

We are an established independent supplier of telecoms solutions to businesses throughout the UK, providing professional telecoms consultancy, incorporating quality solutions that set FP Cloud Networks Ltd apart from the competition.

This Master Services Agreement ("**Agreement**") contains the general terms that apply to all Orders for Services from you, the Customer that are accepted by us. In addition, there may be supplementary terms and conditions in relation to Services contained within Schedules 2 to 5 hereto.

Acceptance and performance of any Orders may be conditional upon a satisfactory credit risk assessment and you hereby authorise us to conduct such assessment at our discretion.

Any use by you of the Equipment and/or Services shall be deemed to be on the basis that you have read, understood and agreed with this Agreement.

**The Customer's attention is particularly drawn to the provisions of clause 12.**

## **1. INTERPRETATION**

### 1.1 Definitions.

In this Agreement, the following definitions apply:

- 1.1.1 **Agreement:** these terms and conditions as amended from time to time in accordance with clause 15.7;
- 1.1.2 **Internet Services:** means fibre leased line and next generation broadband services provided by FP Cloud Networks Ltd to the Customer pursuant to the terms of this Agreement and the Internet Services Terms;
- 1.1.3 **Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
- 1.1.4 **Commencement Date:** has the meaning set out in clause 2.2;
- 1.1.5 **Customer Sales Order** means the Service Agreement and/or Sales Order detailing the agreed Services to be provided by FP Cloud Networks Ltd to the Customer pursuant to the terms of this Master Services Agreement and any applicable supplemental terms set out in Schedules 2-5 hereto;
- 1.1.6 **Customer:** the person, firm or company who purchases the Equipment and/or Services from FP Cloud Networks Ltd;
- 1.1.7 **Deliverables:** the deliverables set out in the Order and described in Schedule 1;
- 1.1.8 **Delivery Location:** has the meaning set out in clause 4.2;
- 1.1.9 **Equipment:** the goods (or any part of them) set out in the Order and comprising of FP Cloud Networks Ltd communication equipment and accessories described in Schedule 1 or the Standard Customer Sales Order, or replacement equipment thereof, which is provided pursuant to the terms of this Agreement together with any additional equipment which may be agreed between FP Cloud Networks Ltd and the Customer from time to time (For the avoidance of doubt, Equipment is to be distinguished from CPE as referred to in Schedule 2 of this Agreement);
- 1.1.10 **Equipment Specification:** any specification for the Equipment, including any relevant plans or drawings, that is agreed in writing by the Customer and FP Cloud Networks Ltd;
- 1.1.11 **Force Majeure Event:** has the meaning given to it in clause 14.1;
- 1.1.12 **Initial Hourly Rate:** means the sum of £90+VAT, or such rate as expressly agreed between the parties and stated on the Customer Sales Order;
- 1.1.13 **Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or

extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

- 1.1.14 **Internet and Email Acceptable Use Policy:** the internet and email policy the Customer hereby agrees to adhere to pursuant to the terms of this Agreement, as set out in Schedule 5;
- 1.1.15 **Internet Services Terms:** the terms and conditions in relation to the provision of a leased line internet connection service as set out in Schedule 2;
- 1.1.16 **Equipment Maintenance:** means any maintenance undertaken by FP Cloud Networks Ltd to the Customer's faulty or potentially faulty equipment, further details of which are contained in clause 5 and clause 9;
- 1.1.17 **Mobile Network Operator:** means the mobile network provider to FP Cloud Networks Ltd, facilitating mobile airtime services pursuant to the Mobile Services Terms at Schedule 4 for the FP Cloud Networks Ltd to supply the Customer;
- 1.1.18 **Mobile Services:** mobile phone services provided by FP Cloud Networks Ltd to the Customer pursuant to the terms of this Agreement and the Mobile Services Terms;
- 1.1.19 **Mobile Services Terms:** the terms and conditions in relation to the provision of mobile phone services by FP Cloud Networks Ltd to the Customer as set out in Schedule 4;
- 1.1.20 **Non-Covered Site Visit:** means a visit undertaken by FP Cloud Networks Ltd representative(s) to a Customer's site in relation to faulty equipment either (a) not covered by any maintenance agreement that may be in place or (b) caused through the Customer's actions;
- 1.1.21 **Normal Working Hours:** means between 9.00am and 5.30pm Mondays to Thursdays and 9.00am to 5.00pm on Fridays, excluding Public Holidays;
- 1.1.22 **Order:** the Customer's order for the supply of Equipment and/or Services, as set out in the Customer Sales Order;
- 1.1.23 **Response Time:** means in connection with clause 5, the maximum time which is within Normal Working Hours, and which elapses between the time when a service request is received and the time when FP Cloud Networks Ltd carries out the actions listed in clause 5.1;
- 1.1.24 **Service Agreement:** the description or specification for the Services provided in writing by FP Cloud Networks Ltd to the Customer within the Customer Sales Order, that may include Internet Services, Telephone Services and Mobile Services;
- 1.1.25 **Services:** the services including the Deliverables, supplied by FP Cloud Networks Ltd to the Customer as provided for within the Customer Sales Order and detailed in the Schedules hereto;
- 1.1.26 **Standard Daily Fee Rates:** means the Initial Hourly Rate and Subsequent Hourly Rate charged by FP Cloud Networks Ltd to Customers in relation Non-Covered Site Visits;
- 1.1.27 **Subsequent Hourly Rate:** means the sum of £60+VAT, or such rate as expressly agreed between the parties and as stated on the Customer Sales Order;
- 1.1.28 **Supplier Materials:** has the meaning set out in clause 8.1 (g);
- 1.1.29 **Telephone Services:** the calls and lines rental services provided by FP Cloud Networks Ltd to the Customer pursuant to the terms of this Agreement and the Telephone Services Terms;
- 1.1.30 **Telephone Services Terms:** the terms and conditions in relation to the provision of mobile phone services by FP Cloud Networks Ltd to the Customer as set out in Schedule 3; and
- 1.1.31 **Term:** means a minimum term of 24 months commencing on the date of installation / handover, or such term as expressly stated on the Customer Sales Order.

## 1.2 Construction.

In this Agreement, the following rules apply:

- 1.2.1 a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- 1.2.2 a reference to a party includes its successors or permitted assigns;

- 1.2.3
- 1.2.4 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- 1.2.5 any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- 1.2.6 a reference to writing or written includes faxes and e-mails;
- 1.2.7 the Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules; and
- 1.2.8 If there is an inconsistency between any of the provisions of this Agreement and the provisions set out in the Schedules, the provisions of this Agreement shall prevail as between the parties.

## **2. BASIS OF CONTRACT**

2.1 The Order constitutes an offer by the Customer to purchase Equipment and/or Services in accordance with this Agreement.

2.2 The Order shall only be deemed to be accepted when FP Cloud Networks Ltd issues written or electronic acceptance of the Order at which point and on which date this Agreement shall come into existence (the "**Commencement Date**").

2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of FP Cloud Networks Ltd which is not set out in this Agreement.

2.4 Any samples, drawings, descriptive matter or advertising issued by FP Cloud Networks Ltd and any descriptions of the Equipment or illustrations or descriptions of the Services contained in FP Cloud Networks Ltd's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Equipment described in them. They shall not form part of this Agreement or have any contractual force.

2.5 These terms together with the Mobile Services Terms (Schedule 4), the Internet Services Terms (Schedule 2), Telephone Services Terms (Schedule 3) and Internet and Email Acceptable Use Policy (Schedule 5), apply to this Agreement to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.6 Any Customer Sales Order provided by FP Cloud Networks Ltd shall not constitute an offer, and is only valid for a period of 30 (thirty) days from its date of issue.

2.7 All of this Agreement shall apply to the supply of both Equipment and Services except where application to one or the other is specified.

## **3. EQUIPMENT**

3.1 The Equipment is described in the Customer Sales Order as modified by any applicable Equipment Specification.

3.2 FP Cloud Networks Ltd reserves the right to amend the Customer Sales Order if required by any applicable statutory or regulatory requirements.

#### **4. DELIVERY OF EQUIPMENT**

4.1 FP Cloud Networks Ltd shall ensure that:

- a) each delivery of the Equipment is accompanied by a delivery note which shows the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Equipment (including the code number of the Equipment, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Equipment remaining to be delivered; and
- b) if FP Cloud Networks Ltd requires the Customer to return any packaging material to FP Cloud Networks Ltd, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as FP Cloud Networks Ltd shall reasonably request. Returns of packaging materials shall be at FP Cloud Networks Ltd's expense.

4.2 FP Cloud Networks Ltd shall deliver the Equipment to the location set out in the Order or such other location as the parties may agree (the "**Delivery Location**") at any time after FP Cloud Networks Ltd notifies the Customer that the Equipment is ready.

4.3 Delivery of the Equipment shall be completed on the Equipment's arrival at the Delivery Location.

4.4 Any dates quoted for delivery of the Equipment is approximate only, and the time of delivery is not of the essence. FP Cloud Networks Ltd shall not be liable for any delay in delivery of the Equipment that is caused by a Force Majeure Event or the Customer's failure to provide FP Cloud Networks Ltd with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.

4.5 If FP Cloud Networks Ltd fails to deliver the Equipment, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Equipment. FP Cloud Networks Ltd shall have no liability for any failure to deliver the Equipment to the extent that such failure is caused by a Force Majeure Event the Customer's failure to provide FP Cloud Networks Ltd with adequate delivery instructions for the Equipment or any relevant instruction related to the supply of the Equipment.

4.6 If the Customer fails to accept or take delivery of the Equipment within 10 Business Days of FP Cloud Networks Ltd notifying the Customer that the Equipment is ready, then except where such failure or delay is caused by a Force Majeure Event or by FP Cloud Networks Ltd's failure to comply with its obligations under this Agreement in respect of the Equipment:

- a) delivery of the Equipment shall be deemed to have been completed at 9.00 am on the second Business Day following the day on which FP Cloud Networks Ltd notified the Customer that the Equipment was ready; and
- b) FP Cloud Networks Ltd shall store the Equipment until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

4.7 If 10 Business Days after FP Cloud Networks Ltd notified the Customer that the Equipment were ready for delivery the Customer has not accepted delivery, FP Cloud Networks Ltd may resell or otherwise dispose of part or all of the Equipment and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Equipment or charge the Customer for any shortfall below the price of the Equipment.

4.8 The Customer shall not be entitled to reject the Equipment if FP Cloud Networks Ltd delivers up to and including 5 per cent more or less than the quantity of Equipment ordered, but a pro-rata adjustment shall be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Equipment was delivered.

4.9 FP Cloud Networks Ltd may deliver the Equipment by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

## **5. QUALITY OF EQUIPMENT AND MAINTENANCE OBLIGATIONS OF FP CLOUD NETWORKS LTD AND CUSTOMER**

### ***Maintenance Responsibilities of FP Cloud Networks Ltd***

5.1 Following a request by the Customer for maintenance service, FP Cloud Networks Ltd shall, subject to any circumstances beyond its control:

- a) confirm by telephone that the Customer has carried out the procedures necessary to establish that the fault is not external to the Equipment, and if necessary;
- b) interrogate the system via remote access, perform diagnostic routines to determine the exact nature of the reported fault and carry out any remedial action required;
- c) as soon as practicably possible attend the Customers site and repair or replace the defective Equipment if necessary.

5.2 Response Type shall be as follows: Level 1 during Normal Working Hours within 4 hours. Service response times exclude system configuration changes referred to in clause 5.5.

5.3 FP Cloud Networks Ltd shall make no charge for labour, materials, carriage or other costs relating to the repair or replacement of the defective Equipment other than the annual amount payable under this Agreement, subject to the provisions of Clause 5. All parts or replaced units shall become the property of FP Cloud Networks Ltd.

5.4 In the event of a fault being reported to FP Cloud Networks Ltd, which is found to be external to the equipment, then FP Cloud Networks Ltd reserves the right to make a call-out charge at current service rates.

5.5 FP Cloud Networks Ltd will provide minor system reconfiguration programming changes per annum, within the scope of this contract. Additional programming works will be charged at current service rates.

### ***Warranty & Exclusions***

5.6 FP Cloud Networks Ltd warrants that on delivery, and for a period of 12 months from the date of delivery (**warranty period**), the Equipment shall conform in all material respects with their description and any applicable Equipment Specification and be free from material defects.

5.7 Subject to clause 5.8, if:

- a) the Customer gives notice in writing during the warranty period within a reasonable time of discovery that some or all of the Equipment do not comply with the warranty set out in clause 5.6;
- b) FP Cloud Networks Ltd is given a reasonable opportunity of examining such Equipment;
- c) FP Cloud Networks Ltd shall, at its option, repair or replace the defective Equipment, or refund the price of the defective Equipment in full.

5.8 FP Cloud Networks Ltd shall not be liable for the Equipment's failure to comply with the warranty in clause 5.1 if:

- a) the Customer makes any further use of such Equipment after giving a notice in accordance with clause 5.7;
- b) the defect arises because the Customer failed to follow FP Cloud Networks Ltd's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Equipment or (if there are none) good trade practice;

- c) the defect arises as a result of FP Cloud Networks Ltd following any drawing, design or Equipment Specification supplied by the Customer;
- d) the Customer alters or repairs such Equipment without the written consent of FP Cloud Networks Ltd;
- e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
- f) the Equipment differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

5.9 Except as provided in this clause 5, FP Cloud Networks Ltd shall have no liability to the Customer in respect of the Equipment's failure to comply with the warranty set out in clause 5.6.

5.10 The terms of this Agreement shall apply to any repaired or replacement Equipment supplied by FP Cloud Networks Ltd under clause 5.7.

### ***Maintenance Responsibilities of the Customer***

5.11 Where an Equipment Maintenance agreement is in place, an annual service charge will be invoiced in advance and shall be payable by the Customer prior to the Agreement commencement and anniversary dates. FP Cloud Networks Ltd may alter the Annual Service Charge at any time after having given 42 days prior written notice. The Customer shall pay for any services performed which are not covered by this Agreement at FP Cloud Networks Ltd's then current service rates.

- 5.12 Upon arrival of the service engineer at the Equipment location, the Customer shall
- a) provide free access to the Equipment and shall provide such reasonable facilities for the repair as are required by the service engineer. Such facilities shall include, but are not limited to, access to and use for testing purposes of the equipment; and
  - b) make available a representative of the Customer to be present at the site at all times whilst the service is being performed.

5.13 The Customer shall not permit any person other than FP Cloud Networks Ltd personnel or persons authorised by FP Cloud Networks Ltd for the purpose to attempt to alter, modify, repair or change the Equipment in any way.

5.14 The Customer shall inform FP Cloud Networks Ltd of any change in location of the Equipment following which FP Cloud Networks Ltd reserves the right to discontinue service or make a variation in the annual maintenance charge.

5.15 The Customer shall take all reasonable precautions to ensure the health and safety of FP Cloud Networks Ltd personnel whilst on the Customers premises.

## **6. TITLE AND RISK**

6.1 The risk in the Equipment shall pass to the Customer on completion of delivery.

6.2 Title to the Equipment shall not pass to the Customer until FP Cloud Networks Ltd receiving payment in full (in cash or cleared funds) for the Equipment and any other goods that FP Cloud Networks Ltd has supplied to the Customer in respect of which payment has become due, in which case title to the Equipment shall pass at the time of payment of all such sums.

- 6.3 Until title to the Equipment has passed to the Customer, the Customer shall:
- a) store the Equipment separately from all other goods held by the Customer so that they remain readily identifiable as FP Cloud Networks Ltd's property;
  - b) not remove, deface or obscure any identifying mark or packaging on or relating to the Equipment;

- c) maintain the Equipment in satisfactory condition and keep them insured against all risks for their full price on FP Cloud Networks Ltd's behalf from the date of delivery;
- d) notify FP Cloud Networks Ltd immediately if it becomes subject to any of the events listed in clause 13.2(b) to clause 13.2(m); and
- e) give FP Cloud Networks Ltd such information relating to the Equipment as FP Cloud Networks Ltd may require from time to time.

6.4 If before title to the Equipment passes to the Customer, the Customer becomes subject to any of the events listed in clause 13.2(b) to clause 13.2(m), then, without limiting any other right or remedy FP Cloud Networks Ltd may have:

- a) the Customer's right to resell Equipment or use them in the ordinary course of its business ceases immediately; and
- b) FP Cloud Networks Ltd may at any time:
  - (i) require the Customer to deliver up all Equipment in its possession which have not been resold, or irrevocably incorporated into another product; and
  - (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Equipment is stored in order to recover them.

6.5 For the avoidance of doubt, the title to any Equipment used by the Customer pursuant to a rental contract shall remain with FP Cloud Networks Ltd.

## **7. SUPPLY OF SERVICES**

7.1 FP Cloud Networks Ltd shall provide the Services to the Customer as set out in the Customer Sale Order in all material respects.

7.2 FP Cloud Networks Ltd shall use all reasonable endeavours to meet any performance dates for the Services specified in the Customer Sales Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

7.3 FP Cloud Networks Ltd shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and FP Cloud Networks Ltd shall notify the Customer in any such event.

7.4 FP Cloud Networks Ltd warrants to the Customer that the Services will be provided using reasonable care and skill.

## **8. CUSTOMER'S OBLIGATIONS**

8.1 The Customer shall:

- a) ensure that the terms of the Order and (if submitted by the Customer) the Equipment Specification are complete and accurate;
- b) co-operate with FP Cloud Networks Ltd in all matters relating to the Services;
- c) provide FP Cloud Networks Ltd, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by FP Cloud Networks Ltd to provide the Services;
- d) provide FP Cloud Networks Ltd with such information and materials as FP Cloud Networks Ltd may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
- e) prepare the Customer's premises for the supply of the Services;
- f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; and
- g) keep and maintain all materials, equipment (including rental handsets to Hosted Telephony Customers), documents and other property of FP Cloud Networks Ltd (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain FP Cloud Networks Ltd Materials in good condition until returned to FP Cloud Networks

Ltd, and not dispose of or use FP Cloud Networks Ltd Materials other than in accordance with FP Cloud Networks Ltd's written instructions or authorisation.

8.2 If FP Cloud Networks Ltd's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- a) FP Cloud Networks Ltd shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays FP Cloud Networks Ltd's performance of any of its obligations;
- b) FP Cloud Networks Ltd shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from FP Cloud Networks Ltd's failure or delay to perform any of its obligations as set out in this clause 8.2; and
- c) The Customer shall reimburse FP Cloud Networks Ltd on written demand for any costs or losses sustained or incurred by FP Cloud Networks Ltd arising directly or indirectly from the Customer Default.

## **9. CHARGES AND PAYMENT**

9.1 The price for Equipment shall be the price set out in the Order.

9.2 The charges for Services shall be on a time and materials basis:

- a) the charges shall be calculated in accordance with FP Cloud Networks Ltd's Standard Daily Fee Rate;
- b) FP Cloud Networks Ltd's Standard Daily Fee Rate for each individual person are calculated on the basis of an eight-hour day from 9.00 am to 5.00 pm worked on Business Days;
- c) FP Cloud Networks Ltd shall be entitled to charge an overtime rate of 25% of the standard daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 9.2(b); and
- d) FP Cloud Networks Ltd shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom FP Cloud Networks Ltd engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by FP Cloud Networks Ltd for the performance of the Services, and for the cost of any materials.

9.3 FP Cloud Networks Ltd reserves the right to:

- a) increase its Standard Daily Fee Rate for the charges for the Services, provided that such charges cannot be increased more than once in any 12 month period. FP Cloud Networks Ltd will give the Customer written notice of any such increase 2 (two) months before the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify FP Cloud Networks Ltd in writing within 4 (four) weeks of the date of FP Cloud Networks Ltd's notice and FP Cloud Networks Ltd shall have the right without limiting its other rights or remedies to terminate this Agreement by giving 4 (four) weeks' written notice to the Customer; and
- b) increase the price of the Equipment, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Equipment to FP Cloud Networks Ltd that is due to:
  - (i) any factor beyond the control of FP Cloud Networks Ltd (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
  - (ii) any request by the Customer to change the delivery date(s), quantities or types of Equipment ordered, or the Equipment Specification; or

- (iii) any delay caused by any instructions of the Customer in respect of the Equipment or failure of the Customer to give FP Cloud Networks Ltd adequate or accurate information or instructions in respect of the Equipment.

9.4 In respect of Equipment, FP Cloud Networks Ltd shall invoice the Customer on or at any time after completion of delivery. In respect of Services, FP Cloud Networks Ltd shall invoice the Customer as follows:

- a) in relation to telephone line rental: monthly in advance;
- b) in relation to Internet Services: monthly in advance; and
- c) in relation to phone call charges: monthly in arrears.

9.5 The Customer shall pay each invoice submitted by FP Cloud Networks Ltd by direct debit in full and in cleared funds to a bank account nominated in writing by FP Cloud Networks Ltd, and time for payment shall be of the essence of this Agreement. All amounts payable by the Customer under this Agreement are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under this Agreement by FP Cloud Networks Ltd to the Customer, the Customer shall, on receipt of a valid VAT invoice from FP Cloud Networks Ltd, pay to FP Cloud Networks Ltd such additional amounts in respect of VAT as are chargeable on the supply of the Services or Equipment at the same time as payment is due for the supply of the Services or Equipment.

9.6 If the Customer fails to make any payment due to FP Cloud Networks Ltd under this Agreement by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Lloyds Bank plc'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. The Customer shall pay the interest together with the overdue amount.

9.7 The Customer shall pay all amounts due under this Agreement in full without any set-off, counterclaim, deduction or withholding except as required by law. FP Cloud Networks Ltd may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by FP Cloud Networks Ltd to the Customer.

## **10. INTELLECTUAL PROPERTY RIGHTS**

10.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by FP Cloud Networks Ltd.

10.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Customer's use of any such Intellectual Property Rights is conditional on the FP Cloud Networks Ltd obtaining a written licence from the relevant licensor on such terms as will entitle FP Cloud Networks Ltd to license such rights to the Customer.

10.3 All Supplier Materials are the exclusive property of FP Cloud Networks Ltd.

## **11. CONFIDENTIALITY**

A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under this Agreement, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to this Agreement. The receiving party may also disclose such of the disclosing party's

confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 11 shall survive termination of this Agreement.

## **12. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

12.1 Nothing in this Agreement shall limit or exclude FP Cloud Networks Ltd'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;
- c) breach of the terms implied by section 2 of the Sale and Supply of Goods and Services Act 1982 (title and quiet possession);
- d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- e) defective products under the Consumer Protection Act 1987.

12.2 Subject to clause 12.1:

- d) FP Cloud Networks Ltd shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with this Agreement; and
- e) FP Cloud Networks Ltd'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 the sums received from the Customer during the calendar year in which the purported breach arose.

12.3 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Sale of Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Agreement.

12.4 This clause 12 shall survive termination of this Agreement.

## **13. TERMINATION**

13.1 Without limiting its other rights or remedies FP Cloud Networks Ltd may, either during the Term or following any period of extension to such Term, terminate this Agreement by giving the Customer not less than 1 (one) months' written notice. Subject to clause 13.5, the Customer may terminate this Agreement or specific services forming this Agreement by giving FP Cloud Networks Ltd not less than 3 (three) months' written notice.

13.2 Without limiting its other rights or remedies, FP Cloud Networks Ltd may terminate this Agreement during the Term or following any period of extension to such Term, with immediate effect by giving written notice to the Customer if the Customer:

- a) commits a material breach of its obligations under this Agreement including the Internet and Email Acceptable Use Policy and (if such breach is remediable) fails to remedy that breach within 10 Business Days after receipt of notice in writing to do so;
- b) suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- c) commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise

- or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- d) is subject to a petition being filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
  - e) is subject to a creditor or encumbrancer of the Customer attaching or taking possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
  - f) is subject to an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer (being a company);
  - g) is subject to the holder of a qualifying charge over the assets of the Customer (being a company) becoming entitled to appoint or has appointed an administrative receiver;
  - h) is subject to a person becoming entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;
  - i) is subject to any event occurring, or proceedings being taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.2(b) to clause 13.2(h) (inclusive);
  - j) suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or
  - k) financial position deteriorates to such an extent that in FP Cloud Networks Ltd's opinion the Customer's capability to adequately fulfil its obligations under this Agreement has been placed in jeopardy.

13.3 Without limiting its other rights or remedies, FP Cloud Networks Ltd may terminate this Agreement with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Agreement on the due date for payment.

13.4 Without limiting its other rights or remedies, FP Cloud Networks Ltd may suspend the supply of Services or all further deliveries of Equipment under this Agreement or any other contract between the Customer and FP Cloud Networks Ltd if the Customer fails to pay any amount due under this Agreement on the due date for payment, the Customer becomes subject to any of the events listed in clause 13.2(b) to clause 13.2(k) or FP Cloud Networks Ltd reasonably believes that the Customer is about to become subject to any of them.

13.5 On termination of this Agreement for any reason:

- a) the Customer shall immediately pay to FP Cloud Networks Ltd all of FP Cloud Networks Ltd's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, FP Cloud Networks Ltd shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- b) the Customer shall return all of FP Cloud Networks Ltd Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then FP Cloud Networks Ltd may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Agreement;
- c) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry; and
- d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

## **14. FORCE MAJEURE**

14.1 For the purposes of this Agreement, **Force Majeure Event** means an event beyond the reasonable control of FP Cloud Networks Ltd including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of FP Cloud Networks Ltd or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

14.2 FP Cloud Networks Ltd shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Agreement as a result of a Force Majeure Event.

14.3 If the Force Majeure Event prevents FP Cloud Networks Ltd from providing any of the Services and/or Equipment for more than 6 (six) weeks, FP Cloud Networks Ltd shall, without limiting its other rights or remedies, have the right to terminate this Agreement immediately by giving written notice to the Customer.

## **15. GENERAL**

### **15.1 Assignment and other dealings.**

- a) FP Cloud Networks Ltd may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under this Agreement and may subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party.
- b) The Customer shall not, without the prior written consent of FP Cloud Networks Ltd, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under this Agreement.

### **15.2 Notices.**

- a) Any notice or other communication given to a party under or in connection with this Agreement shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally or sent by prepaid first-class post or other next working day delivery service, or by commercial courier, fax or e-mail.
- b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.2(a); 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; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

### **15.3 Severance.**

- a) If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.
- b) If one party gives notice to the other of the possibility that any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

15.4 **Waiver.** A waiver of any right under this Agreement or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

15.5 **No partnership or agency.** Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

15.6 **Third parties.** A person who is not a party to this Agreement shall not have any rights to enforce its terms.

15.7 **Variation.** Except as set out in this Agreement, no variation of this Agreement, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by FP Cloud Networks Ltd.

15.8 **Governing law.** This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

15.9 **Jurisdiction** Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

**Schedule 1 Service Agreement / Customer Sales Order**

**[NOTE: Refer to the signed Customer Sales Order where not expressly inserted below]**

## Schedule 2 Internet Services Terms

### 1. Background

1.1 These following additional terms & conditions supplement the Master Services Agreement and apply to all services in FP Cloud Networks Ltd DSL service ranges, as updated and revised from time to time on the Website.

1.2 These terms & conditions explain our responsibilities to you, along with your responsibilities to FP Cloud Networks Ltd and to the other users of the service. By using our services you agree to accept these terms and conditions.

1.3 If there is anything you do not understand or have any further questions about this product, please contact our Support Line or email us at the support email address.

1.4 Customers must be 18 years or older to register for the service.

1.5 FP Cloud Networks Ltd reserves the right to refuse any application for service.

1.6 FP Cloud Networks Ltd reserves the right to add to and/or amend these terms and conditions at any time. Any amendments and/or additions shall be published on our Website. We encourage you to look at this agreement on a regular basis to ensure that you are aware of our current terms and conditions. If We do make any additions or amendments to these terms and conditions, you will be deemed to have accepted these changes if you continue to use our services unless We receive any communication from you objecting to these changes within 30 days of the date of publication on our Website.

### 2. Definitions

2.1 **ADSL:** Asymmetric Digital Subscriber Line, means the technology that enables the high speed transmission of digital data on the internet over a telephone line);

2.2 **Broadband Usage Policy:** means the policy located at the Company website;

2.3 **BT:** means British Telecommunications plc;

2.4 **Carrier:** means any supplier of electronic communications services to FP Cloud Networks Ltd for the service;

2.5 **Customer:** means any person or organisation with whom FP Cloud Networks Ltd enters into an agreement subject to these terms and conditions;

2.6 **Customer Apparatus:** means apparatus owned by you not forming part of the CPE but which may be connected directly or indirectly including but not limited to any microfilter/modem or router you may purchase for self-installation but not including CPE;

2.7 **CPE:** means any equipment which is supplied by FP Cloud Networks Ltd;

2.8 **DSL:** means FP Cloud Networks Ltd ADSL and SDSL products and services;

2.9 **Minimum Period of Service:** unless otherwise specified, means the period of 12 months, unless otherwise stated in the Customer Sales Order, beginning on the date when the Carrier enables you to receive the live service;

2.10 **Normal Working Hours:** means the working hours of the FP Cloud Networks Ltd Support Line service, as published on our Website from time to time;

2.11 **Premises:** means your premises where the service is to be installed;

2.12 **SDSL:** Symmetric Digital Subscriber Line, means the technology that enables the high speed transmission of digital data on the Internet;

2.13 **Support Line:** means the telephone support line described on the Website;

2.14 **Website:** means FP Cloud Networks Ltd Website, located at [www.FP Cloud Networks Ltdconnections.co.uk](http://www.FP Cloud Networks Ltdconnections.co.uk);

2.15 **We, Us,** and **Our:** means FP Cloud Networks Ltd; and

2.16 **You** and **Your:** means the Customer who orders the service.

### **3 The Service**

3.1 The service is described on Our Website.

3.2 By using our service you agree to accept these terms and conditions. You agree to receive the service and pay the fees for the service for the Minimum Period of Service and thereafter until termination of the Agreement in accordance with clause 8.

3.3 To obtain this service you will need to supply FP Cloud Networks Ltd with certain details that will be requested when placing your order. You must ensure that the information provided is complete and accurate. FP Cloud Networks Ltd will comply with applicable data protection legislation in respect of it in accordance with our Privacy Statement.

3.4 You accept that it is not technically possible to provide telecommunications services that are entirely free of faults and FP Cloud Networks Ltd does not undertake to do so. You also accept that you may not be able to receive the service due to technical restrictions. If such technical restrictions are discovered after the Agreement date, FP Cloud Networks Ltd has the right to terminate the Agreement in accordance with clause 8.3.

3.5 You must have an access line that is a suitable BT analogue line which has no incompatible services on it and is connected to a suitable BT exchange at which there is appropriate capacity.

3.6 Provisioning of the service by FP Cloud Networks Ltd is subject to distance limitation and survey by BT.

3.7 FP Cloud Networks Ltd cannot be held responsible if you cannot or cease to be able to receive the service if you change from or do not maintain the minimum technical requirements necessary for access to the FP Cloud Networks Ltd service, as specified on our website. FP Cloud Networks Ltd supplies the service to you on condition that you are the person or entity contracting with BT for the BT phone line associated with the service.

3.8 FP Cloud Networks Ltd may occasionally have to interrupt the service or change the technical specification of the service for operational or planned maintenance reasons, for upgrades or because of an emergency. FP Cloud Networks Ltd will attempt to give you as much notice as practically possible of any planned interruption of your service.

3.9 FP Cloud Networks Ltd will correct reported faults as quickly as possible. Should you encounter a fault with the service you should report this by phoning the Support Line. FP Cloud Networks Ltd will investigate the fault during normal working hours between Monday to Friday, excluding public holidays. You are responsible for all call charges that you incur as a result of telephone calls to the Support Line

#### **4. Installation by the Customer**

4.1 You are fully responsible for:

4.1.1 Connecting a suitable modem/router to the relevant port on the microfilter

4.1.2 Connecting a suitable microfilter to the Carrier's master socket and any extension sockets at your premises.

4.1.3 FP Cloud Networks Ltd accepts no liability whatsoever for any loss you or any third party may suffer as a result of your installation of the service, including but not limited to loss caused by your installation of any Customer Apparatus or CPE.

4.2 If FP Cloud Networks Ltd supplies you with CPE it comes "as is" with no warranty as to its fitness for purpose or otherwise. FP Cloud Networks Ltd will use reasonable endeavours to assist with reasonable queries you may have in respect of initial installation of the service, however, to the extent that such queries relate to any problems which, following an initial diagnosis, may be out of FP Cloud Networks Ltd control or ability to remedy, (including but not limited to Customer Apparatus or CPE) FP Cloud Networks Ltd does not guarantee that it shall be able to help resolve any such difficulties. Such limited support shall be provided to you by telephone or email.

4.3 If you purchase a modem/router from FP Cloud Networks Ltd We will arrange for it to be delivered to your premises. While FP Cloud Networks Ltd will attempt to deliver the modem/router to you within such timescales as may have been advised to you verbally, FP Cloud Networks Ltd does not guarantee that such timescales will be achieved.

4.4 You should notify FP Cloud Networks Ltd of any fault with the modem/router by contacting FP Cloud Networks Ltd by telephoning or emailing the Support Line. A diagnosis will then be carried out, and if it is determined that the hardware is at fault, and the hardware is still covered by warranty, FP Cloud Networks Ltd will arrange for a replacement modem/router to be sent to your premises.

4.5 FP Cloud Networks Ltd accepts no liability whatsoever for any loss you or any third party may suffer a result of your misuse or accidental damage you cause to the modem/router.

#### **5. Customer Apparatus**

5.1 You shall be responsible for the repair and maintenance of any Customer Apparatus used in order to obtain or use the service.

5.2 You shall ensure that all Customer Apparatus complies with any applicable law. You shall immediately disconnect any Customer Apparatus if such apparatus does not, or ceases to conform to any applicable standard (if any) for the time being in force.

5.3 Your Customer Apparatus must be technically compatible with the service and approved for that purpose under any relevant legislation or telecommunications industry standards.

5.4 FP Cloud Networks Ltd accepts no liability whatsoever for any loss you may suffer as a result of your use or misuse of the Customers Apparatus or as a result of any faults in your Customer Apparatus.

#### **6. Use of the Service**

6.1 You are solely responsible with respect to the accuracy, reliability, availability and performance of resources and / or content accessed through the internet (including but not limited to, any and all financial and other transactions of any kind entered into by you or any user of the service with any third party), which in all cases you accept are at your own risk and, in any event, beyond FP Cloud Networks Ltd control.

6.2 You will comply with (and ensure that all users of the service provided to you comply with):

- 6.2.1 All relevant legislation, licences and regulations (including, but not limited to, legislation and regulations relating to e-commerce and consumers) and mandatory instructions or guidelines issued by regulatory authorities;
- 6.2.2 Any codes of practice relevant to use of service;
- 6.2.3 Any internet standards that are accepted and adopted by the internet industry where failure to comply with such standards would adversely affect the provision of the service;
- 6.2.4 Our Internet and Email Acceptable Use Policy set out at Schedule 5 hereto and also located at [www.FP Cloud Networks Ltdconnections.co.uk](http://www.FP Cloud Networks Ltdconnections.co.uk); and
- 6.2.5 Any reasonable instructions that We may give from time to time.

6.3 You shall not use, nor allow any other(s) to use, the service to:

- 6.3.1 send, knowingly receive, upload, download or distribute any material that is unsolicited, defamatory, offensive, abusive, obscene, pornographic or menacing, or in breach of copyright, confidence, privacy or any other rights;
- 6.3.2 violate or infringe any rights of, or cause unwarranted or needless inconvenience, annoyance or anxiety to, any other person;
- 6.3.3 breach any laws, legislation, regulations, codes, standards or content requirements of any relevant body or authority;
- 6.3.4 obtain unauthorised access to any information, network or telecommunications system(s);
- 6.3.5 compromise the security or integrity of any network or telecommunications system(s), including without limitation any part of our network or telecommunications systems;
- 6.3.6 place any viruses or other similar computer programs onto the service or the internet;
- 6.3.7 store, distribute or reproduce commercial software or reproduce a third party's software or material without the permission of that third party and/or the relevant rights holder(s);
- 6.3.8 for any improper, fraudulent or otherwise unlawful purpose; or
- 6.3.9 to spam or to send or provide unsolicited advertising or promotional material or knowingly to receive responses to any spam, unsolicited advertising or promotional material sent or provided by any third party. You agree to take all reasonable steps to make sure that this does not happen.

6.4 FP Cloud Networks Ltd shall investigate any suspected or alleged breach of this agreement and in doing so We will act reasonably and fairly at all times. If in our reasonable opinion you use the service in any way that is or is likely to be detrimental to the provision of service to you or any other of our customers then you will take such corrective and immediate action as We may require. If, in our reasonable opinion, you fail to take such corrective action within a period of 3 (three) days of our demand, We shall be entitled to suspend the service without notice.

6.5 In all circumstances, you will indemnify us against any claims, actions or legal proceedings (including reasonable related costs and expenses, legal or otherwise) which are brought or threatened against us by a third party because the service has been used or is being used in breach of clauses 6.1 to 6.4.

## **7. Fees**

7.1 FP Cloud Networks Ltd will provide you with the service for the fees that were set out on the service agreement or agreed with sales person at the time of purchase, subject to clause 7.5 of this agreement.

7.2 All FP Cloud Networks Ltd services come with a Minimum Period of Service. Where the Minimum period of Service is not expressly stated on the Customer Sales Order, the Minimum Period of Service will be a period of (12) twelve months. By purchasing FP Cloud Networks Ltd services you are agreeing to pay FP Cloud Networks Ltd a setup fee and the Minimum Period of Service subscription charges.

7.3 All payments shall be due to FP Cloud Networks Ltd net on presentation of the invoice unless otherwise specified on the invoice at FP Cloud Networks Ltd main office or at such other address as may from time to time be specified by FP Cloud Networks Ltd on this Website. Once the Minimum Period of Service has expired, all usage charges shall be payable in full in respect of the month in which the notice to terminate the Agreement expires.

7.4 Interest payable on demand whether before or after judgment shall accrue from day to day on overdue amounts at the rate of 4% above the Bank of England base rate.

7.5 FP Cloud Networks Ltd reserves the right to vary the fees at any time upon thirty (30) days' notice, such notice to be posted on our Website.

## **8. Cancellation and Termination**

8.1 If you are an individual and do not wish to use the service for business purposes, you may cancel this agreement or any part of it before the date of install and connection to our service or fourteen (14) days after entering into this agreement (whichever is the earlier). You must tell us in writing and pay for the return of, in an "as new" condition and in the original packaging, the CPE and any additional items supplied by us to you. If you do not return the CPE and any other items we have supplied to you in an "as new" condition before the date of install, We will not refund any payment that you have made in respect thereof. After the commencement of the service, the cancellation provisions set out by The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 will not apply.

8.2 You may terminate this agreement to take effect after the Minimum Period of Service by giving FP Cloud Networks Ltd not less than thirty (30) days written notice. If you wish to end this agreement before the end of the Minimum Period of Service or due to any breach of the Agreement that causes your line to cease, FP Cloud Networks Ltd will be entitled to charge you the fees which would have been made payable by you for the balance of the Minimum Period of Service. If you move from your premises, FP Cloud Networks Ltd shall be entitled to charge you fees which would have been payable by you for the balance of the Minimum Period of Service at the premises. If you wish to receive the service at a new location you will be required to start a new contract for service at your new premises.

8.3 You agree to pay FP Cloud Networks Ltd the greater sum of either (i) a Cease Charge Fee of £40+VAT; or (ii) the rental charges remaining under the term, in the event that you:

8.3.1 terminate the service;

8.3.2 move to another Internet FP Cloud Networks Ltd without requesting and using a Migration Authority Code (MAC); or

8.3.3 move house/office.

8.4 FP Cloud Networks Ltd may end this agreement if:

8.4.1 The Carrier supporting the service ceases to do so for whatever reason or materially changes the terms of its provision of electronic communications services to FP Cloud Networks Ltd for the service beyond the reasonable control of FP Cloud Networks Ltd;

8.4.2 You fail to comply with any of the material terms & conditions of this agreement;

8.4.3 It transpires following the Agreement date that, for any reason out of the control of FP Cloud Networks Ltd, the services will not be able to be provided to you. In the

event of termination in accordance with this sub-clause 8.4.3 FP Cloud Networks Ltd shall repay to you any fees which you have paid in advance for the services.

8.5 Your right to use the service shall immediately terminate when this agreement comes to an end.

8.6 If you choose to cancel the Agreement after the order has been submitted by yourself and before the date of install, the fees for the Minimum Period of Service could be due. It is recommended that you speak to the FP Cloud Networks Ltd Support Team or e-mail them directly for confirmation of any fees that will be due.

### **9. Limitation on Liability**

In addition to the limitations set out in clause 12 of the Master Services Agreement, FP Cloud Networks Ltd shall not be liable for any loss suffered due to changes to the BT exchange line or any other Carrier line or communications equipment resulting in termination or suspension of the service.

### **10. Indemnity**

You agree to indemnify and hold us harmless for all liabilities, loss, claims and expenses that may arise from a breach in these conditions by you and any transmission or receipt of any content or message which you have requested or made using this service.

### **11. Personal Details and Privacy**

11.1 We will process your personal data in accordance with our Privacy Statement.

11.2 It is your responsibility to keep us advised of any changes to your personal data, including any change of name or address.

### **12. Breach of Conditions**

12.1 We shall investigate any suspected or alleged breach of this agreement. We reserve the right to take any action we deem reasonably appropriate and proportionate to the breach of the Agreement.

12.2 If we decide that you have breached the Agreement, We will use reasonable endeavours to give you notice of our intention to suspend or end the service. If you fail to remedy the breach or we are unable to contact you We reserve the right to suspend or end the service. If we decide the breach is of a serious nature, this may include jeopardising or compromising the security or integrity of our network and serious breach of our Broadband Usage Policy, We reserve the right to suspend the service with immediate effect without giving notice whilst details of the breach are investigated further.

### **13. Amendment of these Conditions**

All references in these terms and conditions to any law or statement of FP Cloud Networks Ltd policy means the latest current policies of law in force as amended, extended, consolidated, or re-enacted from time to time.

### **14 Expenses**

The Customer shall pay to FP Cloud Networks Ltd all costs and expenses (including all legal fees based on an indemnity basis) incurred by the FP Cloud Networks Ltd in enforcing any of the terms and conditions of this agreement, or exercising any of its other rights and remedies under the 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 FP Cloud Networks Ltd.

## Schedule 3 Telephone Services Terms

### 1. Services and Defined Terms

The Services FP Cloud Networks Ltd supply to you, the Customer are those Services which you have elected to receive as set out in the Master Service Agreement or which you have subsequently ordered in writing and we have agreed to supply, as outlined in the Customer Sales Order. These may include (but are not limited to):

- the ability to make or receive a Call (telephone service)
- the provision of a Line or Lines for a rental charge (line rental service)
- the provision of broadband internet access (broadband service)
- any other Services which we may offer for sale from time to time.

In providing the Services we promise to use the reasonable skill and care of a competent communications FP Cloud Networks Ltd.

1.1 **"Agreement"** means the contract between you and us which consists of the Service Agreement, these Conditions for Communications Services and any further conditions relating to specific Services;

1.2 **"BT" means** British Telecommunications plc;

1.3 **"Call" means** a signal, message or communication which is silent, spoken or visual on each line that we agree to provide to you under this agreement;

1.4 **"Commencement Date"** means the date upon which FP Cloud Networks Ltd begins to provide a service, not the date on which the "Service Agreement" is signed;

1.5 **"Line"** means a connection to our network or that of our suppliers, whether direct or indirect;

1.6 **"Minimum Period"** means the period of service as shown on the service agreement you have signed;

1.7 **"Service" or "Services"** means all or part of the Services explained in clause 1 or identified in the service agreement and any related services that we agree to provide to you under this agreement;

1.8 **"Customer Sales Order"** means the document you sign when you first become our customer detailing, amongst other things, the Services you wish to receive, the minimum period you wish to receive the services for and the tariff at which you will be charged and which forms part of this Agreement;

1.9 **"The Tariff"** means the FP Cloud Networks Ltd tariff which forms part of the Service Agreement as signed by you for the services you require and as amended from time to time under clause 14.2 below;

1.10 **"we" and "us"** means FP Cloud Networks Ltd;

1.11 **"you"** means the customer we make this Agreement with. It includes a person who we reasonably believe is acting with the customer's authority or knowledge. These Terms and Conditions apply to new and existing customers and are effective from 23rd May 2005 or the date of the Service Agreement, whichever is the earlier.

### 2. Changes and interruptions to the Services

2.1 We may have to do some things that could affect the Services. These things are listed in clause 2.2. If we have to interrupt the Services we will restore them as quickly as we can.

2.2 Occasionally we may have to:

- a) Change the code or phone number or the technical specification of the Services for operational reasons;
- b) Interrupt the Services for operational reasons or because of an emergency;
- c) Give you instructions that we believe are necessary for health or safety or for the quality of the Services that we supply to you or to our other customers.

### 3. Telephone numbers

You have no right to sell or to agree to transfer the number(s) provided to you for use with the Services and you must not try to do so.

#### **4. Telephone books and directory enquiries**

4.1. We will put your name, address and the telephone number(s) for the Services in The phone book published by BT for your area and make your phone number available to BT's directory enquiries database, as soon as we can. However, we will not do so if you ask us not to.

4.2 If you want a special entry in the telephone book you must let us know. Where we agree to a special entry you must pay an extra charge and sign a separate agreement for that entry.

#### **5. Call monitoring**

We may occasionally monitor and record calls made to or by us relating to customer services and telemarketing. We do this for training purposes and to improve the quality of our customer services, including complaint handling.

#### **6. Use of your information**

6.1 We will use the information we have about you and your use of the Services for marketing purposes. However, we will not do so if you ask us not to.

6.2 For your information we process your billing data and information about your use of FP Cloud Networks Ltd' service (this includes information about your bill size, the numbers you call and the times you call) for marketing our own telecommunications products and services. This allows us to better inform you about products, services, pricing packages and special offers which we provide and which we believe may be of particular interest to you.

6.3 We need your consent to continue to give you all the benefits that this processing provides and will assume we have it, unless you tell us otherwise by writing to us at our Registered office, or any other address we give you.

**7. Commencement of the Services** We will use all reasonable endeavours to provide you with the Services by the date we agree with you and to continue to do so until this Agreement is terminated. However we will not be liable for any form of compensation should the Services not commence on the agreed date or should they be interrupted from time to time.

#### **8. Repairing faults**

8.1 We cannot guarantee that the Service will never be faulty.

8.2 We will work on any fault that is reported to us according to our fault procedures for the Service in question (which are available on request).

8.3 When we agree to work on a fault outside the hours covered by our fault procedures, you must pay us an extra charge according to our tariffs in force at the time.

8.4 If you tell us there is a fault in a Service and we find either that there is not or that someone at your premises has caused the fault, we may charge you for any work we have done to try to find the fault or to repair it.

#### **Your Obligations**

##### **9. Paying our charges for the Services**

**9.1 Charges:** You must pay the charges for the Services according to the tariff which we have agreed with you. This applies whether you use the Services or someone else does and whether the Services are used with your full knowledge and consent or otherwise. We can change the charges as explained in clause 14.2. This means by way of example but not by

way of limitation that you are liable to pay for all calls made as a result of "Rogue Diallers" and unbarred premium rate numbers.)

**9.2 Invoices:** We will send you your first invoice at the beginning of the month after the Services commence and thereafter on a monthly basis, but we may send you an invoice at any time. We will include all charges on the next invoice where possible, and in any event as soon as we can. We will send all invoices and other correspondence to the address you ask us to.

**9.3 Rental and Call Charges:** You will incur charges from the time any part of a Service is used or received except in the case of Services subject to a periodic rental, in which case you will incur charges from the date the Service is ordered. We will usually ask you to pay the rental in advance and your first invoice will include both one month's rental in advance and a charge for a part month's rental from when the services went live up to the beginning of the first complete month, where appropriate. Call and other charges will be invoiced in arrears. We will calculate the charges for Calls using the details recorded by our network.

#### **9.4 Payments in advance and deposits**

- a) We may ask you for a payment before one is normally due. This will not be more than our best estimate of your following month's invoice.
- b) We may ask for a deposit at any time, as security for payment of your invoices if it is reasonable for us to do so. Our procedures for deposits will be explained to you at the time.

**9.5 Terms of payment:** You must pay all charges and rental within the credit terms which we have agreed and deposits when we ask for them. Our standard credit terms are payment within 14 days of date of invoice by direct debit and these are the credit terms which will apply to this Agreement unless we have agreed otherwise in writing.

### **10. Your Responsibilities**

#### **10.1 Entry to your premises**

- a) If our engineers or sub-contractors have to enter your premises you must let them do so within normal working hours or otherwise if agreed with you in advance. We will meet your reasonable requirements about the safety of people on your premises and you must do the same for us.
- b) If we need someone else's permission to cross or put our equipment on their premises, you must get that agreement for us and make any necessary arrangements.
- c) When our work is completed, you will also be responsible for putting items back and for any necessary redecorating.

#### **10.2 Misuse of the Services**

Nobody must use the Services:

- a) to make abusive, defamatory, obscene, offensive, indecent, menacing, nuisance or hoax Calls or Calls in breach of privacy or any other rights;
- b) to send, knowingly receive, upload, download, use or re-use material which is abusive, defamatory, obscene, offensive, indecent or menacing or in breach of copyright, privacy or any other rights;
- c) fraudulently or in connection with a criminal offence or in a way which does not comply with the terms of any legislation; and you must make sure that this does not happen. The action we can take if this happens is explained in clause 13. If a claim is made against us because the Services are misused in this way, you must reimburse us in respect of any sums we are obliged to pay.

## **11. Indemnity**

If you use the Services for business purposes, you must indemnify us against any claims that anyone (other than you) threatens or makes against us because the Services are faulty or cannot be used by them.

## **12. Line rentals**

When we provide your Line rentals, FP Cloud Networks Ltd will route your calls through our chosen network. No other FP Cloud Networks Ltd may route these calls or attempt to, and if they do we reserve the right to bar these calls. The use of IDA (Indirect Dialling Access) codes or equipment is expressly prohibited.

**13. Breach of the Agreement** If we suspend the Services due to your breach of this Agreement, the Agreement will shall continue and you shall be liable to pay any remaining rental sums due under the term of the contract.

## **14. Amendments to Services and this Agreement**

**14.1 General:** If you ask us to make any change to the Services we will ask you to confirm your request in writing. No action will be taken by us to carry out the change until we have received your written confirmation. If we agree to a change, this Agreement will be changed when we confirm the change to you in writing.

**14.2 Conditions:** We can change the conditions of this Agreement including our charges at any time if we give you 14 days notice. We will notify you of any changes with your monthly invoice and on the Company website at least 2 weeks before they take place.

## **15. Assignment**

You may not assign this Agreement or any part of it to any third party.

## **16. Cancellation before services are provided**

You may cancel the Services or an individual Service within 14 days of signing this Agreement or of ordering the Service. However, if you have ordered the Service(s) for business use you must pay for any work we have undertaken or reimburse us for expenditure incurred.

## **17. Termination**

17.1 This agreement or termination of individual services within the agreement can be ended by either party by giving the 90 days' notice in writing provided that the end of the notice period coincides with the end of the Minimum Period

17.2 If we give you notice you must pay rental up to the end of that notice. If you give us notice, you must pay rental until 90 days from the date we receive your notice, or until the end of the notice if that is later.

17.3 If you give notice that terminates the agreement or any part of the agreement prior to the end of the Minimum Period (other than because we have materially altered the conditions of this Agreement) then we will levy a cancellation charge in accordance with the following:

- Line rental/ADSL: number of months remaining on agreement multiplied by the monthly rental
- Call Spend: number of months remaining on agreement multiplied by the monthly minimum spend, or where there is no monthly minimum spend, the number of months remaining on the agreement multiplied by the average call spend of the last 3 full months immediately prior to the notice being given.

17.4 If you have paid any rental for a period after the end of the Agreement, we will either repay it or put it towards any money you owe us.

17.5 You must pay all charges for the Services until the date on which we stop providing the Services to you.

17.6 We may terminate this agreement without notice if clause 13.1 applies.

### **18. Additional Termination Charges**

18.1 If you fail to reach the annualised minimum monthly spend commitment as outlined in any agreed tariff plan or the service agreement we reserve the right to raise an invoice for the difference between achieved and committed spend in the month following expiry of the agreed term.

18.2 If notice is given during the term of the agreement and free install of ADSL and or line rental was given as part of the tariff or otherwise, then we reserve the right to impose a termination charge equal to the install cost divided by the number of the months in the term, multiplied by the number of months remaining in the term.

## Schedule 4 Mobile Services Terms

### 1. Key Points

1.1 FP Cloud Networks Ltd provides you with Mobile Services using approved phones, SIMs and network resources provided by the Mobile Network Operator who procure elements from one or more Mobile Network Operators ("**MNO**").

1.2 These terms supplement the Master Services Agreement and solely relate to the Mobile Services and do not extend to cover mobile handset purchases.

1.3 Services will be provided within our Mobile Network Operator, or its MNO's network area in the UK and by roaming on to other networks but it's always possible that the quality or coverage may be affected at times.

1.4 You must not use the Services for any illegal or improper purposes. Anyone under 18 is not permitted to access Age Restricted Services.

1.5 You agree that we may provide your personal data to the Mobile Network Operator and that We and the Mobile Network Operator, or its MNO, can process your organisation's information and users' personal data, which We collect or which you submit to Us during any sales or registration process, for a number of purposes, including to open and manage an account for Services, to deliver products and services ordered by you, for security and emergency service support, for credit checking and fraud prevention, and for product analysis and direct marketing (subject to your preferences) as set out in our 'Privacy Notice' in the Terms for Services.

1.6 Upon written notice to you by the Mobile Network Operator, all of FP Cloud Networks Ltd's rights and obligations, including all accrued rights and obligations, under this Agreement will be assigned and transferred to the Mobile Network Operator or to its nominee.

1.7 The commencement date means the date upon which FP Cloud Networks Ltd begins to provide a service through the Mobile Network Operator or its MNO, not the date on which the mobile service agreement is signed. For example, if an order is processed with a commencement date set in one month's time, your service and payment schedule will not begin until that date.

### 2. Defined Terms

2.1 **Additional Services:** additional or supplemental services for which a charge is made in addition to the fixed periodic charges for the Services (if applicable);

2.2 **Age Restricted Services:** any Services for use only by customers 18 or over;

2.3 **Cancellation Fee:** means, a fee charged if we end the agreement due to your conduct or if you end your agreement within the Minimum Term. This fee may cover (without limitation) your fixed periodic Charges for the Minimum Term, our administrative costs, costs incurred by us in Connecting and Disconnecting the Services and our payments to operators, Mobile Network Operators', stores or agents;

2.4 **Charges:** charges for access to, and use of, Services, these charges may cover (without limitation) fixed periodic charges, usage charges, account administration fees, fees for Connection and re-Connection, a Cancellation Fee (where applicable) and any costs incurred in collecting outstanding payments from you;

2.5 **Connection:** the procedure by which we give you access to Services. 'Connected', 'Connecting', and 're-Connection' have corresponding meanings;

2.6 **Damage:** any accidental, sudden and unforeseen damage to the Handset caused by external means which affects the operational functioning of the Handset;

2.7 **Disconnection:** the procedure by which we stop your access to Services. 'Disconnected' and 'Disconnecting' have corresponding meanings;

2.8 **GSM Gateway:** any equipment containing a SIM card which enables the routing of calls from fixed apparatus to mobile equipment by establishing a mobile to mobile call;

2.9 **Handset:** the device or mobile handset that is authorised by us for Connection to the network which is used to access Services;

2.10 **Messaging Services:** any email, fax and voicemail Services, text message and multimedia messaging Services, personal information management and other message or communication facilities which let you communicate with others;

2.11 **Minimum Term:** the minimum fixed term for the supply of Services;

2.12 **MNO::** the mobile network operator providing network services to the Mobile Network Operator;

2.13 **Premium Services:** any Services which are charged at premium rates. You can only access these Services – such as international calling and international roaming – with our approval;

2.14 **Services:** the services offered by us, including call services, Messaging Services, Storage Services, Age Restricted Services and Premium Services, which we agree to provide for you;

2.15 **SIM:** a card which contains your phone number and enables you to access Services SIMs will be supplied marked or should be considered to be marked as follows "*Property of the Mobile Network Operator, \*\*subject to Mobile Subscriber Service terms*"

2.16 **Storage Services:** any Services which offer you storage capacity on the network for storage of content which you access from us;

2.17 **Suspension:** the procedure by which we temporarily Disconnect your access to the Services. 'Suspend' has a corresponding meaning.

### **3. About your agreement**

3.1. It is your responsibility to make sure the SIMs are only used to access Services as permitted in this agreement.

3.2. This agreement does not cover the supply of your Handset. The manufacturers of Handsets are not related to us. Any terms relating to Handsets will be given to you separately.

### **4. Variations to your agreement or prices**

4.1. We may vary any of the terms of this agreement upon the provision of one month's notice, including if we decide to:

- a) discontinue the Services; or
- b) make any variations to your agreement which are likely to be of detriment to you; or
- c) increase the fixed periodic charges for the Services (if applicable) by an amount which is more than the percentage increase in the Retail Prices Index Figure (or any future equivalent) in any twelve month period.

4.2 You can terminate the agreement for such variations as explained in Section 7. Subject to the above, you will not be able to end the agreement if such variation or increase:

- a) is due to changes to the law, government regulation or licence which affect us; or
- b) relates solely to Additional Services;

If you carry on using Services after the variation commences, you will be deemed to have accepted the variation.

## **5. What we will provide for you**

### **A phone number and SIM**

5.1 We will open an account for you and provide you with a SIM and a phone number (and we may agree to provide you with additional SIMs and phone numbers on your request).

5.2 The Mobile Network Operator or its MNO own each SIM and each SIM remains their property at all times. You are being allowed to use the SIM by us on a limited licence to enable you to access Services, in accordance with the terms of this agreement. We or they may recall the SIM(s) at any time for upgrades, modifications, misuse or when your agreement ends. You can only use our SIM to obtain Services from us.

5.3 Each SIM may only be used in Handsets which are enabled for Services and are authorised by us for Connection to our network. Any attempt to use the SIM in other Handsets may result in serious damage to the Handset and may prevent you from being able to use it, including the making of emergency calls. In these instances, we, our Mobile Network Operator, or its MNO, are not responsible for any such damage or usage problems.

5.4 Handsets which can be used to access Services may be locked to the network. The software in the Handset and all intellectual property rights in that software is owned by the Handset manufacturer and you are being allowed to use the software on a limited licence from the Handset manufacturer. During the term of your Agreement for the supply of Services, you must not permit your Handset to be unlocked via any unauthorised manner (i.e. by anyone other than us or the Handset manufacturer). You must contact us if you want your Handset to be unlocked from our network. If you contact us to request that your Handset be unlocked from our network, we will arrange for your Handset to be unlocked in an authorised manner (which may include replacing your Handset with an unlocked Handset, which is the same or similar specification to your Handset) and you must pay an unlocking administration charge. In addition, you must ensure that there are no outstanding amounts owing on your account. Prior to us arranging for your Handset to be unlocked, you must ensure that you back-up or otherwise store separately any of your information or other data on the Handset which you may require, as this may be lost during the Handset unlocking process. We are not responsible for any information or any other data which may be lost during the Handset unlocking process. Please note this clause will not apply to you if you have purchased your SIM on a SIM-only basis.

### **Services**

5.5 Once you are Connected (i.e. the Commencement Date), we will provide you with access to our Services. The Services will include Premium Services, provided you ask for them and we approve, and may also include Age Restricted Services, provided you are 18 or over and you do not show or send any content from the Age Restricted Services to anyone under

5.6 You will also be able to upload and send your own content using the Services. You grant us, our Mobile Network Operator, or its MNO, a royalty free, perpetual and worldwide licence to store, transmit or otherwise deal with any content you upload on the Services.

5.7 We may:

- a) change or withdraw some, or part, of the Services from time to time. This may be because of changing technologies, obsolescence, new or different product features, changing content providers or the need to remove, replace or modify content. Subject to Section 4.1, you can end the agreement if this variation is likely to be of detriment to you as explained in Section 7; and
- b) also determine how Services are presented and delivered to the Handset or are otherwise made available to you. We can change the way they are presented, delivered or otherwise made available to you at any time.

### **Limitation of Services**

5.8 We will always try to make Services available to you. However, Services are only available within our coverage area (which comprises a video service area and a voice & picture area within the UK). Within this, there may be areas where you do not have access to all Services or where coverage is otherwise limited or unavailable. For more information about coverage, visit our website or contact us.

### **Disruption to Services**

5.9 There may be situations when Services are not continuously available or the quality is affected and so we cannot guarantee continuous fault-free service.

For instance:

- a) when we, our Mobile Network Operator, or its MNO need to perform upgrading, maintenance or other work on the network or Services;
- b) when you move outside our video service area whilst you are on a call (in this case calls may not be maintained);
- c) when you are in areas not covered by our network. In these cases Services rely on other operators' networks where we have no control; and
- d) because of other factors outside our control, such as the features or functionality of your Handset, regulatory requirements, lack of capacity, interruptions to services from other suppliers, faults in other communication networks, the weather or radio interference caused by hills, tunnels or other physical obstructions.

## **6. What you will do in return**

### **Secure your PIN, Passwords and SIM**

6.1. Our Mobile Network Operator or its MNO owns the SIM and it remains their property at all times, you must ensure that you keep the SIM safe and secure whilst it is in your possession and you must ensure that you are able to return it to us, if required to do so by us at any time, as set out in these terms. There will be a charge for any replacement SIM, unless, it is defective through faulty design or workmanship.

6.2. You must keep all PINs and passwords secure and confidential. You are also responsible for the security of your Handset and must ensure that you keep it secure (refer to the Handset manufacturer's user guide for details of how to keep your Handset secure).

6.3. You should immediately change your PIN or password if you become aware that someone is accessing Services on your account without your permission.

### **Responsible use of Services**

6.4. You may only use Services:

- a) as laid out in this agreement; and
- b) for your own personal use. This means you must not resell or commercially exploit any of the Services or content.

6.5. You must not use Services, the SIM or phone number or allow anyone else to use Services, the SIM or phone number for illegal or improper uses. For example:

- a) for fraudulent, criminal or other illegal activity;

- b) in any way which breaches another person's rights, including copyright or other intellectual property rights;
- c) to copy, store, modify, publish or distribute Services or content (including ringtones), except where we give you permission;
- d) to download, send or upload content of an excessive size, quantity or frequency. We will contact you if your use is excessive;
- e) in any way which breaches any security or other safeguards or in any other way which harms or interferes with our network, the networks or systems of others or Services;
- f) to falsify or delete any author attributions, legal or other proper notices or proprietary designation or labels of the origin or source of software or other content contained in a file that you upload; and
- g) to use or provide to others any directory or details about customers.

6.6. You must always co-operate with us and follow our reasonable instructions to ensure the proper use and security of the Services and your account. You must only use Handsets authorised by us for Connection to our network and also comply with all relevant legislation relating to their use.

6.7. We may publish an acceptable use policy which provides more detail about the rules for use of certain Services in order to ensure that use of Services is not excessive, to combat fraud and where Services we may introduce require certain rules to ensure they can be enjoyed by our customers. If we publish a policy, we will let you know – such a policy may be amended from time to time – for instance, if we discover that the Services are being used fraudulently or for fraudulent purposes, or the excessive use of certain Services is causing problems for us, our Mobile Network Operator, or its MNO, its systems or for other users or if we introduce new services which may require certain rules to ensure that such new services can be enjoyed by our customers, again, we will let you know if this happens.

#### **Responsible use of Messaging and Storage Services**

6.8. While using the Messaging Services, you must not send or upload:

- a) anything that is copyright protected, unless you have permission;
- b) unsolicited bulk or commercial communications or other unauthorised communications, or knowingly send any viruses; or
- c) anything that is obscene, offensive, abusive, defamatory, menacing, harassing, threatening or is unlawful in any other way.

6.9. We may put limits on the use of certain Services, such as Messaging Services or Storage Services. For example, we may limit the size of messages or storage space.

6.10. While we have no obligation to monitor the Messaging Services or Storage Services, if you exceed our use limits set out in our fair use policy, or we are made aware of any issues with your use of these Services, (for example, if we are made aware that you are using Services in any of the ways prohibited in Section 4.8 above) we reserve the right to remove or refuse to send or store content on your behalf.

#### **Responsible use of Age Restricted Services**

6.11. If you are under 18, you are not permitted to access our Age Restricted Services (if any). If you are 18 or over and you access the Age Restricted Services, you must not show or send content from the Age Restricted Services to anyone under 18. You must also ensure that you have deactivated any access to Age Restricted Services if you let anyone under 18 use your Handset.

#### **Responsible use of Services outside the UK**

6.12 If you use Services from a country outside the UK, your use of the Services may be subject to laws and regulations that apply in that other country. We are not liable for your failure to comply with those laws or regulations.

## **7. Our Rights – Intellectual Property**

7.1. All rights, including copyright in Services and their content, belong to us, our Mobile Network Operator, its MNO, or our licensed source, such as a content provider. We and they reserve all our and their rights.

7.2. The '**Vodafone**' trade mark and other related images, logos and names on the Services are proprietary marks of the Vodafone group of companies. We and they reserve all our and their rights.

## **8. Suspension of Services**

8.1. We may Suspend any or all of the Services you use without notice if:

- a) we reasonably believe you have provided us with false or misleading details about yourself;
- b) we advise you that your excessive use of Services (as may be defined in accordance with Section 4.7 above) is causing problems for other users, and you are continuing to use Services excessively;
- c) we believe your Handset or SIM has been lost or stolen;
- d) we reasonably believe that you have used Services, the SIM(s) or a phone number for illegal or improper purposes in contravention of our responsible use requirements in Section 4 above;
- e) we receive a serious complaint against you which we believe to be genuine (for example, if we receive a complaint that you are using Services in any of the ways prohibited in Sections 4.5, 4.8 and 4.11). If this happens, we will deal with the complaint in the manner set out in Section 7;
- f) we are required to suspend your Services by the emergency services or other government authorities; or
- g) we reasonably believe you have permitted your Handset to be unlocked via any unauthorised manner and/or have not paid any relevant Charges due in contravention of Section 3.4 above.

8.2. We may turn off your Messaging Services if they are inactive for an extended period of time - we will let you know before this happens. If we do turn off your Messaging Services we will have no obligation to maintain any of the content in your Messaging Services, or to forward any unopened or unsent messages to you, or anyone else.

8.3. If we Suspend any or all of your Services, you will still be able to make emergency calls (unless they have been Suspended at the request of the emergency services).

8.4. If your Services are Suspended, we may agree to re-Connect you if you ask us to do so and there may be a re-Connection Charge for this.

## **9. Ending this agreement and Disconnection of Services**

9.1. You may end this agreement in the following ways:

- a) You can end the agreement during your Minimum Term (if you have one) by giving notice at least 90 days before the date you want to end the agreement. However, you must pay us all the Charges you owe, plus any Cancellation Fee.
- b) On 90 days' notice, outside the Minimum Term. You can end the agreement if your agreement does not contain a Minimum Term, or if you want to end the agreement at the end of your Minimum Term or any time after your Minimum Term has expired, provided you give notice to Customer Services at least 90 days before the date you want to end the agreement.
- c) Within one month of a detrimental variation to your agreement. You can end the agreement within one month of us telling you about a variation to your agreement which is likely to be of detriment to you. You must give written notice within that month and your agreement will finish at the end of that month once we receive your notice.

9.2. We may end this agreement in the following ways:

- a) On 30 days' notice, outside the Minimum Term.

If your agreement does not have a Minimum Term, or the Minimum Term has expired, we can end this agreement by giving at least 30 days' notice of ending the agreement.

- b) Because of your conduct.

In the following cases, we may end your agreement immediately and you have to pay all the Charges you owe up until we Disconnect you:

- (i) if we have the right to Suspend your Services on any of the grounds in Section 4.5 and we believe that the grounds are serious and have not been, or are unlikely to be, rectified;
  - (ii) if we believe that your use of our Services, are jeopardising the operation of our, our Mobile Network Operator's, or its MNO's network, or are of an unacceptable nature; or
  - (iii) in the event of your bankruptcy, insolvency or death.
- c) No network access or Services. We may end your agreement if we no longer have access to other operators' networks which we need to provide Services, or if we are no longer able to provide Services due to factors beyond our control or because we cease business.

9.3 Once you are Connected, you can only end this agreement in the ways set out in this Section 7. However, if you are a consumer, any statutory rights which you may have, which cannot be excluded or limited, will not be affected by this section. For more information on your statutory rights, contact your local authority Trading Standards Department or Citizen's Advice Bureau.

## **10. Effect of this agreement ending**

10.1. If this agreement ends, we will close your account and Disconnect you and you will not be able to use Services or make emergency calls.

10.2. You must immediately pay all Charges you owe up to the date the agreement ends. If we end the agreement due to your conduct or if you end your agreement within the Minimum Term, the Charges will include a Cancellation Fee.

## **11. Liability**

### **Limits on our liability**

11.1. All of our obligations to you relating to Services are set out in your agreement. If you wish to make any variations to this agreement or rely on any other term, you must obtain our agreement to the variation or term in writing.

11.2. Except as set out in 11.3:

- a) all other terms, conditions and warranties relating to Services are excluded;
- b) our, our network operator's and its MNO's, entire liability to you for something we do or don't do will be limited to £3,000 for one claim or a series of related claims; and
- c) we, our network operator and its MNO, are not liable for any loss of income, business or profits, or for any loss or corruption of data in connection with the use of Services. We, our network operator and its MNO, are not liable for any loss or damage that was not reasonably foreseeable when you entered into the agreement.

11.3. Nothing in this agreement removes or limits our liability for fraud, for death or personal injury caused by our negligence or for any liability which can't be limited or excluded by applicable law. If you are a consumer, the terms of this agreement will not affect any of your statutory rights which you have, which cannot be excluded by this agreement. For more information on your statutory rights, contact your local authority Trading Standards Department or Citizen's Advice Bureau.

### **Services – Area where we have no responsibility**

11.4 We will try to ensure the accuracy, quality and timely delivery of Services. However:

- a) we, our network operator and its MNO, accept no responsibility for any use of, or reliance on, Services or their content, or for any disruptions to, or any failures or delays in, Services. This includes, without limitation, any alert Services or virus detection Services; and
- b) subject to Section 11.3 we, our network operator and its MNO, do not make any representations as to the accuracy, comprehensiveness, completeness, quality, currency, error-free nature, compatibility, security or fitness for purpose of Services or their content. They are provided to you on an 'as is' basis; and
- c) we, our network operator and its MNO, are not providing you with advice of any kind (including without limitation investment or medical advice). Where Services contain investment information, we do not make invitations or offer inducements to enter into any investment agreements.

11.5 We, our network operator and its MNO, will not be liable:

- a) for any loss you may incur as a result of someone using your PINs or passwords, with, or without, your knowledge; or
- b) if we or they cannot carry out our duties, or provide Services, because of something beyond our control.

### **Others' content and services – Areas where we have no responsibility.**

11.6 You may be able to use Services:

- a) to upload, email or transmit content using Services; and
- b) to access content which is branded or provided by others and to acquire goods and services from others. Where we provide you with such access, all we do is transmit the content to you and we do not prepare or exercise control over the content, goods or services. We and our network operator are not responsible or liable in any way for, and do not endorse, any of this content, goods or services.

11.7 This Section 11 will apply even after this agreement has ended.

## **12 Privacy Notice and Your Information**

12.1 We may pass and share your organisation's information and user's personal information to our Mobile Network Operator, or its MNO, other communications FP Cloud Networks Ltds and network operators for the detection and prevention of theft and fraud, and to carry out any activities or disclosures to comply with any regulatory, government or legal requirement.

12.2 If you use Services from a country outside the UK it may be necessary to transfer your information to that country. If that country is outside of the EEA, the treatment of your personal information may be subject to laws and regulations applying in that country and which may not protect your information to the same standards applying in the UK and the EEA.

12.3 You must keep any passwords and PIN numbers relating to your account and the Services safe and secure. You must not share them with anyone else. If you find or suspect that anyone else knows your passwords or PIN numbers, or can guess them, you must contact us immediately and ask us to change them. This is your responsibility.

## **13. GSM Gateways and VoIP**

You shall not connect any GSM Gateway to the network for illegal purposes including the unlawful provision of electronic communication services (as defined in the Communications Act 2003) to a third party or which is not compliant with any relevant laws or the MNO's commercial policy. You shall not use the Services for the purposes of Voice-over-Internet-Protocol service or similar service, unless otherwise agreed in writing by us.

## **Schedule 5 Internet and Email Acceptable Use Policy**

### **1. Policy**

This Acceptable Use Policy sets out the rules which apply to use of our communication services including your responsibilities, and permitted and prohibited uses of those services. Compliance with this Policy ensures you may continue to enjoy and allow others to enjoy optimum use of our Services.

### **2. Responsibilities**

2.1 The Customer is responsible for its actions on our network and systems accessed through the Service. If you act reckless or irresponsible in using the Service or your actions endanger any person or the integrity or security of our Network, systems or equipment, your access may be restricted, suspended or terminated, without prior notice.

2.2 In particular, you agree that you will not use, attempt to use or allow your Internet Service to be used to:

2.2.1 store, send or distribute any content or material which is restricted, prohibited or otherwise unlawful under any applicable law or which is likely to be offensive or obscene to a reasonable person;

2.2.2 store, send or distribute confidential information, copyright material or other content which is subject to third party intellectual property rights, unless you have a lawful right to do so;

2.2.3 store, send or distribute material which defames, harasses, threatens, abuses, menaces, offends, violates the privacy of, or incites violence or hatred against, any person or class of persons, or which could give rise to civil or criminal proceedings;

2.2.4 do any other act or thing which is illegal, fraudulent or otherwise prohibited under any applicable law or which is in breach of any code, standard or content requirement of any other competent authority;

2.2.5 store, send or distribute material, which interferes with other users or restricts or hinders any person from accessing, using or enjoying the use of our Services, Network or systems;

2.2.6 forge header information, email source address or other user information;

2.2.7 access, monitor or use any data, systems or networks, including another person's private;

2.2.8 information, without authority or attempt to probe, scan or test the vulnerability of any data, system or network;

2.2.9 compromise the security or integrity of any network or system including our Network;

2.2.10 deliberately access, download, store, send or distribute any viruses or other harmful programs or material;

2.2.11 send or distribute unsolicited advertising, bulk electronic messages or otherwise breach your spam obligations set out in this policy, or overload any network or system including our Network and systems;

2.2.12 use another person's name, username or password or otherwise attempt to gain access to the account of any other User without their consent;

2.2.13 tamper with, hinder the operation of or make unauthorised modifications to any network or system; or

2.2.14 aid, abet, encourage or incite any other person to do or attempt to do any of the above acts.

### **3. Spam**

3.1 Also known as junk mail or Unsolicited Commercial Email (UCE), the term "spam" refers to submitting a commercial email or SMS message to a large number of recipients who have not requested or opted to receive it and have no reasonable expectation to receiving email or SMS from the sender.

3.2 Email or SMS sent by a company or an organisation with whom the recipient has established a relationship or which was requested or accepted (opt-in requirement) by the recipient is not considered spam.

3.3 Spamming is not only harmful because of its negative impact on consumer attitudes toward FP Cloud Networks Ltd, but also because it can overload FP Cloud Networks Ltd's network and disrupt service to FP Cloud Networks Ltd subscribers.

3.4 As a user of a FP Cloud Networks Ltd service platforms you must comply with any regulation in force that covers direct marketing regulations if you are sending communications to large multiple lists of users.

3.5 In the absence of positive, verifiable proof to the contrary by a User, FP Cloud Networks Ltd will consider complaints by recipients of emails or SMS messages to be conclusive that the recipient did not subscribe or otherwise request the email(s) or SMS about which a complaint was generated.

#### **4. Excessive use**

4.1 You must use your Service in accordance with any download or capacity limits stated in the specific plan that you subscribe to for the use of that Service. We may limit, suspend or terminate your Internet Service if you unreasonably exceed such limits or excessively use the capacity or resources of our Network in a manner which may hinder or prevent us from providing services to other customers or which may pose a threat to the integrity of our Network or systems.

4.2 If FP Cloud Networks Ltd determines that excessive bandwidth, disk space utilisation or high CPU loads are adversely affecting FP Cloud Networks Ltd's ability to provide service to other users, FP Cloud Networks Ltd may take immediate action. FP Cloud Networks Ltd will attempt to notify the account owner as soon as possible.

#### **5. Reasonable Use**

Where a data service is specified as Un-metered or Un-limited use reasonable usage is considered to be within 500 GB per month where this usage is exceeded FP Cloud Networks Ltd reserves the right to apply policies in traffic management to limit or restrict the usage above this level or to terminate the Users access to the Services if the limits continue to be exceeded after notification to the User.

#### **6. Illegal Use**

The FP Cloud Networks Ltd network may only be used for lawful purposes. For example, users may not use the FP Cloud Networks Ltd network to create, transmit, distribute, or store content that:

6.1 violates a trademark, copyright, trade secret or other intellectual property rights of others,

6.2 violates export control laws or regulations,

6.3 violates the privacy, publicity or other personal rights of others,

6.4 impairs the privacy of communications,

6.5 contains obscene, offensive, unlawful, defamatory, harassing, abusive, fraudulent, or otherwise objectionable content as reasonably determined by FP Cloud Networks Ltd,

6.6 encourages conduct that would constitute a criminal offense or give rise to civil liability,

6.7 constitutes deceptive online marketing,

6.8 causes technical disturbances to the FP Cloud Networks Ltd network, its affiliated networks, or the network used by Users to access the Email service, or

6.9 violate the policies of such networks, including, but not limited to, intentional introduction of any viruses, Trojan horses, worms, time bombs, cancel bots or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system or data, or

6.10 assists, encourages or permits any persons in engaging in any of the activities described in this section. If the Customer becomes aware of any such activities, the Customer is obligated to immediately notify FP Cloud Networks Ltd and take all other appropriate actions to cause such activities to cease.

## **7. Consequences of Unacceptable Use**

FP Cloud Networks Ltd reserves the right to suspend or terminate User's access to the Services upon notice to the Customer of a violation of this policy. If FP Cloud Networks Ltd believe that the policy has been breached or the integrity of the network and/or the performance of others users are at risk, then FP Cloud Networks Ltd will contact the Customer with notice of its intent or to notify the User of the breach of the policy.

## **8. Broadband Traffic Management Policy**

8.1 We undertake traffic management to ensure that our Customers receive optimum performance at all times. The policy applied is as follows:

8.1.1 our broadband products are subject to traffic management to ensure you receive optimum performance at all times.

8.1.2 like other providers we deliver broadband service over a shared network. To provide a sustainable quality broadband service to all our customers we have to manage the network.

8.2 The principles of our network management policies are:

8.2.1 to make sure that time-critical applications like Voice over Internet Protocol (VoIP) are always prioritised;

8.2.2 to protect interactive applications like web-browsing and Virtual Private Network (VPN) from non-time sensitive download traffic;

8.2.3 to balance the network under demand to cope with exceptional peaks and troughs from day to day and month to month;

8.2.4 provide a 'quality of service' effect, meaning multiple applications running on the same line interact with each other effectively, and use of high demand protocols like Peer-to-Peer (P2P) doesn't swamp time-sensitive traffic such as a VoIP call.

8.3 Traffic types are identified in real-time based on a combination of port, source IP address and DPI signature detection. This allows us at any given time to see exactly what traffic is on the network and who is doing what.

8.4 At times we may prioritise time sensitive traffic such as VoIP by reducing the throughput of the standard traffic.

## **9. Administration of Policy**

The Customer understands that the administration of this policy requires the exercise of discretion and judgment by FP Cloud Networks Ltd. FP Cloud Networks Ltd agrees to exercise good faith in its administration of this policy and in making determinations under the policy.