

CER Communications Limited

Standard Terms of Carrier or Network Services

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1. INTERPRETATION

1.1 In these terms and conditions ("Conditions"):

"CER" means CER Communications Limited (registered number 5502153) whose registered office is at 34 Beaufort Ave, Blackpool, Lancashire, FY2 9HG.

"CLI" means the telephone number which identifies the line being contracted by the Customer.

"CDR" means call data record which provides details of the Customer's use of the Specified Services for the purpose of invoicing as referred to under clause 3.4 below.

"CONTRACT" means the contract for the provision of the Specified Service to the Customer incorporating these Conditions, the Order Form and the Supplier's Conditions as made applicable herein.

"CUSTOMER" means the person named on the Order Form for whom CER has agreed to procure the provision of the Specified Service in accordance with the Contract.

"DOCUMENT" includes, in addition to a document in writing, any map, plan, graph, drawing or photograph, any film, negative, tape or other device embodying visual images and any disc, tape or other device embodying any other data.

"EXCESS CONSTRUCTION CHARGES" means additional charges raised by the Supplier resulting from costs associated with additional infrastructure provision or construction work required to provide the Specified Service such as installing new line plant, ducting etc and other miscellaneous costs such as road closures, traffic control and recovery of plant.

"HANDOVER DOCUMENT" means written information in documentary or electronic format provided by CER to the Customer stating that the installation of the Specified Service is complete together with such other information as shall be deemed appropriate by CER from time to time.

"INITIAL TERM" means the period commencing on the Operational Services Date and for the period as set out in the Order Form subject to continuation in accordance with clause 7.1.

"INPUT MATERIAL" means any Documents or other materials, and any data or other information provided by the Customer relating to the Specified Service.

"PRIOR PERIOD TRAFFIC" means traffic that has not been captured in the appropriate month's CDRs.

"OPERATIONAL SERVICES DATE" means the date when the Specified Service is first made available to the Customer.

"ORDER FORM" means the sheet to which these Conditions are appended or referenced and in which the Specified Services are detailed.

"OUTPUT MATERIAL" means any Documents or other materials, and any data or other information provided by CER relating to the Specified Service.

"PSTN" means Public Switched Telephone Network.

"ISDN" means Integrated Services Digital Network.

"CPS" means Carrier Pre Selection.

"IDA" means Indirect Access.

"SPECIFIED SERVICE" means the service to be provided by CER for the Customer as referred to in the Order Form

"SUPPLIER" means the company named in the Supplier's Conditions which has agreed to supply the Specified Services to CER.

"SUPPLIER'S CONDITIONS" means the terms and conditions in accordance with which the Supplier has agreed to supply the Specified Services to CER.

"SUPPLIER'S EQUIPMENT" means the equipment which the Supplier must install in the Customer's premises in order to provide the Specified Services.

1.2 The headings in these Conditions are for convenience only and shall not affect their interpretation.

1.3 In the event of any conflict between the provisions of these Conditions and the Supplier's Conditions, the terms of these Conditions shall prevail.

2. SUPPLY OF THE SPECIFIED SERVICE

2.1 CER shall be responsible for the procurement of and facilitating the supply of, the Specified service to the Customer (or the Customer's customers, as determined by reference to the Customer Order Form) and subject to the Contract. Any changes or additions to the Specified Service or the Contract must be agreed in writing by CER and the Customer.

2.2 The Customer acknowledges that the Specified Service will be provided by the Supplier. Accordingly, except in so far as they are excluded or varied by these conditions, the Supplier's Conditions shall be deemed to be repeated in these Conditions and in construing the same, and to the extent necessary to give full meaning to the same, the Supplier in the Supplier's Conditions shall be replaced by CER and where CER is identified in the Supplier's Conditions as the customer it shall be replaced by "Customer".

2.3 Expressions defined in the Supplier's Conditions shall have, where the context admits in these Conditions, the meanings so defined.

2.4 The Customer shall at its own expense supply CER with all necessary Input Material to allow CER to provide the Specified Services and will ensure that all Input Material is accurate to the fullest extent possible. The Customer acknowledges that CER will be unable to process any order where Input Material is incomplete.

2.5 The Customer shall at its own expense retain duplicate copies of all Input Material. CER shall have no liability for any such loss or damage, however caused. All Output Material shall be at the sole risk of the Customer from the time of delivery to or to the order of the Customer.

2.6 CER may correct any typographical or other errors or omissions in any Document relating to the provision of the Specified Service ensuring the Customer is notified of the said changes.

2.7 CER may at any time by giving reasonable prior notice to the Customer make any changes to the Specified Service which are necessary to comply with any applicable safety or other statutory requirements, or which do not materially affect the nature or quality of the Specified Service.

2.8 The Customer will obtain any permissions needed for the installation of any required equipment and undertakes to protect such equipment from physical or environmental damage.

2.9 Any Customer Equipment connected to the service must be technically compatible with the Specified Service and must not harm the network or any other customer's service.

2.10 CER will use reasonable endeavours to provide service by any date agreed with the Customer but all dates are estimates. CER will also use reasonable endeavours to provide uninterrupted service, but from time to time faults may occur. The Customer will obtain any permissions needed for the installation of any required equipment and undertakes to protect such equipment from physical or environmental damage.

3. Charges

3.1 Subject to any special terms agreed, the Customer shall pay to CER the amounts specified in CER invoices to the Customer and any additional sums which are agreed in advance between CER and the Customer for the provision of the Specified Service or which are required as a result of the Customer's instructions or lack of instructions, the inaccuracy of any Input Material or any other cause attributable to the Customer.

3.2 CER shall be entitled to invoice the Customer upon the Operational Service Date and thereafter as agreed between the Customer and CER and set out in the Contract or at other times agreed with the Customer. Unless otherwise agreed by CER, the Customer agrees to pay in advance for recurring charges (such as but not limited to line rentals, network features etc) and in arrears for connection charges, usage and other non-recurring charge elements. All agreement terms will start from the date that service commences.

3.3 On request and where appropriate, CER shall use reasonable endeavours to make available CDRs to the Customer relating to usage of contracted lines, at the same time as production of the corresponding invoice. CDRs and invoices relating to CDRs may contain Prior Period Traffic and it is the Customer's responsibility to ensure that it confirms all such data provided upon which it may intend to rely.

3.4 CER shall be entitled to vary any charges specified in the Contract at any time resulting from but not limited to; changes in Supplier's Conditions or prices, Excess Construction Charges and other variable economic factors which may affect CER costs of providing or continuing to provide the Specified Service.

3.5 On completion of the Initial Term CER reserves the right to adjust the Customer's charges to that of the Supplier's retail pricing.

3.6 All charges quoted to the Customer for the provision of the Specified Service are exclusive of any Value Added Tax, for which the Customer shall be additionally liable at the applicable rate from time to time.

3.7 The amounts specified in CER invoices to the Customer and any additional sums payable shall be paid by the Customer (together with any applicable Value Added Tax) within 30 days from receipt of CER invoice by the Customer (and receipt shall

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be deemed to take place 48 hours after CER posted each invoice to the Customer having first properly prepaid and addressed the same).

3.8 If the Customer wishes to dispute any invoice or part of an invoice, then the customer shall before the invoice is due for payment contact CER in writing setting out the nature of its dispute including:

- the date and number of the disputed invoice;
- the amount in dispute;
- the reason for the dispute; and
- supporting documentation, as appropriate.

3.9 Any undisputed part of a disputed invoice shall be paid by the Customer in accordance with Clause 3.7.

3.10 If payment is not made on the due date, CER shall be entitled, without limiting any other rights it may have, to charge interest on the outstanding amount for the overdue period (both before and after any judgment) at a rate of 4% per annum above the Bank of England base rate.

3.11 If payment is not made on the due date CER shall be entitled, without limiting any other rights it may have, to suspend the provision of the Specified Service until such time as all payments due and payable to CER have been paid in full together with such sum as CER may charge the Customer in respect of recommencing the provision of the Specified Service (the "Reconnection Fee"). CER will give a minimum of 14 days notice before suspension of service is implemented.

4. CUSTOMER'S OBLIGATIONS

4.1 CER shall use reasonable endeavours to procure that the Supplier commences to install or deliver the Specified Service on the date and at the address agreed between CER and the Customer and that either CER or the Supplier informs the Customer when the installation is complete by means of a Handover Document forwarded to the Customer by post, fax or email.

4.2 The Customer shall be deemed to have accepted the Specified Service within 2 working days of receipt of the Handover Document unless the Customer notifies CER of any defects in the Specified Service. With respect to service support issues, reports shall be deemed closed within 2 working days of receipt of the closure notification unless the Customer notifies CER otherwise. Such notifications from the Customer must be in writing or by email.

4.3 The Customer must ensure that any equipment connected to or used with the service is technically compatible and approved for that purpose under any relevant legislation. Such equipment must be connected and used in accordance with any instructions, safety or security procedures applicable to the use of that equipment.

4.4 For Customers taking line rental service, it is accepted that CER retains the sole right to determine how calls are routed over the service and that alternative call routing options which may be available through technologies such as CPS and IDA may be implemented or allowed to continue to operate entirely at the discretion of CER.

4.5 Occasionally, for operational reasons, it may be necessary to change the codes and numbers used by the customer in association with the Specified Services. The Customer does not own any number nor has any right to sell the number related to the Specified Services

4.6 For calling services, the Customer accepts responsibility for all call charges accruing through usage of the service (either authorized by the customer or not) at the tariff agreed on the Service Order Form (or CER Standard call tariffs if not specified).

4.7 The Customer shall use its reasonable endeavours to procure that CER is not in breach of any term of the Supplier's Conditions in so far as they relate to the possession and use of the Specified Service by the Customer during the life of the Contract. For example, the customer must ensure that the Specified Service is not used in anyway which is unlawful or in contravention of codes of practice, instructions and guidelines issued by regulatory authorities. Customers must ensure the Specified Services are not used to make offensive, indecent, menacing, nuisance or hoax calls or to cause annoyance, inconvenience or needless anxiety. Neither must the services be used to send or knowingly receive material which is offensive, abusive, indecent, defamatory, obscene or menacing.

4.8 The Customer indemnifies CER against any claims or legal proceedings which are brought or threatened against CER by a third party because the Specified Service is used in breach of Clause 4.6

4.9 In the event that CER is unable to provide the Specified Service as a result of any action or omission by the Customer in relation to the possession or use of the Supplier's Equipment which could reasonably be considered to have caused a hazard to the Specified Service then CER shall be entitled to suspend the Specified Service by giving reasonable notice until such time as CER thinks fit during which suspension the Customer shall continue to pay the full amount due under the Contract and at the end of such suspension the Customer shall pay to CER the Reconnection Fee.

4.10 The Customer shall provide the Supplier with all reasonable access to the Supplier's Equipment for the purposes of maintenance as the Supplier may reasonably require upon the Supplier serving on the Customer reasonable notice.

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4.11 The Customer agrees to comply with CER reasonable instructions on usage with respect to health, safety, security and quality of the Specified Services

5. WARRANTY

5.1 CER/CER Supplier warrants that it will provide the Specified Service with all the reasonable skill and care of a competent telecommunications service provider and in accordance with Industry Best Practice.

5.2 CER will use all reasonable endeavours to provide the Specified Service by utilising all current internal support functions.

5.3 CER will use all reasonable endeavours to ensure that the Specified Service is provided to the Customer within standard lead times but The Customer acknowledges that any such date is only an estimate and that CER shall not be liable for failure to meet any installation deadline.

5.4 Notwithstanding clause 5.1 above, there may be times when the Specified Service is temporarily unavailable due to routine or emergency maintenance, hardware failure, third party telecommunications failure, internet connection failure or any other form of service disruption. CER shall use all reasonable endeavours to minimise any such disruptions wherever possible but shall bear no liability to the Customer in respect of the same.

6. LIMITATION OF LIABILITY

6.1 CER shall have no liability to the Customer for any loss, damage, costs, expenses or other claims for compensation arising from any Input Material or instructions supplied by the Customer which are incomplete, incorrect, inaccurate, or arising from their late arrival or non arrival, or any other fault of the Customer.

6.2 CER/CER Supplier and the Customer accept unlimited liability for death or personal injury resulting from their negligence.

6.3 CER and the Customer are not liable to each other either in contract, tort (including negligence) or otherwise for direct or indirect loss of profits, business or anticipated savings, nor for any indirect or consequential loss or damage or for any destruction of data.

6.4 The liability of CER in contract, tort, (including negligence) or otherwise in relation to this Contract is limited to one million pounds Sterling (£1,000,000) for any one incident or series of related incidents and to two million pounds Sterling (£2,000,000) for all incidents in any period of 12 months.

6.5 Neither party shall be deemed to be in breach of the Contract by reason of any event set out in Clause 8.7.

7. TERMINATION

7.1 The Contract shall come into force on the date that service commences and shall continue in force for the duration of the Initial Term. At the end of the Initial Period, this Contract shall be automatically renewed for periods of one year. Each such period being referred to as a "Renewal Period" unless terminated earlier under the terms of the Contract or by either party providing at least 90 days notice to expire on the last day of the Initial Period or any Renewal Period.

7.2 In the event of the Customer terminating the Contract other than under Clause 7.3 the Customer shall be liable for early termination fees calculated in accordance with the unexpired period of the contract. For the avoidance of doubt, in the event that this Contract is terminated under the provisions of Clause 7.3 or 8.7 (as a result of a force majeure event) the Customer shall not be required to pay any sums for early termination.

7.3 Either party may (without limiting any other remedy) at any time terminate the Contract by giving written notice to the other if the other commits any breach of these Conditions and (if capable of remedy) fails to remedy the breach within 21 days after being required by written notice to do so, or if the other goes into liquidation, or (in the case of an individual or firm) becomes bankrupt, makes a voluntary arrangement with his or its creditors or has a receiver or administrator appointed (other than for the purposes of bona fide reconstruction or amalgamation).

7.4 In the event where CER has provided written notice of a breach of these conditions, and the customer has failed to rectify the breach within 21 days (as in 7.3 above) and The Customer has re-sold the Specified Service to a third party, then CER reserves the right to offer to contract directly with the third party for the Specified Service.

7.5 In the event of service of notice of termination by either party for any reason CER shall invoice Customer for all sums due under this Contract and the Customer shall use all reasonable endeavours to promptly facilitate the return of the Supplier's Equipment to the Supplier.

8. GENERAL

8.1 The terms set out in the Contract constitute the entire agreement between the parties, supersede any previous agreement or understanding and may not be varied except in writing between the parties. All other terms and conditions express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.

8.2 CER can change the Contract (including the charges) at any time. Changes to these Standard Terms of Trading will be published at:

<http://www.cercommunications.com>

(or any other online address that CER may advise) at least one day before the change is to take effect. For changes that are to the Customer's significant detriment, publication will be with at least 14 days notice before the change becomes effective.

8.3 No failure or delay by either party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either party of any breach of the Contract by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.

8.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

8.5 CER shall use all reasonable endeavours to ensure that the Customer is notified of enhancements and new technologies to products where by the Customer could gain benefit by the introduction of such products.

8.6 During this Contract and for a period of twelve (12) months following the termination of the Contract (for whatever reason) neither party shall employ or engage directly or indirectly (without the other party's prior written agreement) nor make or seek to make any offer of employment or engagement to any of the other party's staff, including its sub-contractors, who have dealt with the party in the course of the negotiation, conclusion and performance of the Contract.

8.7 Neither party shall be liable for any breach of the Contract caused directly or indirectly by anything outside its reasonable control including, without limitation to the generality of the foregoing, war, hostilities, government action requirements or regulations, breakdown, delays in transportation, inability to obtain supplies, any form of labour dispute, fire, flood or act of God, provided that the party has promptly given written notice of such occurrence to the other party. If a default due to an event of force majeure shall continue in force for more than 30 days, then the party not in default shall be entitled to terminate the Contract by notice to the other party.

8.8 The Contract shall not be construed as creating a relationship of employer and employee, principal and agent or a partnership or joint venture between the parties.

8.9 Neither party to the Contract shall disclose to any third party details of the Contract without the prior written consent of the other party save that CER shall be permitted to disclose details to the Supplier for the purposes of discharging its obligations under the Contract and for the same purposes both CER and the Customer shall each be permitted to disclose details to their respective subsidiaries, holding company or subsidiaries of such holding company.

8.10 CER and the Customer can transfer this Contract, with the written consent of the other. It is agreed that CER can transfer this Contract to a CER Group company or subsidiary company at any time upon the provision of notice to the Customer.

8.11 No term of the Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it

8.12 The construction, validity and performance of this Contract shall be governed by English Law and subject to the non-exclusive jurisdiction of the courts of England.