whether arising in contract, in tort (including negligence), or as a result of breach of statutory duty or otherwise howsoever) for damage to tangible property shall be limited to £5000.00 in respect of each incident or series of connected incidents. For the purposes of this clause, neither data nor software constitutes "tangible property".
- 15.4 Nothing in this Contract shall exclude or restrict the liability of either party for death or personal injury arising as a result of its negligence, for its fraud; or for any other liability which cannot be excluded or limited by law.
- 15.5 The express terms of this Contract are in lieu of all warranties, conditions, terms, undertakings and obligations whether oral or in writing and whether express or implied by statute, common law, custom, trade usage, course of dealings or otherwise, all of which are hereby excluded to the fullest extent permitted by law.
- 15.6 VoIP North Wales are not liable to the Customer for the acts or omissions of any other party, including other providers of telecommunications, computers or other equipment or services including internet services.
- 15.7 No delay in enforcing any of the provisions of this Contract shall affect or restrict the rights of VoIP North Wales arising under this Contract.
- 15.8 VoIP North Wales shall not be in breach of this Contract or under any liability for any failure to perform or for delay in performing any obligation under this Contract (in whole or in part) to the extent that the performance of such obligation is prevented, frustrated, hindered or delayed as a result of any breach of this Contract by the Customer or any voluntary act or omission of the Customer.

16. Force Majeure

- 16.1 Neither party shall be obliged to carry out any obligation under this Contract (other than the Customer's obligation to pay the Charges and to indemnify VoIP North Wales) where performance of such obligation is prevented
due to any cause beyond a party's reasonable control including but not limited to, any act of God, severe weather, failure or shortage of power supplies, flood, drought, lightning or fire, labour shortage or labour dispute, the act or omission from the Government, highways authorities, other telecommunications operators or administrations or other competent authority, the obstruction by a third party of line of sight between microwave installations, war, military operations, or riot, or difficulty, delay or failure in manufacture, production or supply by third parties of the Service resulting from the same or a similar type of force majeure event and breakdown of any equipment.
- 16.2 If any event described in clause 16.1 lasts more than fourteen (14) days from the date of its commencement and that event prevents either party from performing all or a material part of its obligations during that period either party may terminate this Contract by giving thirty (30) days written notice to the other party.
- 16.3 A party relying on this clause 16 shall use reasonable endeavours to mitigate the effects of a force majeure event.

17. Audit

- 17.1 During the term of this Contract and for a period of two (2) years after the termination of this Contract the Customer shall keep separate accounts and records giving correct and adequate details of all payments made in respect of this Contract and the Customer's use of the Service and Software and shall upon request report to VoIP North Wales in respect of the above and/or permit VoIP North Wales and its and their duly appointed representatives at all reasonable times to inspect all such accounts and records and to take copies thereof.

- 17.2 In the event that an audit conducted in accordance with clause 17.1 uncovers a payment shortage in respect of the Charges, the Customer shall pay VoIP North Wales any unpaid amount which is due and payable in accordance with the terms of this Contract.
- 17.3 In the event that an audit conducted in accordance with clause 17.1 uncovers a payment shortage of Charges of 5% or more, the Customer shall reimburse VoIP North Wales, for the expenses incurred in conducting such audit.
- 18. General**
- 18.1 The Contract shall not create or constitute a partnership, joint venture or agency relationship between the Parties.
- 18.2 If any provision (or part of a provision) of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 18.3 No failure to exercise, or delay in exercising a right, power or remedy provided by the Contract or by law shall constitute a waiver of that right, power or remedy, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege.
- 18.4 This Contract does not confer any rights on any person or party (other than the parties to this agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 18.5 Customer shall not assign, charge or otherwise deal with all or any of its rights and obligations in the Contract in whole or in part without the prior written consent of VoIP North Wales.
- 18.6 All notices, requests and other communications called for by this Contract will be deemed to have been given immediately if made by electronic mail (confirmed by concurrent written notice sent first class post, postage prepaid) to the addresses set out herein.
- 18.7 The Agreement shall be governed by and construed in all respects in accordance with the laws of England and Wales without regard to any conflict of law provisions, except that the United Nations Convention on the International Sale of Goods shall not apply and both Parties hereby submit to the exclusive jurisdiction of the courts of England and Wales.
- 18.8 Notwithstanding any other provision of this Contract, VoIP North Wales may vary this Contract at any time by notice in writing to the Customer if it needs to do so to comply with terms contained in VoIP North Wales' contracts with any Third Party Supplier or any law or statutory obligation.

SCHEDULE 1: Definitions

In these terms and conditions (unless the context otherwise requires):

Act means the Communications Act 2003, as amended, and the Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020/1419;

Affiliate means in respect of any party hereto any firm or body corporate in which such party directly or indirectly, owns more than half the capital or business assets, has the power to exercise more than half the voting rights, has the power to appoint more than half the members of the supervisory board, board of directors or bodies legally representing such firm or body corporate, or has the right to manage the business of such firm or body corporate;

Call means a signal, message or communication that is silent, spoken or visual.

Charges mean the charges payable by the Customer to VoIP North Wales for and/or in connection with the provision, implementation, maintenance and support and/or administration of the Service as set out in VoIP North Wales Price List and any other charges payable pursuant to this Contract or otherwise agreed in writing

between VoIP North Wales and the Customer;

Commencement Date means the date upon which this Contract is executed by both parties;

Confidential Information means all information whether verbal, written, stored or otherwise obtained including, but not limited to, data, facts and statistics about the business affairs, products, product development, trade secrets, know-how, personnel, customers or suppliers of the disclosing party whether or not they are or were designated or marked as confidential together with all information derived by the receiving party from the foregoing which is by its nature confidential or proprietary;

Contract means the contract between VoIP North Wales and the Customer comprising these Terms and Conditions, together with the Order Form, any Statement of Work if applicable and/or any other documents specifically incorporated into such contract, and/or any Schedules hereto;

Customer means the person (not being an individual consumer), proprietorship, partnership, corporation, government or other subscription or publicly funded enterprise, company or other body corporate with whom VoIP North Wales contracts to provide the S named in the Order Form;

Customer Details means the data which identifies the Customer or any employee, director, officer, partner, shareholder, or other relevant individual of the Customer;

Customer Equipment means equipment that is not part of the VoIP North Wales network (including the Broadband Voice Telephone Adapter and / or a Personal Computer) and which the Customer uses or plans to use with the Service;

Customer Information" the information which the Customer provides to VoIP North Wales when registering for the Service;

Data Protection Laws means to the extent applicable: (i) the General Data Protection Regulation, Regulation 2016/679 of the European Parliament ("GDPR") and any applicable national associated laws or implementations thereof; (ii) GDPR as transposed into United Kingdom national law by operation of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019 ("UK GDPR"), together with the Data Protection Act 2018 ("UK Data Protection Law"); in each case, as may be amended, supplemented or replaced from time to time;

Initial Contract Period means the period commencing on the Commencement Date and running for 24 (24) months or as otherwise specified in the Order Form;

Intellectual Property Rights means any intellectual property rights of whatever nature subsisting at any time in any part of the world including, without limitation, copyrights, design rights, patents, registered designs, trademarks, service marks, rights in trade secrets, know-how and other confidential information, rights in respect of databases, the rights to apply for any of the foregoing and applications for any of the foregoing;

VoIP North Wales Price List means the list of charges [set out in the Order Form] OR [in force from time to time.

VoIP North Wales Website means the website located at <https://www.catsystems.co.uk/voip-cloud-phone-systems> or such other website as may be notified by VoIP North Wales from time to time;

Licensor means the licensors of Software (including Third Party Software) to VoIP North Wales for the provision of the Service under this Contract;

Order means an order placed by the Customer with VoIP North Wales for the provision of Service;

Order Form means the application form containing the details of an order for Service placed by the Customer;

Personal Computer means a personal computer with VoIP North Wales supplied software, which allows the

Customer to use the Service from a personal computer;

Premises means the place in the United Kingdom at which VoIP North Wales agrees to provide the Service;

Primary Line means the Customer's primary Business broadband line;

Personal Data shall have the meaning given to that term in the UK GDPR;

Processing shall have the meaning given to that term in the UK GDPR and the term "**Process**" shall be construed accordingly;

Service Failures means any failure, error or defect in the provision of the Service arising from, caused by or contributed to by the acts or omissions of the Customer or third parties including other providers of telecommunications, computers or other equipment or services including internet services; or any failure, error or defect arising as a result of causes beyond the reasonable control of VoIP North Wales;

Service means the facility to make or receive a Call (or both) using a suitably enabled broadband line in the United Kingdom;

Software means machine-readable instructions and data (and copies thereof) including middleware and firmware and related updates and upgrades, licensed materials, user documentation, user manuals, and operating procedures used or required to be used in the provision of or for the Customer to access the Service;

Start Date means the target date for the commencement of the provision of the Service to the Customer as specified or agreed to by VoIP North Wales;

Term means the Initial Contract Period and any Subsequent Renewal Period(s), as applicable;

Third Party Service Provider means any provider of any Third Party Service;;

Third Party Services means any part of the Service which VoIP North Wales procures from a third party, including any third party services, equipment and/or Third Party Software which VoIP North Wales uses in order to provide the Services.

Third Party Software means any Software the Intellectual Property Rights in which are owned by a party other than VoIP North Wales or its Affiliates;

User ID means the identification number provided to the Customer by VoIP North Wales for the purposes of security in the provision of the Service.

