

**Voiceflex Limited Terms & Conditions**  
**Effective 1st February 2017 v2017.01**

These Terms and Conditions are set out by Voiceflex Limited to cover voice services provided by Voiceflex™ Limited and its various operating divisions, namely: Frontier Systems;

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## 1. DEFINITIONS

1.1 In this Agreement:

**Agreement** means these terms and conditions.

**Autonomous System** means a collection of connected IP routing prefixes under the control of one or more network operators that presents a common, clearly defined routing policy to the Internet provided by the Company to the Customer.

**Calls** means a signal, message or communication made.

**Collocated Equipment** means a server, that the Company has made available to the Customer under the terms of this Agreement, that is located at a dedicated facility designed with resources which include a secured cage or cabinet, regulated power, dedicated Internet connection, security and support which offers the Customer a secure place to physically house their hardware and equipment as opposed to locating it in their offices or warehouse.

**Contract Order Form** means the online form provided by the Company or online process used to order the Products and/or Services which are subject of this Agreement, and if there is a discrepancy between these terms and conditions and the Contract Order Form, the Terms and Conditions should prevail.

**Company** means Voiceflex Limited whose registered office is at 1160 Elliott Court Herald Avenue, Coventry Business Park, Coventry CV5 6UB.

**Complete DDI Number Range** is a consecutive number range containing no missing numbers or number jumps (an example of a complete DDI range is +442074401800 to +442074401819, incrementing by one from the start of the range to the end, therefore, producing a 10 number DDI range).

**Customer** means any person or organisation with whom the Company enters into this Agreement and whose details are set out in Contract Order Form.

**Customer Content** means any programming, software, coding, graphics, files or scripts, WAV recordings located within the web space or voice system allocated to the Customer by the Company as part of the Service.

**DDI Number** means direct dial in number.

**Domain Name** means the unique name that identifies an internet resource, such as a website or email address, which has been registered by the Company in the name of the Company or the name of the Customer (for the avoidance of doubt, an example of a domain name in use as a website address is: [www.voiceflex.com](http://www.voiceflex.com) and an example of a domain name in use for e-mail is: [support@voiceflex.com](mailto:support@voiceflex.com)).

**Intellectual Property Rights** means copyright, patents, know-how, trade secrets, trademarks, trade names, design rights, rights in get-up, rights in goodwill, rights in confidential information, rights to sue for passing off, domain names and all similar rights and, in each case whether registered or not including any applications to protect or register such rights including all renewals and extensions of such rights or applications whether vested, contingent or future to which the relevant party is or may be entitled, and in whichever part of the world existing;

**Internet** means a global computer network.

**Internet Address** means such sequence of alpha numeric or numeric only characters as are used from time to time by the Customer to identify themselves and or their computer or computers to other users of other computers to which the Company is from time to time connecting or otherwise forwarding data to and from the Customer.

**IP** means the Internet protocol being a communications protocol for computers connected to a network.

**ISP** means Internet service provider.

**Minimum Period** means the contract length corresponding with the relevant Product being provided by the Company to the Customer under this Agreement referred to in Schedule 1.

**Password** means the alpha numeric characters chosen and used exclusively by the Customer but always subject to provisions of this Agreement at their own risk for the purpose of securing and maintaining the exclusivity of their access to the Services.

**Products** means the products listed in Schedule 1.

**PSTN Telephone Numbers** are unique public telephone numbers made available to the Customer by the Company for

use with some Services.

**Rate Card** means a list of the Company's Call rates and Service Charges as amended from time to time.

**Service** means the provision of the services and Products as detailed in Schedule 2 to be supplied by the Company to the Customer and set out in the Contract Order Form.

**Service Commencement Date** means the date when the Services commence identified as the "delivery date" on the Company invoice to the Customer.

**User Name** means such sequence of alpha numeric characters as are used exclusively by the Customer but always subject to provisions of this Agreement to identify themselves to other users of other computers to which the Company is from time to time connecting or otherwise forwarding data to and from the Customer.

Unless the context otherwise requires:

1.2 A reference to a gender includes each other gender and contextual references to his/her/its/their or he/she/it/they within this Agreement are references to the Customer.

1.3 A reference to an organisation shall include any company, corporation or other body corporate, wherever and however incorporated or established or any organisation unincorporated or an individual. The references to the Company and the Customer include the relevant party's personal representatives, successors and permitted assigns. A reference to a party means either the Company or the Customer and a reference to parties means the Company and the Customer and in both cases include that party's personal representatives, successors and permitted assigns.

1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.6 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.

1.7 A reference to this Agreement includes these terms and conditions, schedules, appendices and annexes (if any) and the Contract Order Form.

1.8 Any obligation on the Customer not to do something includes an obligation not to allow that thing to be done.

## 2. COMMENCEMENT AND DURATION

This Agreement will commence on the date on which the Contract Order Form is accepted by the Company and shall continue for the Minimum Period unless terminated earlier in accordance with clause 16 and, thereafter unless or until terminated in accordance with the provisions of that clause

## 3. ACCEPTANCE OF APPLICATION FOR SERVICE

3.1 This Agreement constitutes a legally binding contract between the Company and the Customer and it should be read carefully. This Agreement constitute the entire agreement between the Customer and the Company for the provision of the Service and supersedes all prior agreements, understandings and representations whether oral or written or any previously issued terms and conditions of purchase or supply.

3.2 No terms or conditions endorsed on, delivered with, or contained in the Customer's purchase conditions, order, confirmation of order, specification or other document shall form part of the contract between the parties except to the extent that the Company otherwise agrees in writing.

## 4. THE SERVICE PROVIDED BY THE COMPANY

4.1 Subject to this Agreement the Company agrees:

- (a) to provide the Customer with the Services from the Service Commencement Date;
- (b) to provide the Services with the reasonable skill and care of a competent telecoms service provider; and
- (c) to provide the Services with as few faults as possible. The Company shall endeavour to repair any faults which affect the Service as soon as reasonably practicable after receiving a notice in writing from the Customer notifying the Company in sufficient detail about such faults and the Company agrees to keep the Customer informed as to the progress on the repair of any fault reported to them but the Customer acknowledges that there may be circumstances in which the Company is unable to repair the reported faults.

4.2 The Company cannot guaranteed the supply or continued supply of third party products incorporated into or supplied as part of or with the Products and the Company shall have no liability in the event that it is unable for any reason to source any such third party products

- 4.3 Occasionally, the Company may:
- (a) for operational reasons change the technical specification of the Service provided that any change to the technical specification does not materially affect the performance of the Service;
  - (b) suspend the Service for operational reasons such as maintenance, network alterations or because of an emergency, for avoidance of doubt the Company may also suspend the Service pursuant to provisions of clauses 9.9, 14, 15;
  - (c) give the Customer instructions, which it believes are necessary for reasons of health, safety or the quality of any telecommunications service provided to the Customer or their customers.
- 4.4 The Company agrees before taking any action under clause 4.3 b), to give the Customer a reasonable prior notice (except in emergency or unless the Service is suspended under clauses 9.9, 14 or 15), and the Company agrees, whenever practicable, with the Customer when the Service will be suspended.
- 4.5 The Customer acknowledges that the Company is under no obligation to provide guaranteed access or guarantee access to emergency telephone services using either 999 or 112.
- 4.6 The Customer acknowledges that the need for routine maintenance and error correction may result in downtime.

## 5. USE OF THE SERVICE BY THE CUSTOMER

- 5.1 The Customer shall not use the Service in any way that:
- (a) does not comply with the terms of any legislation or any licence applicable to the Customer or is unlawful;
  - (b) does not comply with any instructions given under clause 4.3 or by another telecommunications operator or competent authority in any country where the Service is provided;
  - (c) puts the Company in breach of the terms of any agreement it has with any other telecommunications operator; or
  - (d) it breaches Intellectual Property Rights of the Company or of any third party.
- 5.2 The Customer shall be fully responsible for own security in respect of making and receiving phone calls including the Calls.
- 5.3 The Customer shall obtain and keep in force any licence or authorisation necessary for it to use the Services.
- 5.4 The Customer shall not use or permit to be used any equipment that is connected (directly or indirectly) to the Service which is technically incompatible with the Service and approved for that purpose under any relevant legislation and the Customer shall procure that such equipment does not interfere with the operation of the Service and the Product.
- 5.5 The Customer shall or shall procure a third party on behalf of the Customer shall take all steps to ensure that any installation or maintenance of any equipment used by the Customer in respect of the Services is installed and maintained by a competent person and in such a manner that prevent unauthorised third parties accessing and/or using such equipment.
- 5.6 The Customer shall take all steps necessary to ensure that all its networks are properly protected from being accessed by unauthorised third parties including but not limited to installation of firewalls or otherwise.
- 5.7 The Customer shall and shall procure that its officers, employees, agents, contractors and sub-contractors keep the Passwords and User Names confidential at all times and they do not disclose intentionally or unintentionally the Passwords and User Names to third parties.
- 5.8 The Customer shall procure that its own customers comply with this clause 5 as far as clause 5 is applicable to the Customer's customers.
- 5.9 The Customer shall indemnify and keep the Company indemnified harmless from and against all losses (including without limitation loss of profit, business and similar losses), claims, costs, damages, liabilities, legal proceedings, fees and expenses awarded against or incurred by the Company as a result or in connection with

any alleged or actual breach of clause 5.

## **6. INTELLECTUAL PROPERTY RIGHTS**

- 6.1 Where the Company provides software to the Customer to enable the Customer to use the Service, the Company grants the Customer a non-exclusive, non-transferable licence to use the software for that purpose only and the Customer shall not use or permit such software to be used by any third party.
- 6.2 The Customer shall not, without the Company's prior written consent, copy or (except as permitted by law) decompile or modify such software, or copy any associated manuals or documents.
- 6.3 The Customer shall sign any agreement at the Customer's costs reasonably required by the owner of the Intellectual Property Rights in the software referred to in clause 6.1 to confirm how that software will be used and to protect its Intellectual Property Rights.
- 6.4 Each party agrees not to use any trading name, trademark or logo of the other party (whether registered or not), without that party's prior written consent.
- 6.5 The Customer acknowledges and agrees that the Company owns the Intellectual Property Rights in the Collocated Equipment, Customer Content, Domain Names, Internet Addresses, PSTN Telephone Numbers, Passwords and User Names unless otherwise agreed by the Company in writing.
- 6.6 The Customer acknowledges and agrees that the Company is the owner of Collocated Equipment, Customer Content, Domain Names, Internet Addresses and PSTN Telephone Numbers unless otherwise agreed by the Company in writing.

## **7. CONFIDENTIALITY**

- 7.1 Each party shall keep in confidence any information (whether written or oral) of a confidential nature (including software and manuals) obtained under this Agreement and shall not disclose that information to any person (other than its employees, professional advisers or its suppliers who need to know the information) without the written consent of the other party.
- 7.2 Each party hereto undertakes to the other that it shall keep, and shall procure that its officers, employees, contractor and sub-contractors shall keep, secret and confidential and shall not use or disclose to any other person any information or material of a technical or business nature relating in any manner to the business, products or services of the other party which the first party may receive or obtain in connection with or incidental to performance of this Agreement, provided that:
  - (a) a party shall not be prevented from using any general knowledge, experience and skills not treated by the other party as confidential or which do not properly belong to the other party and which the disclosing party may have acquired or developed at any time during this Agreement;
  - (b) a party shall not be prevented from using the information or material referred to above to the extent such information or material comes into the public domain otherwise than through the default or negligence of the disclosing party;
  - (c) notwithstanding the above, either party shall have the right to communicate any information concerning the other party to any Government department or body or other authority established by statute or under subordinate legislation, where such information is required by law or is otherwise properly required under a regulation or a Code of Practice.
- 7.3 This clause 7 does not apply to information that:
  - (a) has been published other than through a breach of this Agreement;
  - (b) was lawfully in the possession of the recipient before the disclosure under this Agreement took place.
- 7.4 Each of the party's liability under this clause 7 is unlimited and the limitations of liability in clause 13 do not therefore apply to this clause 7.
- 7.5 This clause 7 terminates any confidentiality agreement relating to the Service previously entered into by the parties and will remain in effect for two years after the termination of this Agreement.

## **8. CHANGE OF USERNAME, INTERNET ADDRESSES AND PASSWORD**

- 8.1 The Company shall have the right from time to time to change the Customer's Username, Internet Addresses and Password for the purpose of network maintenance, enhancement, modernisation or other work deemed necessary to the operation of the Internet.
- 8.2 The Customer acknowledges that the User Name, Internet Address and Password do not belong to the Customer

unless otherwise agreed by the Company in writing.

- 8.3 The Customer shall fully comply with provisions of clauses 5.7, 5.8, 11 and 29 relating to safeguarding the Username and Password.
- 8.4 The Company shall have no liability whatsoever for any losses direct or indirect suffered by the Customer or Customer's officers, employees, contractors or sub contractors or the Customer's own customers as a result or in connection with any alleged or actual breach of clause 8.3.

## 9. BILLING AND PAYMENT

- 9.1 The charges for the Calls shall be calculated in accordance with the Rate Card in force from time to time, unless otherwise agreed by the Company in writing.
- 9.2 The charges for the Service other than the Calls shall be calculated on the basis as set out in the Customer Rate Card OR the Contract Order Form.
- 9.3 The charges for provision of the Service (for the avoidance of doubt including the Call charges) shall begin on the Service Commencement Date.
- 9.4 All charges shall be invoiced and paid in Great British Pounds (GBP). Value added tax (or any equivalent or replacement UK tax or any equivalent non-UK tax) shall be added to the invoices, as appropriate. Invoices will be sent by electronic mail to the email address of the Customer detailed in the Contract Order Form or such e-mail address as the Customer may have notified to the Company from time to time provided that the Company has acknowledged in writing such new email address. The invoices will not be posted by post or courier or another similar service.
- 9.5 The Company will invoice the Customer monthly in arrears in respect of Call charges.
- 9.6 The Company will invoice the Customer monthly in advance in respect of the Service other than the Calls.
- 9.7 The Company reserves the right to invoice the Customer at any time for amounts omitted (this includes without limitation amounts omitted due to late receipt of the data from the Company's down line carriers) from previously issued invoices.
- 9.8 If applicable, the Company shall be entitled to also invoice for SIP trunks, DSL services, fax2email, numbers, any set up costs and any other disbursements reasonably incurred by the Company on behalf of the Customer. Such disbursements will be billed monthly.
- 9.9 The Customer shall pay each invoice in full without deduction or set-off, in cleared funds, using the payment methods detailed in clause 10, within 30 days of the date of each invoice. Failure to pay an invoice within 30 days of the date of the invoice may result in suspension of the Services and this is in addition to any other remedies available to the Company. The Company retains the right to permanently cease the Services to the Customer after failure to pay for the Services provided to the Customer and the Company is entitled to retain ownership of inbound DDI Numbers. Time of payment is of the essence.
- 9.10 The Company may vary from time to time the charges for the Service (for the avoidance of doubt, charges for the Calls are calculated in accordance with provisions of clause 9.1 and the Company is not obliged to notify the Customer about variations of the Rate Card) by giving 14 days' notice to the Customer.
- 9.11 The Company shall be entitled to increase the charges for the Service with immediate effect by written notice to the Customer where there is an increase in the direct cost to the Company of supplying the relevant Products which exceeds 5 % and which is due to any factor beyond the control of the Company.
- 9.12 If the Customer fails to make any payment due to the Company under this clause 9, then, without limiting of any other rights or remedies available to the Company, the Company may charge and the Customer shall pay interest on the overdue amount at the rate of 5% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. For the avoidance of doubt, the Customer shall pay the interest together with the overdue amount.
- 9.13 If the Service has been suspended pursuant to clause 9.9 the Customers shall pay a £50.00 + VAT reconnection fee.
- 9.14 The Company may set and vary credit limits from time to time.

## 10. PAYMENT OPTIONS

- 10.1 The Customer may pay for the Service using the following payment methods:
- (a) a direct debit, this method of payment does not attract an additional handling charge; or
  - (b) a BACS payment, this method of payment attracts a separate payment handling charge of £3 + VAT per month; or
  - (c) a cheque, this method of payment attracts a separate payment handling charge of £3 + VAT per month; or
  - (d) a credit card, this method of payment attracts a separate payment handling charge of £3 + VAT per month.
- 10.2 The Customers who choose to use the Company's on line portal will be able to view invoices on line and download the invoices if they wish to. The Company will send a monthly email advising the Customers that the latest invoice has been produced (for the avoidance of doubt if the Company does not send the monthly email or the Customer does not receive such email, this does not exclude the Customer from paying such invoice).
- 10.3 The Company's bank details are: HSBC, Sort Code 40-42-12 account number 21891278 but the Company reserves the right to change its bank details from time to time and the Company will notify the Customer about such change as soon as reasonably practicable.
- 10.4 The Customer shall ensure that the payments include a reference number being the Customer's account reference (eg. AAA01). It is the Customer's responsibility to send the payments to the correct bank details of the Company.

## 11. USAGE AND FAIR USE POLICY

- 11.1 This policy sets out the terms between the Company and the Customer under which the Customer and the Customer's own customers may access the Service.
- 11.2 The Customer accepts and agrees to abide by all the policies in this policy and this policy forms part of this Agreement.
- 11.3 The Customer shall and the Customer shall procure that its officers, employees, contractors, sub-contractors and the Customer's own customers shall:
- (a) refrain from transferring any illegal material to or from other users of the Service and the other privately owned and operated services to which the Company may from time to time provide access;
  - (b) not use the Service in any way that is unlawful, fraudulent or has any unlawful or fraudulent purpose or effect;
  - (c) refrain from sending and from causing, allowing or enabling to be sent, any menacing, offensive, abusive or annoying messages whilst using the Service via the Company or any other ISP;
  - (d) refrain from sending and from causing, allowing or enabling to be sent, any bulk or mass unsolicited or unauthorised advertising promotional materials, commercial e-mail messages (UCE), colloquially referred to as SPAM, or SPAM over Internet Telephony (SPIT) whilst using the Service via the Company or any other ISP;
  - (e) not transmit any data, send or upload any material that contains viruses, worms, spyware or any other harmful programmes or similar computer code designed to adversely affect the operation of any computer software or hardware;
  - (f) not divulge the Passwords and the User Name to any third party and for the avoidance of doubt this is in addition to other provisions of this Agreement relating the Password and the User Name, including but not limited to clause 5.7;
  - (g) keep the Company informed of any change to the Customer's address and other such information as may effect provision of the Service or payment of charges due;
  - (h) immediately cease to use and return any Internet Addresses, Passwords, Domain Names and



Internet Addresses allocated by the Company to the Customer on termination of this Agreement for whatever reason;

- (i) not to announce by any means any or all Internet Addresses allocated to or by the Customer as part of an Autonomous System. Customers hosting on shared servers who submit their site to such autonomous systems agree to pay a fee of £295 + VAT per month, or be responsible for a direct costs that are incurred by the Company as a result, whichever is the greater;
- (j) not to use or permit the usage of the Service in an unlawful manner or in contradiction of any published legislation or regulations or Codes of Practice governing or relevant to the Internet or PSTN;
- (k) not use the Service in any way that breaches any applicable local, national or international law or regulation;

11.4 The Company reserves the right to revise this policy at any time.

11.5 The Customer shall include the above restrictions in any or all of the Customer's on selling conditions using the Service.

## 12. EQUIPMENT

- 12.1 If the Company has agreed to store the Customer's equipment such Collocated Equipment shall at all times be at the Customer's risk. The Customer shall be responsible for insuring the Collocated Equipment against all risks. The Customer shall provide a copy of the insurance policy relating to the Collocated Equipment to the Company upon request.
- 12.2 Leased, rented or loaned equipment from the Company shall at all times remain the property of the Company.
- 12.3 The Customer agrees to maintain, at the Customer's expense, during the entire time this Agreement is in effect, General Liability Insurance for any leased, rented or loaned equipment supplied by the Company with reputable insurers.
- 12.4 The Customer will use the Collocated Equipment and/or other equipment supplied by the Company from time to time for its intended purpose.

## 13. LIABILITY

- 13.1 Nothing in this Agreement shall limit or exclude the Company's liability for:
  - (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - (b) fraud or fraudulent misrepresentation; or
  - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 13.2 Subject to clause 13.1:
  - (a) The Company shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any direct or indirect loss of profits, loss of business or anticipated savings, indirect or consequential loss or damage or destruction of data or any indirect or consequential loss arising under or in connection with this Agreement; and
  - (b) The Company's total liability to the Customer in respect of all other losses arising under or in connection with this Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed any sums payable by the Company's insurers or in the event that the loss is not covered by insurance liability will be limited to the aggregate sum of any sums payable (excluding any Call charges and disbursements) under this Agreement within the previous 12 months of the date of the claim.
- 13.3 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Agreement.

13.4 This clause 13 shall survive termination of this Agreement.

13.5 The Customer shall indemnify and keep the Company indemnified harmless from and against all losses (including without limitation loss of profit, business and similar losses), claims, costs, damages, liabilities, legal proceedings, fees and expenses awarded against or incurred by the Company as a result or in connection with any illegal, immoral or fraudulent Calls made with or without the Customer's knowledge with or without the Customer SIP accounts and password including the Passwords and the Customer shall be liable for any losses incurred by the Customer or any third party as a result of such illegal, immoral or fraudulent Calls.

#### **14. CHANGES TO THE SERVICE**

If any network operator or third party supplier shall discontinue the provision of telecommunications services or other supply to the Company, or shall alter by modification, expansion, improvement, maintenance or repair of the telecommunications services or other supply, or any part thereof, provided to the Company, or shall disconnect the Company's apparatus from the PSTN or Internet, the Company shall be entitled to discontinue, alter, modify, expand, improve, maintain, repair, suspend, disconnect or otherwise change the Services as necessary.

## 15. SUSPENSION

- 15.1 The Service may be suspended by the Company without notice and without prejudice to the Company's rights of termination under clause 16 if:
- (a) the Customer fails to make any payment to be made to the Company under the terms of this Agreement; and/or
  - (b) the Customer breaches any of the provisions of clause 11 (Usage and Fair Use Policy) and the Company shall be entitled in its absolute discretion decide whether the Customer is in breach of the policy; and/or
  - (c) the Customer does or suffers anything to be done which jeopardises the Service or any network to which it is from time to time connected; and/or
  - (d) the Customer's credit limit (if applicable) has been exceeded or if the Customer is otherwise in breach of this Agreement.
- 15.2 No such suspension shall affect the liability of the Customer to pay charges and other amounts to the Company and, without limitation, the charges for Services will continue to accrue. During suspension the Company reserves the right to refuse to release the Services or Internet Addresses or PSTN Telephone Numbers as issued by the Company.

## 16. TERMINATION

- 16.1 Following the expiry of the Minimum Period and provided that this Agreement has not been terminated earlier pursuant to clauses 16.3 of this Agreement, this Agreement shall then continue until either party gives to the other party no less than 30 days' notice in writing.
- 16.2 Termination can be effected by the Customer by e-mail notification giving the relevant notice referred to in Schedule 1 of this Agreement to [terminations@voiceflex.com](mailto:terminations@voiceflex.com). **This will be the only accepted method of notice of termination of the Agreement.**
- 16.3 The Company may terminate this Agreement with an immediate effect at any time by written notice to the Customer:
- (a) if the Customer commits any breach of this Agreement, in the case of a breach capable of remedy, the Customer fails to remedy the breach within 30 days after the date of the notice from the Company;
  - (b) if an encumbrancer takes possession or receiver is appointed over any assets or property of the Customer or the Customer makes voluntary arrangement with its creditors or becomes subject to an administrator order or the Customer goes into liquidation;
  - (c) or in case of an individual the individual dies or becomes insolvent.
- 16.4 The Company reserves the right to invalidate any User Name, Internet Address or PSTN Telephone Number issued to the Customer following termination of this Agreement.
- 16.5 No refund of payments will be made to the Customer upon termination or expiry of this Agreement by either the Company or the Customer.
- 16.6 The Customer shall at their own cost return to the Company all equipment cables and literature supplied by the Company within 5 days of termination or expiry of this Agreement and ensure that it arrives in good working order.

## 17. WARRANTIES

- 17.1 The Company represents and warrants that the Company has the power and authority to enter into and perform its obligations under this Agreement.
- 17.2 The Customer represents and warrants that:
- (a) The Customer has the power and authority to enter into its obligations under this Agreement
  - (b) Customer Content, voice or data, does not and shall not contain any materials, advertising or services that are inaccurate or that infringe on or violate any applicable law, regulation or right of a third party including but not limited to the Intellectual Property Rights of any third party.

17.3 Disclaimer of Warranty; THE COMPANY (NOR ITS LICENSORS) DOES NOT MAKE ANY WARRANTIES HERE UNDER, EXPRESS OR IMPLIED, AND DISCLAIMS AND EXCLUDES THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, USAGE OF TRADE AND COURSE OF DEALING. THE CUSTOMER ACKNOWLEDGES THAT THE SOFTWARE AND SERVICES ARE PROVIDED "AS IS," AND THE CUSTOMER UNDERSTANDS THAT HE/SHE ASSUMES ALL RISKS REGARDING USE, QUALITY AND PERFORMANCE (INCLUDING WITHOUT LIMITATION IN CONNECTION WITH UNINTERRUPTED ACCESS TO SERVICES). WITHOUT LIMITING THE FOREGOING, THE CUSTOMER SPECIFICALLY ACKNOWLEDGES THAT SERVICES MAY BE PERIODICALLY UNAVAILABLE DUE TO SERVICING, MAINTENANCE OR OTHER CAUSES

## 18 RIGHTS ON TERMINATION

- 18.1 Termination of this Agreement shall not affect any pre-existing liability of the Customer or affect any right of the Company to recover damages or pursue any other remedy in respect of any breach by the Customer of this Agreement.
- 18.2 On termination of this Agreement the right to the use of the Internet IP Addresses or PSTN Telephone Numbers allocated by the Company shall revert to the Company except where specific agreement has been reached in writing between the Company and the Customer for the transfer of the Internet Addresses or PSTN Telephone Numbers and the fee or other payment required by the Company in connection with such transfer has been paid by the Customer in addition to transfer fee detailed in clause 19.
- 18.3 In the event of termination of this Agreement by the Company on account of any breach of this Agreement by the Customer, the Company shall be entitled to the balance of all charges which, but for such termination, would have accrued due up to the earliest date on which this Agreement could have been terminated by the Customer in accordance with the terms hereof.

## 19 USERNAME, DOMAIN NAME, INTERNET ADDRESSES AND PSTN TELEPHONE NUMBERS

- 19.1 The Company shall not be requested or required to release the User Name, Domain Name (subject to clause 19.2), Internet Addresses or PSTN Telephone Numbers used by the Customer and may refuse to do so until this Agreement has been lawfully brought to an end and all sums due hereunder have been received by the Company, and the Customer has complied with all their obligations hereunder. Should the Company agree (but is under no obligation) to transfer of a Domain Name the Company reserves the right to make a £50.00 +VAT transfer fee charge which will be required to be received by the Company before the transfer is initiated. Should the Company agree to transfer of PSTN Telephone Numbers, the Company reserves the right to charge a £100 + VAT per number or Complete DDI Number Range which will be required to be received by the Company before the transfer is initiated.
- 19.2 In respect of the Domain Name only, clause 19.1 shall not apply if the Customer only required the Company as part of the Service to register the Domain Name in the name of the Customer and provided that that Customer has paid all monies due to the Company under this Agreement in respect of such Service.

## 20 NOTICES

- 20.1 Any notices to the Customer under or in connection with this Agreement shall be in writing and shall be delivered by post unless otherwise stated in this Agreement to the relevant address or email address given in the Contract Order Form.
- 20.2 Suspension notices for non-payment of charges will be deemed as delivered by electronic mail to the e-mail address, given in Contract Order Form or to such e-mail address as the Customer may have notified the Company
- 20.3 Any notice in relation to the Company under or in connection with this Agreement shall be in writing and delivered by post or by hand to the Company's registered office.
- 20.4 Any notice shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.

## 21 EXPENSES OF THE COMPANY

The Customer shall pay to the Company all costs and expenses (so that any legal fees shall be based on an

indemnity basis) incurred by the Company in enforcing this Agreement, or exercising any of its other rights and remedies under this Agreement, including (without prejudice to the generality) all costs incurred in tracing the Customer in the event that legal processes cannot be enforced at the address last notified to the Company.

## 22 NON-WAIVER

The allowance of time to pay or any other indulgence by the Company in respect of payments due to it shall in no manner affect or prejudice the Company's right to payment together with interest provided under this Agreement.

## 23 INVALIDITY

If this Agreement or any part thereof shall be adjudged for any reason to be void, unenforceable or ineffective but would be adjudged to be valid, effective and enforceable if part of the wording were deleted or a provision were reduced in scope, this Agreement shall continue with such modifications as may be necessary to make its provisions (or if such be the case its remaining provisions) valid, effective and enforceable. Any alteration to part of this Agreement shall not invalidate the remainder. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provision shall be enforced to the maximum extent permissible and the remaining portions of this Agreement shall remain in full force and effect.

## 24 OTHER PRINTED OR STANDARD CONDITIONS

All Services are provided on the foregoing conditions which constitute the entirety of the agreement to the exclusion of any other terms and conditions and no agreement, terms or conditions contained in any document sent by the Customer to the Company shall be of any effect with respect to this Agreement unless expressly accepted by a duly authorised officer of the Company in writing. The Customer acknowledges that the Customer has not relied on and shall not be entitled to rescind this Agreement or to claim damages or any other remedy on the basis of any representation, warranty, undertaking or statement which is not set out in this Agreement including any representation made by or on behalf of the Company in relation to the Service which has induced the Customer to enter into this Agreement with the Company.

## 25 VARIATION

The Company reserves the right to vary this Agreement as a result of changes required by its insurers, new legislation, statutory instruments, Government regulations or licences. This Agreement may not otherwise be varied or waived except by express written agreement between both parties.

## 26 SERVICE LEVEL GUARANTEE

26.1 The Company warrants that its voice services shall be available at a level of 99.7% per year. This warranty excludes:

- a) Failures of local or third party circuits between the Company's network and the Customer's network; and
- b) Failures of network / equipment not operated by the Company.
- c) Failures of network / equipment operated by the Customer.
- d) Failure to use Collocated Equipment and/or any other equipment supplied by the Company in accordance with its proper purpose and/or any misuse or attempted modification or tampering with such Collocated Equipment and/or other equipment.

26.2 In the event of suspension of Service due to a technical fault in the network, force majeure or act of God, the Company will use all reasonable endeavours to resume Service with minimum delay but will not be responsible for loss suffered by the Customer.

26.3 The Company may suspend the Service from time to time for necessary technical reasons and network upgrades outside the 99.7% warranty as above provided that:

- a) 12 hours' notice via the Company's web site or e-mail has been given to the Customer
- b) The period of suspension is not more than two hours
- c) The time a suspension may occur is usually and where possible chosen to be between 0000 hours and 0600 hours local time.

26.4 Should the level of service not conform with this Service Level Guarantee, the Company will credit the Customer in accordance with table 26.5 to be offset against the next subsequent invoice to the Customer for the Service. No such credits shall apply or shall be valid if there should be any breach of this Agreement by the

Customer.

Table 26.5

Total service unavailability per month	Credit
Less than 7 clock hours	0% of MRC (monthly recurring charge)
7 - 24 clock hours	8% of MRC
25 clock hours and above	15% of MRC

## 27 ASSIGNMENT AND SUB-CONTRACTING

- 27.1 The Company may assign this Agreement or sub-contract the whole or any part of the performance of the Services to any person, firm or company without the Customer's consent.
- 27.2 The Customer shall not assign or delegate or otherwise deal with all or any of its rights or obligations under this Agreement without the Company's prior written consent.

## 28 APPLICABLE LAW

This Agreement is subject to the laws of England under the jurisdiction of the Courts of England.

## 29. FRAUD

29.1 For the avoidance of doubt fraudulent calls include but not limited to:

- a) Calls made from the Customers PBX without their knowledge;
- b) Calls made utilising Customer's authentication details including but not limited to Passwords and User Name; and
- c) Calls made from an authenticated IP address

The Company has incorporated a 'Fraud Notification Service' on the Customer portal to assist with the prevention of fraud. Customers setup and maintain their own security independently of the Company and therefore the Company is unable to accept liability for any costs accrued as a result of a breach in their environments. Each customer has a unique service and therefore the Company is unable to template a fraud alerting system for all their customers, it is therefore the Customer's responsibility to protect themselves by making use of the tools provided, including setting thresholds and alerts etc. satellite based telephony has also been blocked from the Company network.

29.2 Customer's Responsibility

In addition to other provisions of this Agreement:

- a) Customer is responsible for the secure implementation and management of their systems including but not limited to any hardware not provided by the Company i.e. firewalls, PBX etc.
- b) Maintaining confidentiality and security of authentication details for both Portal and SIP Services
- c) In the event of any suspected or known security breach the following processes should be actioned by the Customer immediately to mitigate exposure -
  - o Passwords to be reset and new passwords generated via the on line portal
  - o Disable the accounts via the fraud alerts settings page
  - o Report incident to the Company

29.2 The Company does not want to make money from the proceeds of crime and therefore where possible fraudulent Calls will be charged at cost price.

29.3 By agreeing to these terms the Customer will accept full and complete liability for any costs incurred as a result of fraud.



<b>SCHEDULE 1</b>		
<b>Product</b>	<b>Minimum period</b>	<b>Notice period</b>
SIP Trunk	6 months	End of month then 30 days
Failover	6 months	End of month then 30 days
Fax-to-Email	6 months	End of month then 30 days
Nebula Products (Non Bundle)	6 months	End of month then 30 days
Nebula Products (Bundled)	12 months	End of month then 30 days
International Number	6 months	End of month then 30 days
Mobile Call Recording	6 months	End of month then 30 days
VxDSL	6 months	End of month then 30 days
MxDSL	6 months	End of month then 30 days
Business Connect 0808M	12 months	End of month then 30 days
Business Connect 1312M	12 months	End of month then 30 days
Business Connect 1312W	12 months	End of month then 30 days
Business Connect 1320W	12 months	End of month then 30 days
Business Connect 2520M	12 months	End of month then 30 days
Business Connect 1320/10W Bundle	12 months	End of month then 30 days
Business Connect 2520/15W Bundle	12 months	End of month then 30 days
Business Connect 1312/5M Bundle	12 months	End of month then 30 days
Business Connect 1312/5W Bundle	12 months	End of month then 30 days
Business Connect 1320/10M Bundle	12 months	End of month then 30 days
Business Connect 2520/15M Bundle	12 months	End of month then 30 days
Business Connect 2520/20MBundle	12 months	End of month then 30 days
BC055M Assured Bundle	6 months	End of month then 30 days
BC05M Assured	6 months	End of month then 30 days
BC05W Assured	6 months	End of month then 30 days
BC110M Assured Bundle	12 months	End of month then 30 days
BC110W Assured Bundle	6 months	End of month then 30 days
BC1312 - 10M	12 months	End of month then 30 days
BC1312 - 10W	6 months	End of month then 30 days
BC1M Assured	12 months	End of month then 30 days
BC1W Assured	6 months	End of month then 30 days
BC215M Assured Bundle	12 months	End of month then 30 days
BC215W Assured Bundle	6 months	End of month then 30 days
BC2M Assured	12 months	End of month then 30 days
BC2W Assured 6 month	6 months	End of month then 30 days
BCFTTC Bundled products	12 months	End of month then 30 days
BCFTTC Non Bundled Products	12 months	End of month then 30 days
Business Connect EFM All Products 12 month contract	12 months	End of term then 30 days
Business Connect EFM All Products 36 month contract	36 months	End of term then 30 days
Nova Voice Business Bundle	12 months	End of month then 30 days
Nova Voice Business UC Desktop Bundle	12 months	End of month then 30 days
Nova Voice Business UC Mobile Bundle	12 months	End of month then 30 days
Nova Voice Business non-bundled products	12 months	End of month then 30 days
BCV4 Assured Bundle	12 months	End of month then 30 days
BCV6 Assured Bundle	12 months	End of month then 30 days
BCV8 Assured Bundle	12 months	End of month then 30 days
BCV10 Assured Bundle	12 months	End of month then 30 days
BCV4 Assured Bundle	24 Months	End of month then 30 days



BCV6 Assured Bundle	24 Months	End of month then 30 days
BCV8 Assured Bundle	24 Months	End of month then 30 days
BCV10 Assured Bundle	24 Months	End of month then 30 days
SIP Trunk Bundle	12 Months	End of month then 30 days
Business Connect EFM All Products 12 month contract	12 months	End of term then 90 days
Fibre Ethernet	36 months	End of term then 90 days
Fibre Ethernet	12 months	End of term then 90 days
EFM (Copper Ethernet)	36 months	End of term then 90 days
Ethernet over FTTC	36 months	End of term then 90 days
Business Connect EFM All Products 12 month contract	12 months	End of term then 90 days
Business Connect EFM All Products 36 month contract	36 months	End of term then 90 days

## Schedule 2 – The Services

1. The following services are the services to be provided to the Customer in accordance with this Agreement:

- (a) Effecting voice account registrations which can take up to 5 working days from receipt of a direct debit mandate and receipt of full details;
- (b) the provision of DDI Number porting which can take up to 28 working days or even longer (and over which the Company has no control) from point of payment and acceptance by the incumbent provider until fully operational;
- (c) the provision of new DDI Number ranges within 5 working days from point of payment and receipt of full details;
- (d) the provision of SIP Proxy internet address details within 5 working days from point of payment and receipt of full details;
- (e) the provision of other services provided by the Company to the Customer from time to time as agreed between the Customer and Company.  
including messaging and number divert for which delivery dates and administrative arrangements will be individually agreed with the Customer;
- (f) the provision of outbound SIP connectivity to the PSTN via a SIP Proxy;
- (g) the provision of SIP trunks;
- (h) the provision on number services; and
- (i) the provision of the Products.

### CUSTOMER SERVICES

For any enquiries or queries, please contact Customer Services;

Customer Services, Voiceflex Limited, 1160 Elliott Court, Herald Avenue, Coventry Business Park,  
CV5 6UB

Tel; 0203 301 6000 Fax 0203 601 6700

Email: [info@voiceflex.com](mailto:info@voiceflex.com)

## **COMPLAINTS**

Should you have a problem with the service received from the Company , please contact Customer Services to discuss the issue.

If your issue remains unresolved, you should make a formal written complaint to the above Customer Services address.

## **OTHER USEFUL CONTACTS**

The Company takes any complaint seriously. Should you have a problem with the service received from the Company, please contact Customer Services to discuss the issue. If your issue remains unresolved, and you wish to make a formal complaint please see the Voiceflex Complaints Code providing information on the process of making a complaint.

## **DISPUTE RESOLUTION**

Should your issue remain unsolved to your satisfaction, you are entitled to register a complaint with;

Ombudsman Services Ltd Greenalls Avenue Wilderspool Park Warrington WA4 6HL Tel; 0330 440 1615

Email; [osenquiries@os-communications.org](mailto:osenquiries@os-communications.org)

Website: [www.ombudsman-services.org](http://www.ombudsman-services.org)

Ofcom is the regulator for the UK communications industries.

Their details are;

Ofcom

Riverside House 2a Southwark Bridge Road London SE1 9HA Tel; 0845 456 3000

Email; [contact@ofcom.org.uk](mailto:contact@ofcom.org.uk)

Website; [www.ofcom.org.uk](http://www.ofcom.org.uk)