SPIRE BUSINESS COMMUNICATIONS LIMITED

(SPIRE) Terms & Conditions

SPIRE is part of SPIRE TECHNOLOGY GROUP

Version 03/October 2019

“Act” means the Telecommunications Act 1984 and amendments to the Act that may be made from time to time. “Agreement” means this agreement between the Customer and SPIRE entered into on the date set out overleaf and/or otherwise on an order form and/or service schedule (“Order Form”) and/or otherwise in a welcome letter (“Welcome Letter”) confirming the order details. “AO” means British Telecommunications plc. “AP” means an alternative provider of services (not being SPIRE) who has provided before or will provide (in the future) by your express written instruction services in place of (in whole or in part) the Services. “Customer”, means the person, firm or corporation specified overleaf and/or otherwise in the Letter. “Service” means the provision of all or any of voice, data, internet, line rental and/or other network services to the exchange lines with the Calling Line Identities (“CLIs”) indicated overleaf or otherwise provided to SPIRE by the Customer and confirmed in the Welcome Letter as the same may be amended by agreement between SPIRE and the Customer from time to time and confirmed in Welcome Letter(s) by SPIRE to the Customer. “CPS” means Carrier Pre-selection as a method of providing access to the Service over telephone lines provided by the AO. “LEL” means the local exchange line from the Customer’s premises, which SPIRE takes over and operates instead of the AO. “Minimum Contract Term” means the initial minimum term stated overleaf and/or in the Welcome Letter for the provision of Services and payment in respect thereof. Minimum Contract Value means the estimated monthly spend as shown overleaf which the Customer has agreed to spend with SPIRE for each month commencing from the Effective Date and for the duration of Minimum Contract Term.

1. The Service

SPIRE shall provide to the Customer the Service and LEL as requested, and SPIRE shall exercise appropriate and reasonable care in the provision, operation and maintenance of the Service and LEL. Other than through (or in addition to) the LEL, access to the Service shall be by, at SPIRE’s sole option programming of Customer Premise Equipment (“CPE”), or by SPIRE authorising with the AO the implementation of CPS and the Customer herein irrevocably authorises SPIRE to sign on behalf of the Customer all and any authorisations with a third-party telecommunications operator for the purposes of CPS access. If SPIRE separately agrees in writing, it shall also enable suitable by- pass to its Service by the Customer with the dialling or input of a simple by-pass code in front of the target- dialled number. SPIRE shall provide the LEL (if agreed) as soon as possible but shall not be responsible for any delay to provisioning the LEL or faults caused to the LEL or Services, where the same has been caused by any third-party telecommunications operator.

2. Duration

This Agreement shall come into full force and effect from the latest date of either written acceptance by SPIRE, or when SPIRE commence the provision of the Service or the LEL or otherwise when SPIRE advise the Customer of Service or LEL provision (“Effective Date”) and shall continue from the Effective Date for the agreed Minimum Contract Term as stated overleaf and/or as confirmed in the Welcome Letter and the Customer shall use the Services set out in the Order Form or Welcome Letter (as applicable) for the Minimum Contract Term and shall (if applicable) achieve the Minimum Contract Value for the duration of the Minimum Contract Term. This Agreement shall be capable of termination if prior to the end of the Minimum Contract Term either party shall have given to the other not less than 90 days prior written notice of termination, such notice to expire at the end of the Minimum Contract Term failing which this Agreement shall automatically continue for subsequent periods of equal to the Minimum Contract Term up to a maximum of 12 months for each renewal period (“Renewal Term”). None of the foregoing shall prejudice either party’s rights to terminate this Agreement during the Minimum Contract Term or the Renewal Term if such termination is being exercised in accordance with the provisions of Clause 8 (below).

3. Use of the Services and LEL

(a) The Customer shall be responsible for the safe custody and safe use of the Services and the LEL and any related equipment after installation of the Service and, without prejudice to the generality of the foregoing, the Customer agrees and undertakes:

(1) to use the Service and LEL in accordance with such conditions as may be notified to it in writing by SPIRE from time to time; and

(2) not cause any attachments other than those approved for connection under the Act to be connected to the Service and LEL; and

(3) not to contravene the Act or any other relevant

regulations or licenses; and

(4) not to use the Service and/or LEL as a means of communication for a purpose other than for which the Service and LEL is provided and as may be set out from time to time in SPIRE’s Service literature, a copy of which is available upon request by the Customer. (where expressly agreed in writing with the Customer, SPIRE will provide the Customer with the maximum notice practicable should there be any change to SPIRE’s Service literature and SPIRE agrees not to make any such change as would materially affect the parties’ obligations); and

(5) not to use the Service and LEL for the transmission of any material which is intended to be a hoax call to emergency services and is of a defamatory, offensive, abusive, obscene or menacing character; and

(6) not to use the Service and LEL in a manner which constitutes a violation or infringement of the rights of any other party; and

(7) to maintain its telecommunications apparatus at all times during the period of this Agreement in good working order and in conformation with the relevant standard or approval for the time being designated under section 22 of the Act; and

(8) to provide SPIRE with all such information as it reasonably requests relating to the Customer’s telecommunications apparatus; and

(b) The Customer shall indemnify SPIRE against all liabilities, claims, damages, losses, and expenses (including legal expenses) on a full indemnity basis, arising directly or indirectly from any breach of the undertakings contained in Clause 3(a) above.

4. Access to Premises and Provision of Information

To enable SPIRE to exercise its obligations under this Agreement:

(1) the Customer shall procure permission for SPIRE and any other person(s) authorised by SPIRE to have reasonable access to its premises and the Service’s connection points and shall provide such reasonable assistance as SPIRE requests including authority for SPIRE to deal with the Operator on the Customer’s behalf; and

(2) SPIRE will normally carry out work by appointment and during Normal Working Hours, but may request the Customer to provide access at all other times, but such request shall not oblige the Customer to provide such access; and

(3) at the Customer’s request, SPIRE may agree in writing to work outside Normal Working Hours and the Customer shall pay SPIRE’s reasonable charges for complying with such a request.

(b) The Customer shall herein give SPIRE or it’s authorised agents full authority to act on the Customer’s behalf (and shall confirm in writing or otherwise with any third party at SPIRE’s request) to represent the Customer with any third party service provider and Operator in respect of agreeing on the Customer’s behalf access to the Service through CPS and/or LEL (or any other access device), including obtaining from any such Operator the Customer’s consent to release of any information concerning the services taken by the Customer from such Operator.

(c) If the Customer requests maintenance or repair work of which is found to be unnecessary the Customer may be charged for the work and the costs incurred (including where the Customer has damaged or otherwise damage has been caused to the Equipment).

5. Suspension of Service

(a) SPIRE may at its sole discretion upon giving the Customer 7 days notice elect to suspend forthwith provision of the Service and LEL until further notice (without compensation and without prejudice to SPIRE’s right to terminate this Agreement at a later date) upon notifying the Customer either orally (confirming such notification in writing) or in writing in the event that;

(1) the Customer is in breach of a material term of this Agreement including for the purposes of this Agreement, its failure to pay monies due to SPIRE or any third party to which payment of any monies is otherwise due to SPIRE (where payment of such monies has been assigned by SPIRE or otherwise SPIRE has appointed such third party to act as its agent in respect of the collection thereof); or

(2) SPIRE is obliged to comply with an order, instruction or request of the Government, an emergency services organisation or other competent administrative authorities.

(b) The Customer shall reimburse SPIRE for all reasonable costs and expenses incurred by the implementation of such suspension and/or the recommencement of the provision of the Service and LEL as appropriate, but only where the suspension was implemented as a consequence of a breach, fault or omission on the part of the Customer. Any suspension of this Agreement shall not stop the Customer from paying SPIRE the Minimum Contract Value for the period of suspension.

6. Liability

Nothing in this Agreement shall exclude, limit or restrict SPIRE’s liability for the death or personal injury resulting from the negligence of SPIRE or of its employees whilst acting in the course of their employment.

(b) In the event that the Service and/or LEL fails to operate and the Customer diverts traffic to another carrier, SPIRE will not be responsible for that carrier’s charges.

(c) Without prejudice to the provisions of Clauses 2 (in respect of the Customer’s liability) and 6(a) above, neither party shall be liable to the other, in contract, tort or otherwise (including negligence) for any loss of business, contracts, anticipated savings or profits or for any other indirect or consequential loss whatsoever or howsoever arising.

(d) Without prejudice to the provisions of Clause 6(a), SPIRE’s entire liability in contract, tort or otherwise arising out of or in connection with the performance of its obligations under this Agreement shall be limited to £500 for any one incident or £1,000 for any series of incidents in any twelve-month period. Notwithstanding the foregoing, SPIRE’s total liability to the Customer shall, in respect of claims relating to any failure of the Services connected to any AO and/or AP be no more than SPIRE receives from such AO and/or AP as a consequence of such failure.

(e) Neither party shall be liable to the other for any loss or damage which may be suffered by the other party due to any cause beyond the first party’s reasonable control including without limitation any act of God, inclement weather, failure or shortage of power supplies, flood, drought, lightening or fire, third party supplier, Operator, strike, lock-out, trade dispute or labour disturbance, any act or omission of Government, highways authorities, or other competent authorities.

7. Charges and Payment

The Customer shall be invoiced monthly by SPIRE or any third party who has been assigned the right to receive such monies by SPIRE, or otherwise acts as an agent of SPIRE in the collection of such monies and agrees to pay all charges within 14 days of the date of the relevant invoice, unless otherwise agreed in writing by SPIRE. The charges shall be such charges as are set out in the relevant Schedule or service literature as may be varied by SPIRE from time to time (including all ancillary costs). The Customer shall also pay any aborted visit fees in respect of any new installations and/or otherwise the costs of any cancelled installation and/or LEL if the same is cancelled prior to the expiry of the any Minimum Contract Term. The Customer also expressly agrees and understands that they are responsible for any costs associated with the termination of any services that the Customer has by any agreement entered into between the Customer and an AO and/or AP, which costs and charges are not the responsibility of SPIRE by SPIRE having agreed to provide any Services to the Customer in place of or in addition to such AO and/ or AP. The Customer shall be invoiced monthly in arrears, unless otherwise agreed herein, monthly in advance or both, dependant on the nature of the Service and LEL agreed with SPIRE. Time of payment to SPIRE (or any third party as aforesaid) shall be of the essence.

The Customer shall have no right to withhold, offset or deduct any payment whatsoever that is invoiced and due to SPIRE, or any third party (as aforesaid) and SPIRE reserves the right to charge daily interest on all amounts outstanding 14 days after the date of invoice until payment in full is received, at a rate equal to 4 percent per annum above Barclays Bank plc Base Lending Rate as current from time to time, whether before or after judgment. Interest shall continue to accrue notwithstanding termination or suspension of this Agreement. Without prejudice to the provisions contained elsewhere in this Agreement, any dispute in respect of an invoice must be made within 5 business days of the date of the relevant invoice failing which no dispute shall be considered by SPIRE and in any event such a dispute shall be made in good faith by the Customer.

In the event that this Agreement is terminated for whatever reason and all sums are not paid to SPIRE (or any third party as aforesaid), in accordance with the terms hereof, SPIRE herein reserves the right to charge the Customer for its administration and legal charges up to and prior to commencing any legal proceedings at the rate of £100 per hour of time spent chasing the overdue amounts. All sums referred to in this Agreement are exclusive of Value Added Tax and any taxes of a similar nature which may from time to time be introduced.

8.Termination

(a) Notwithstanding anything to the contrary expressed or implied elsewhere in this Agreement, the relevant party (as defined below) and without prejudice to its other rights may terminate this Agreement forthwith in the event that:

(1) SPIRE only may terminate this Agreement if a liquidator (other than that for the purpose of amalgamation or reconstruction), trustee in bankruptcy, administrator, receiver or receiver and manager (whether voluntary or not) is appointed in respect of the whole or part of the assets and/ or undertaking of the Customer or the Customer enters into an arrangement or composition with its creditors, or if the Customer becomes unable to pay its debts within the meaning of s123 of the Insolvency Act 1986, or other circumstances arise which entitle a court or creditor to appoint a receiver or administrator or to make a winding up order; or

(2) SPIRE only may terminate this Agreement if the

Customer fails to make any payment when due; or

(3) Either party may terminate this Agreement if the other party is in breach of a material term of this Agreement and, where such term is capable of remedy, fails to remedy it (having been given written notice of that breach) within seven days of the date of such notice. In the event that SPIRE fails to remedy such breach as aforesaid, the Customer may only terminate the Agreement or any or all of the Services having first notified SPIRE in writing of its intention to terminate such Services.

(b) Notwithstanding anything to the contrary expressed or implied in this Agreement SPIRE (without prejudice to their other rights), may terminate this Agreement forthwith in the event that any license under which the Customer has any right to run its telecommunication system and connect it to the Service and LEL is revoked, amended or otherwise ceases to be valid or otherwise any payment due hereunder to SPIRE (or any third party as aforesaid) is due and owing.

(c) As a consequence of termination, where SPIRE has implemented Service with the installation/ connection of external routing hardware, this hardware must be returned to an address nominated by SPIRE on termination of its Service whether this termination be instigated by the Customer, SPIRE or other extraneous circumstance. Where hardware requires de- installation by an engineer to enable its recovery this de-installation shall be arranged by SPIRE at no charge to the Customer. SPIRE however retains the right to charge the Customer for any routing hardware misplaced, damaged through negligence or uncollectable for any reason at a cost equal to its purchase price by SPIRE.

(d) Where SPIRE has made arrangement via its engineers for the de- installation of external routing hardware and site attendance has been agreed in advance by the Customer with engineers for a specific day, SPIRE reserves the right to charge for any abortive visit cost incurred, in the event of failure of the engineer to perform the de- installation due to the Customer.

(e) For termination as detailed in 8(d) but where SPIRE has implemented Service with the programming of CPE SPIRE shall de-provision with its supplier(s) any CLI(s) associated with its Service to cause cessation. It will be the responsibility of the Customer to arrange for the replacement of any network access code programmed into the equipment to allow subsequent usage of any other AP or in fact removal of such network access code.

(f) Where termination of the SPIRE Service requires cancellation of the CPS facility, SPIRE shall undertake this process with the AO and the appropriate CPS Operator (“CPSO”) on behalf of the Customer, unless requested otherwise by the Customer (including where the Customer has advised SPIRE in writing that instruction to remove the Services (or any part of them) has been given directly to the AO by the Customer. SPIRE will cease with the CPSO any active CLIs from which calls are routing using CPS. In such circumstances SPIRE will communicate to the Customer the relevant by-pass code to enable outgoing calls to be made using the AO network during the time required by the AO to process the order submission for CPS cancellation. Where Service is provided with LEL, SPIRE will co- ordinate with the AO the cessation of SPIRE being the provider of the LEL, but shall not be liable for any delay or lack of access to communications as a consequence of the same.

(g) The Customer shall be liable to pay the Minimum Contract Value for the remainder of the Minimum Contract Term forthwith in addition an administration fee of £200.00 + VAT upon termination of this Agreement. The Minimum Contract Value shall be for all Services the sums forecast by SPIRE for the remainder of the Minimum Contract Term (having regard to the previous average billing from SPIRE for such Services prior to termination). All of the foregoing sums shall (and where there is a conflict between this clause 8(g) and clause 7, this clause 8(g) shall prevail) be invoiced in one final single sum (for the Minimum Contract Value), which sum will be due in full immediately upon SPIRE’s invoicing the Customer in respect of the same. For the avoidance of doubt in the event that the Customer fails to use the Services as anticipated by this Agreement, and notwithstanding SPIRE’s right to regard such failure as a repudiatory breach of this Agreement, SPIRE reserves the right to charge the Customer the Minimum Contract Value (if one is stated) or in the absence of the foregoing the monthly average of the spend for the Services from the Effective Date to the diminution in use of the Services for the remainder of the Minimum Contract Term (“Average Spend Charge”). Without prejudice to SPIRE’s right to regard any termination or material diminution in use of the Services by the Customer as a material breach [which the parties agree would be a material breach of this Agreement save where this Agreement or the Services are terminated by the Customer pursuant to SPIRE’s breach under clause 8(a)(iii)], SPIRE also reserves the right (but shall not be obliged) to re-instate Services where an AP is appointed in circumstances where SPIRE has not received prior written consent from the Customer directly to SPIRE to such transfer to an AP.

(h) Where this Agreement is terminated, SPIRE shall issue an invoice in respect of all sums due prior to and up to the date of termination (including the Minimum Contract Value or the Average Spend Charge, as applicable), including all sums referred to in this Agreement which may be due as a consequence of such termination and all sums outstanding (whether newly invoiced or not) shall be immediately due and payable by the Customer (save for Clause 8 (f) above, to SPIRE or any third party as aforesaid).

9.General

SPIRE may, but the Customer shall not (without the prior written consent of SPIRE), assign or delegate or otherwise deal with all or any of its rights and obligations under the Agreement.

This Agreement represents the entire understanding between the parties in relation to the subject matter hereof and supersedes all other agreements and representations made by either party, whether oral or written and this Agreement may only be modified if such modification is in writing and signed by a duly authorised representative of each party thereto.

SPIRE may freely assign this Agreement, in whole or in part. This Agreement shall not be assigned, whether voluntarily, by operation of law, or otherwise, this Agreement without SPIRE’s prior written consent [, which shall not be unreasonably withheld and for which no additional consideration shall be necessary]. Any attempt by the Customer to assign this Agreement in violation of this provision will be void and of no effect. This Agreement shall bind and insure to the benefit of the parties and their respective successors and permitted assigns.

Failure by either party to exercise or enforce any right conferred by this Agreement shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof or of any other right on any later occasion. By signing the form overleaf, or otherwise taking the Service, the Customer thereby agrees to the total exclusion of all its terms and conditions of business from this Agreement.

Any notice, invoice or other document which may be given by SPIRE under this Agreement shall be deemed to have been duly given if left at or sent by post to an address to which notices, invoices or other documents may have been sent, or the Customer’s usual or last known place of abode or business, or if the Customer is a limited company, its registered office. SPIRE’s address for the service of any notice by the Customer under this Agreement shall be such address as is shown on the last invoice rendered to the Customer or such address as SPIRE may prescribe for that purpose. This Agreement shall be governed by and construed and interpreted in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts. Those provisions of a continuing nature under this Agreement (including Clauses 6 and 7 above), shall continue to apply notwithstanding the termination or expiry of this Agreement for any reason whatsoever.

10. Product Specific Terms & Conditions

Please note for certain product or services additional Terms & Conditions may apply. A copy of these are available from www.spiretechgroup.com or by calling 0330 250 0250