

PARTIES

- (1) Amicus Networks Limited incorporated and registered in England and Wales with company number 07612826 whose registered office is at Regency House, 61a Walton Street, Walton on the Hill, Tadworth, Surrey KT20 7RZ (**Supplier**).
- (2) **Customer:** Details as provided during electronic contract signature.

1. INTERPRETATION

- 1.1 Definitions. In these Conditions, the following definitions apply:

“Act” means the Telecommunications Act 2003 and any amendments to the Act from time to time or any subsequent substitution thereof.

“Commencement Date” is the date each service starts or if for equipment only , equipment is delivered and is used by the Customer. The Customer acknowledges that the Agreement may be for various Services/Equipment therefore different Commencement Dates may apply to different Services/Equipment.

“Customer” the person or firm who purchases the Goods and/or Services from the Supplier and who orders Telecom Services under the terms of the Order.

“Direct Debit” means any request(s) for any payment or series of payments by bank direct debit payment method.

“Equipment” means any Equipment or products (including for the avoidance of doubt landline desk phone or VOIP enabled handsets) supplied by Amicus or any third party on behalf of Amicus to the Customer.

“Minimum Term” means the period of 12, 24 or 36 months from the Commencement Date or such other period as is prescribed for the relevant service or as is otherwise detailed on the purchase order.

“Amicus” means Amicus Networks Limited whose registered office is at Regency House, 61a Walton Street, Walton on the Hill, Surrey KT20 7RZ (registered number 07613826)

“Services” means the provision of Services provided by Amicus to the Customer under this Agreement, which inter alia, may include landline services, calls, broadband, PBX supply, service and maintenance and other various hosted IT and telephony solutions.

”Service Provider” means a third party supplying Services/Equipment to Amicus which Amicus supplies to the Customer or Services/Equipment provided by the Service Provider to the Customers directly on Amicus’ behalf.

2. THE SERVICES AND EQUIPMENT

2.1 Save as provided in these terms and conditions Amicus shall provide the Customer with such Services/Equipment, Equipment as are requested by the Customer and any use of the Services or payment for the Services/Equipment is deemed acceptance of these terms and conditions. Amicus shall only become liable to supply Services/Equipment to the Customer once satisfactory responses to credit checks and criminal bureau checks have been received by Amicus and (where appropriate) any Service Provider. Amicus will monitor and record information relating to a customer's trade performance and such records will be made available to credit reference agencies, who may share that information with other businesses in assessing applications for credit and fraud prevention.

2.2 The Customer shall be responsible for the safe keeping and safe and proper use of the Services and any related Equipment after installation of the Services and the Customer undertakes in particular:

2.2.1 not to cause any attachments other than those approved for connection under the Act to be connected to any Equipment.

2.2.2 not to contravene the Act or any other relevant regulations or licences.

2.3 The Customer hereby agrees that its apparatus shall at all times conform to the standard or standards (if any) for the time being designated under the Act and Amicus shall not be under any obligation to connect or keep connected any Customer apparatus if it does not comply or if in the reasonable opinion of Amicus it is likely to cause death, personal injury, damage or to impair the quality of any Services/Equipment provided by Amicus.

2.4 The Customer undertakes to use the Services/Equipment in accordance with the Act and Amicus' acceptable use policy (as published from time to time at www.amicusnetworks.co.uk and the Customer further undertakes not to use the Services/Equipment and to procure that none of its employees use the Services/Equipment:

2.4.1 as a means of communication for a purpose other than that for which the Services/Equipment are provided, and

2.4.2 for the transmission or receipt of any material which is defamatory offensive or of an abusive or menacing character or otherwise is in breach of Amicus' acceptable use policy.

2.5 Any Equipment supplied by Amicus remains the property of Amicus and must be made available for collection on the expiry or termination of this Agreement.

2.6 The Customer will not procure or be party to an agreement or arrangement to provide or receive Services/Equipment to those provided by Amicus or an alternative similar to the Services/Equipment provided by Amicus without the permission of Amicus in writing and the prior payment in full for the Services/Equipment. For the avoidance of doubt the use of non Amicus via using the Equipment provided by Amicus is deemed a material breach of this Agreement.

2.7 The Customer shall not publicise any number in any way or commit to any advertising or publicity until such time as it has received, from Amicus, in writing, confirmation that the number is live and tested. Amicus will use reasonable endeavours to provide the Customer with the Services/Equipment by the dates agreed with the Customer and to continue to provide the Services/Equipment until this Agreement is terminated. Amicus will not be liable for any loss or damage should the Service not commence or restart on the agreed date. Where Amicus is supplying network services as part of the Services the Customer must provide, to Amicus, details of all the related Services that it wishes to receive, relating to any telephone number that the Customer wishes

to use. Amicus will provide Services/Equipment through such party as it deems appropriate.

2.8 The Customer shall give Amicus at least 30 days written notice in the event that above average use of the Services is likely to occur. Amicus shall not be liable for failure/withdrawal of any part of the Services should such notice not be given.

2.9 Amicus' acceptable use policy form part of this Agreement and includes any restrictions imposed on Amicus by the Service Provider. This policy is designed to protect the level and quality of the Services/Equipment that Amicus offers to all of its customers and the policy permits Amicus to regulate the Customer's use of the Services/Equipment.

2.10 The Customer hereby specifically authorises Amicus to send/resend CPS during the continuance of this Agreement, and hereby waives Amicus' obligation to notify it of the same being done. If the Customer wishes to receive such notification then it must so inform Amicus in writing.

2.11 Where Amicus provides software to the Customer as part of the Services and/or Equipment Amicus hereby licences the software to the Customer solely for the use of the same by the Customer in connection with the Services and/or Equipment. This licence automatically terminates on termination of this Agreement. Amicus does not warrant that the software will be error-free and the Customer hereby agrees to make proper back-ups of all data.

2.12 Where Amicus incur provisioning, engineering or other fees associated with meeting the customer's requirements and/or subsequently the line does not become operational for any reason then Amicus have the right to charge the customer fees of up to £75 per line.

2.13 Where the Customer is a consumer within the definition of the Ofcom regulations the Customer has the right to cancel the Agreement within 7 working days of the date of the contract. Cancellation can be made by notifying Amicus by email or telephone. Any services used within this period will be chargeable. Cancellation charges will apply if the service is terminated outside of prescribed timescale.

3.TERM

3.1 This Agreement shall commence on the Commencement Date and subject to the remaining terms of this Clause 3 shall continue for the Minimum Term and thereafter for further periods each equivalent to the Minimum Term until terminated by either party giving to the other not less than 30 days prior written notice but not greater than 60 days prior written notice expiring at the end of the Minimum Term or at the end of any subsequent period as appropriate, such notice to be sent by recorded delivery to be mail effective on the date the notice is received by Amicus.

3.2 Either party shall be entitled forthwith to terminate this Agreement by giving written notice to the other if:

3.2.1 the other commits a continuing or material breach of this Agreement and, if the breach is capable of remedy, fails to remedy it within 14 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied; or

3.2.2 an administrator takes possession or a receiver is appointed over any of the property or assets of the other party, the other party makes any voluntary arrangement with its creditors or becomes subject to an administration order, the other party becomes bankrupt or goes into liquidation (except for the purposes of an amalgamation, reconstruction or other reorganisation and so that the company resulting from the reorganisation effectively agrees to be bound by or to assume the obligations

imposed on the other party under this Agreement); or
3.2.3 the other party ceases, or threatens to cease, to carry on business.

3.3 Amicus may terminate this Agreement immediately if:

3.3.1 any licence or agreement under which Amicus has the right to deliver its Service/Equipment is revoked, amended or otherwise ceases to be valid; or

3.3.2 the Customer is suspected, in the reasonable opinion of Amicus, of involvement with fraud or attempted fraud in connection with use of the Service/Equipment; or

3.3.3 Amicus reasonably suspects that the Customer is unable to pay or is refusing to pay Amicus charges and/or budget plan payments.

3.4 For the purpose of clause 3.2, a breach shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects other than as to the time of performance (provided that time of performance is not of the essence).

3.5 A waiver by either party of a breach of a provision of this Agreement shall not be considered as a waiver of a subsequent breach of the same or another provision.

3.6 If the Customer gives less than the specified amount of written notice to terminate this Agreement (as per Clause 3.1) or ceases to use the Service/Equipment or a part thereof (including reduced usage) or attempts to terminate this Agreement prior to the expiry of the Minimum Term or any subsequent period equivalent to the Minimum Term or fails to achieve any estimated spend as set out in this Agreement the Customer agrees that Amicus shall be entitled to charge the Customer an administration fee of 25% of the total expected Customer spend over the Minimum Term, based on an average of 6 calendar months' bills of the Customer in which periods the Customer has made full use of the Services/Equipment (or such lesser period as is available). Upon termination Amicus shall be entitled to raise invoices for all sums due and all invoices (whenever raised) shall become due for payment immediately.

3.7 In the event of termination by either party for any reason:

3.7.1 Amicus shall be entitled to recover from the Customer:

3.7.1.1 the Equipment or cost thereof as appropriate including, but not limited to the cost of installing or removing the Equipment;

3.7.1.2 all liabilities, claims, costs, losses and expenses incurred by Amicus (including the initial CPS and engineering costs and of providing the Services); and

3.7.1.3 all losses suffered by Amicus by way of third party or Service Provider claw-back where such claw-back is due to the breach by the Customer of this Agreement or the third party or Service Provider agreement.

3.7.2 and until such time as the Customer has transferred to a new provider, Amicus shall be entitled to amend its charges to its the standard published usage charges.

3.8 The rights to terminate this Agreement given by this clause shall not prejudice any other right or remedy of either party in respect of the breach concerned (if any) or any other breach. Continued use of the Services post termination will result in Amicus levying its standard published usage charges for all Services used, which charges the Customer shall pay immediately upon demand.

3.9 Where the Customer cancels part only of a bundle of Service/Equipment, Amicus reserves the right to charge the Customer for the Service/Equipment so cancelled in accordance with Clause 3.6 and amend charges to the Customer for the remaining Service/Equipment to its standard rates.

4. ACCESS TO PREMISES

4.1 To enable Amicus to comply with its obligations under the Agreement:

4.1.1 the Customer shall allow or procure permission for Amicus and any other person(s) authorised by Amicus to have reasonable access to the Customer's premises and the Services' connection points or, where network connection services form part of the Services, such location on the Customer's premises and/or any neighbouring premises as Amicus reasonably requires and shall at all times provide such reasonable assistance as Amicus requests.

4.1.2 Amicus will endeavour to carry out work by appointment and during normal working hours, but may request the Customer to provide access at other times. If at the request of the Customer Amicus carries out work outside its normal working hours the Customer will be responsible for Amicus' reasonable additional charges.

4.1.3 the Customer shall carry out such site preparations as Amicus may reasonably require.

4.2 If the Customer requests maintenance or repair work which is found to be unnecessary or results from an act or omission of the Customer, Amicus will charge for the work and the costs incurred.

4.3 The Customer hereby duly authorises Amicus, its dealers and agents to reprogram and or remove existing access equipment in order to provide the Services. In the event that the work is undertaken by the Customer's existing telephone system maintainer and not Amicus, Amicus will pay a maximum contribution of £75 plus vat towards any charges raised by the Customer's existing telephone system maintainer. The Customer to pay all other costs.

4.4 In relation to the Line Rental Service, if BT Openreach charges Amicus for repairs and an engineering call out charge, which will occur if the fault is found to be a fault in or is due to damage to the Customer's equipment, Amicus reserves the right to pass on those charges to the Customer together with Amicus' own administration charge of £25 per call out.

5. CHARGES AND PAYMENT

5.1 Following the expiration of a trial period that may be provided to the Customer at the sole discretion of Amicus and unless otherwise specified in writing by Amicus the Customer agrees to pay Amicus' charges and/or budget plan payments monthly by Direct Debit, the first payment to be made at the discretion of Amicus within thirty days of the start of the provision of the Services and in accordance with the applicable tariffs. Where network connection and/or line rental services form part of the Services the charges shall be paid in advance.

5.2 Usage charges will be such charges for the use of the Service/Equipment by the Customer as Amicus may notify to the Customer from time to time by e-mail or by post. Details of the Customer's current charges can be obtained by emailing Amicus at billng@amicusnetworks.co.uk with full account details. There will be a minimum monthly usage charge and low usage charge for each Service as set out in Amicus' price list from time to time. Usage charges payable shall be calculated by reference to any data recorded or logged by Amicus or its service carrier and not by reference to any data recorded or logged by the Customer. Amicus shall be entitled to estimate the usage charges in circumstances where the relevant data is not available to Amicus in a timely manner, and any estimated usage charge shall be reconciled on a subsequent invoice.

5.2.1 Unless otherwise stated all other amounts due from the Customer to Amicus shall be paid within 7 days of the date of Amicus' invoice.

5.3 If the Customer fails to make any payment on the due date then, without limiting any other right or remedy available to Amicus (such failure to pay being a material breach of this Agreement), Amicus may charge the Customer an administration fee of £15 and interest (both before and after any judgment) on the amount unpaid, at the rate of 4% per annum above Barclays Bank PLC base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

5.4 The price for the Service/Equipment is exclusive of any applicable value added tax, which the Customer shall be additionally liable to pay to Amicus.

5.5 The Customer agrees to pay Amicus in full, without any set-off, all sums due to Amicus under this Agreement.

5.6 Amicus shall be entitled to require the customer to pay a deposit in respect of future usage charges and the customer shall pay the amount so required within 7 days of request for the same.

5.7 The Customer authorises Amicus to vary the amount, frequency and time of any Direct Debit to such level as Amicus deem reasonably appropriate

(a) to take account of either an increase or decrease in usage of the Services by the Customer

(b) to reduce such indebtedness of the Customer to Amicus and/or

(c) to such other operational matter affecting the Service/Equipment as Amicus shall in its discretion deem reasonable.

5.8 If any payment is cancelled or returned unpaid by the Customer's bank or if the Customer fails to discharge any invoice within 7 days of its date, then without prejudice to any right or remedies under this Agreement, Amicus shall from the time of such failure provide the Service/Equipment at the standard published usage charges and in addition the Customer agrees to pay Amicus an administration fee of £25. For the avoidance of doubt the time of payment is of the essence of this Agreement and a failure to pay on time or the cancellation of a Direct Debit shall be a material breach of contract allowing Amicus to terminate this Agreement immediately. Invoices not paid by direct debt incur an additional £5 or 3% charge of the transaction whichever is the greater.

5.9 Should the Customer have any dispute with regard to the usage charges or any other charges, the Customer shall give written notice to Amicus of the amount in dispute and the reason for the dispute. Any rectification or amendment of such disputed charges are limited to the 6 months prior to the written notification being received by Amicus. Such notice must be received prior to the Customer not paying any amount due to Amicus, failing which the Customer shall be deemed to be in breach of contract and clause 3.3.3 shall apply together with clause 5.8 and clause 5.3 in respect of the entire balance. The Customer shall remain liable to pay all amounts not in dispute in accordance with the terms of this Agreement.

5.10 The Customer remains liable for all charges whether the Customer or someone else used the services and whether the services were used with the Customer's knowledge and consent or otherwise including and not limited to calls made by a rogue callers and calls made by any third party who has gained unauthorised access to the Customer's system.

5.11 Amicus retain the right to vary the charges set out in the tariff at any time upon giving the Customer 7 days notice such notice to be given either on the monthly invoice or on www.amicusnetworks.co.uk and continued use of the Service/Equipment is deemed acceptance of these changes.

5.12 Any calls that are routed by any means beyond the control of Amicus and for which the Customer is invoiced by another provider will remain the responsibility of the Customer.

6. SUSPENSION OF THE SERVICES

6.1 Amicus shall be entitled, for business, operational or technical reasons or in order to comply with any numbering scheme or other obligation imposed on Amicus by its licence or by any other competent authority (including any network provider), to withdraw or change any telephone number or code or group of numbers or codes allocated to the Customer whether on a temporary or permanent basis provided that Amicus gives the Customer the maximum period of notice in writing thereof practicable in the circumstances.

6.2 If the Customer is in breach of a material term of this Agreement Amicus may at its sole discretion and upon giving the Customer written notice elect to suspend without compensation the provision of Service/Equipment for a period not exceeding 14 days. If the breach is capable of remedy and is remedied by the Customer within the 14-day period then Amicus shall recommence the provision of Service/Equipment. If the breach is not capable of remedy or if so capable is not remedied within the period of 14 days, then Amicus shall have the option of either terminating this Agreement under the provision of clause 3 or of continuing the Service/Equipment.

6.3 If the Customer's call charges exceed the estimated call spend or the credit limit given to the Customer by Amicus, whichever is the lower, then Amicus reserves the right to request immediate payment of the excess amount and to demand in accordance with clause 5.6 a deposit be paid in such amount as Amicus shall deem to be reasonable. If payment is not made forthwith by the Customer, Amicus shall be entitled to suspend all or any of the Services until payment of the excess amount is made in full.

6.4 Notwithstanding and without prejudice to any of its rights under this Agreement, Amicus reserves the right to withdraw the Service/Equipment or any part thereof at any time if the monthly charges to the Customer are not, in the opinion of Amicus, sufficient to make provision of the Service/Equipment viable for Amicus.

7. LIABILITY

7.1 Nothing in this Agreement shall exclude or restrict the liability of either party for death or personal injury resulting from its negligence.

7.2 If the Service/Equipment fails to operate or the Customer diverts traffic to another carrier, Amicus will not be responsible for that carrier's charges.

7.3 Neither party shall be responsible to the other in contract, tort or otherwise for any loss of business, loss of data, contracts, anticipated savings or profits or for any other indirect or consequential loss whatsoever save that this exclusion shall not apply to the fraudulent activities of either party nor to any claw-back or other loss suffered by Amicus pursuant to the determination by a Services Provider that the Customer has used and/or provided services using the Equipment and/or

Services which is in breach of Amicus' acceptable usage policy.

7.4 Each party's liability in tort, contract or otherwise arising out of or in connection with the performance of either party's obligations under this Agreement shall be limited to £1,000,000 for any one incident or series of incidents and £2,000,000 in aggregate.

7.5 Neither party shall be liable to the other for any damage or loss which may be incurred by the other party due to any cause beyond the first party's reasonable control including without limitation any act of God failure or shortage of power supplies, trade dispute, any act or omission of Government, highways, regulatory bodies, other public telecommunication operators or other competent authority, or supply of Services by Service Providers.

8. GENERAL

8.1 Amicus reserves the right to change the provider of the Service/Equipment at any time; further Amicus reserves the right to change these terms and conditions at its sole discretion by giving the Customer not less than 14 days notice (usually on the front page of the monthly bill and/or on its website at www.amicusnetworks.co.uk), and continued use of the Service/Equipment thereafter will be deemed acceptance of such changes.

8.2 A notice required or permitted to be given by either party to the other under this Agreement shall be in writing addressed to that other party at its principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice and, save in respect of a notice pursuant to clause 3.1, shall be deemed served on the second after the same has been posted.

8.3 If any provision of this Agreement is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this Agreement and the remainder of the provision in question shall not be affected.

8.4 The Customer shall not assign, sub-license, delegate or otherwise deal with all or any of its rights and obligations under this Agreement without Amicus' prior written consent, such consent not to be unreasonably withheld. Nothing in this Agreement shall be deemed to grant to the Customer a licence to use any software or other intellectual property right (which shall include the Amicus trade marks) other than strictly in accordance with the terms of this Agreement. For the avoidance of doubt, the Customer shall not be entitled to sub-license any such software or other intellectual property right.

8.5 These terms and conditions constitute the entire Agreement between the parties and supersede any previous Agreement or understanding and, subject to clause 8.1 and 5.2, may not be varied except in writing and signed by Amicus or varied orally and then confirmed in writing by Amicus. All other terms, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law. In entering into this Agreement the Customer acknowledges that it does not rely on any representations which are not confirmed in the terms of this Agreement, but nothing in this Agreement affects the liability of either party for fraudulent misrepresentation.

The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

The laws of England shall govern this Agreement, and the Customer agrees to submit to the exclusive jurisdiction of the English Court.