



## Business Terms and Conditions effective from 1<sup>st</sup> November, 2015

### CLASS AFFINITY PROJECTS LIMITED Terms and Conditions – (Business)

For services and contracts commencing from 1<sup>st</sup> November 2015

This Agreement applies to the provision to you, the Customer, by us (Class Affinity Projects Limited, registered address Ground Floor, Egerton House, 68 Baker Street, Weybridge, Surrey KT13 8AL (Company No. 3956388), trading as Class Networks) of those services which have been selected by you and as are more particularly described in Class's product and service literature (the "Services"). Class Affinity Projects Ltd is a wholly owned subsidiary of Class Telecommunications Limited.

**1. "Contract"** means this contract for the supply of the Services comprising these terms and conditions together with any acknowledgement of order.

**"Services"** means any of the following line rental, supply of minutes, broadband connection, ADSL, and Special Rate Numbers and any other products specified in an order acknowledgement.

**"Special Rate Number"** means a special call rate number specified by CLASS in an order acknowledgement or subsequently agreed in writing between the Parties.

**"Special Rate Number Service"** means Class's special rate service whereby, on receipt of a telephone call addressed to a Special Rate Number, CLASS shall translate that number into a telephone number allocated to the Customer by its line provider as specified in an order acknowledgement and then route that telephone call to the line provider's telephone system.

### **2. Contract Information:**

2.1. The Contract is formed by the completion of three distinct steps:

-CLASS's display/catalogue/website (at [www.classnetwork.com](http://www.classnetwork.com)) each invites the Customer to do business with Class

– Customer's order is an offer to do specific business with Class

– The Contract is formed when Customer receives Class’s acceptance of that offer (or part of it)

2.2. Class reserves the right to accept, refuse or limit Customer’s order for any reason – including (but not limited to) credit card/payment clearance, unavailability of stock or errors in product descriptions.

2.3. If Class provides the Customer with a revised version of Class’s terms and conditions of service, together with a notice stating when such revised terms and conditions will come into force, and the Customer continues to make use of the Services after such date the Customer will be deemed to have accepted such revised terms with effect from such date and such revised terms and conditions will be deemed to constitute part of this Contract in place of the previous terms and conditions. If Customer does not accept such revised terms, it shall have the right to cancel the Contract on 3 months’ notice and in such an instance, the provisions of Clause 11.7 shall not apply.

2.4. The Customer may order additional lines or services from CLASS at any time throughout the duration of the Contract. If accepted by CLASS, such additional lines and services shall be provided on the terms of this Contract, provided that a new service commencement date will be allocated for those lines and/or Services.

### **3. Provision of Services**

3.1. The Service levels for each Service shall be as specified in the service literature (“Service Levels”).

3.2. CLASS shall, as soon as reasonably possible following its acceptance of an order (which acceptance may take the form of the provision of Services pursuant to Clause 3.3), notify the Customer of the date by which it plans to commence Services under the Contract. Orders are subject to Clause 3.7. If CLASS cannot supply Customer’s order, it will refund Customer’s money promptly.

3.3. Provision of each Service shall start on the date on which CLASS first makes the Service available to the Customer (the “Service Commencement Date”).

3.4. From the Service Commencement Date, each Service shall, subject to Clause 11, continue

3.4.1. For the initial period set out in the order acknowledgement or service literature for that Service or, if there is no such period set out, a period of one year (in either case, the “Minimum Service Period”) and

3.4.2. Thereafter subject to either party giving to the other not less than one month's written notice (or such other notice period applicable to the Service set out in the Service Literature) expiring at or after the end of the Minimum Service Period.

### 3.5. Customer's right to cancel

3.5.1. Customer has the right to cancel its order for Services at any time prior to the Service Commencement Date. This is in addition to any rights to cancel in accordance with Clause 11.

3.5.2. Customer has the right to cancel its order for equipment/goods at any time up to seven days after receipt of the goods ("the time allowed"). This is in addition to any rights to cancel in accordance with Clause 11.

3.5.3. If Customer decides to cancel its order for equipment/hardware, it should tell CLASS (in writing) within the time allowed. It is up to Customer to make sure that its cancellation reaches CLASS in time.

3.5.4. If Customer cancels its order for equipment/goods, it must not use or have used the goods and must keep them safe. It shall be Customer's responsibility and at Customer's cost to arrange safe return of the equipment/hardware to CLASS.

### 3.6. Inspection of goods

3.6.1. Customer should inspect and test the equipment/goods at the earliest opportunity. If the goods are defective or otherwise in breach of the contract terms ('a Justified Reason'), Customer has the right to return them to CLASS but Customer should do so within a reasonable time.

3.6.2. Upon return of the equipment/goods for a Justified Reason Customer has the right to either a full refund of the price of the goods or a replacement (if available). If, instead, Customer asks CLASS to repair the equipment/goods it will not lose its right to return them again if they are still not satisfactory.

### 3.7. Availability and pricing

3.7.1. All equipment / goods and services are supplied subject to availability.

3.7.2. ADSL broadband services are additionally supplied subject to line and site tests performed by British Telecom plc.

#### **4. Delivery Arrangements**

4.1. In accordance with Clause 3.3, CLASS intends to deliver/supply the equipment/goods and services on the date set out on its order acknowledgement. If a particular delivery date is critical Customer must tell CLASS so in writing when, or before Customer places its order; CLASS will do its best to meet Customer's deadline but cannot guarantee to do so.

4.2. If CLASS is unable to deliver the equipment/goods as requested pursuant to Clause 4.1, it will tell Customer at the earliest opportunity and Customer will have the right to cancel the order. In that event, CLASS will promptly refund any money Customer has paid.

4.3. CLASS will deliver by post special delivery or courier as appropriate.

#### **5. Installation and Delivery of Services**

##### **5.1. Special Rate Numbers**

5.1.1. CLASS shall allocate to the Customer the Special Rate Number(s).

5.1.2. The Customer shall give CLASS at least one week's prior written notice before using any Special Rate Number which is not used immediately from the date of the contract. CLASS may withdraw any Special Rate Number from the Customer on 30 days written notice if such number is not used within 3 months from the date of the Contract.

5.1.3. CLASS does not guarantee that a person making a telephone call to a Special Rate Number who is not a customer of CLASS will not be charged by their line provider for the conveyance of that call at a rate higher than the relevant special call rate.

5.1.4. Subject to availability, CLASS shall supply a Memorable Number (meaning any Special Rate Number available to CLASS which CLASS in its absolute discretion considers to be memorable) upon request and the Customer shall pay such sum specified in the attached Price Schedule (as amended from time to time in accordance with the Contract).

5.1.5. To enable CLASS to provide the Service the Customer shall keep CLASS fully informed on a rolling monthly basis as to the volume of telephone calls to the Special Rate Number(s) expected in the next 3 month period and shall also inform CLASS as far in advance as practicable in the event that an increase in the volume of calls may be expected if not set out in such forecast and in particular shall give CLASS at least two weeks written notice prior to advertising the Special Rate Number(s) on television. CLASS shall not be liable for any failure to route the telephone calls to the Customer's line provider if the volume of calls to the Special Rate Number(s) exceeds the Customer's forecast

5.1.6. Where telephone numbers are to be allocated under a Contract, CLASS shall notify the Customer of those telephone numbers as soon as is reasonably practicable after accepting the order. Subject to the provisions of any applicable law, regulation or licence condition, telephone numbers allocated to the Customer and all rights in those numbers shall belong to CLASS and the Customer shall not sell or transfer, or attempt to sell or transfer, any telephone number to a third party. The Customer shall have no trade name right in any telephone number that CLASS allocates to it nor any trade name right that may develop in any telephone number allocated to it.

5.1.7. CLASS may change any telephone number allocated to the Customer after giving the Customer reasonable notice where such change is necessary in order for CLASS to comply with a law or regulation or for operational reasons.

5.1.8. After termination of any Service(s) or part of any Service, CLASS shall not issue any telephone number which has been allocated to the Customer to a third party for a period of 6 months after the date of termination applicable to that number.

## 5.2. General

5.2.1. The Customer shall prepare those of its location(s) at which Services are to be provided ("Site(s)") and co-operate with CLASS in accordance with CLASS's instructions and timescales so that any equipment which CLASS provides for the provision of the Services can be installed and maintained by or on behalf of CLASS. CLASS shall be entitled to charge the Customer for any costs incurred by CLASS as a result of any failure by the Customer to satisfy such requirements. The Customer shall meet the costs of preparing any Site(s) and shall provide to CLASS free of charge adequate electricity supply, suitable earth connection and an adequate environment for the operation of any such equipment.

5.2.2. To enable CLASS expeditiously and properly to exercise its rights and fulfil its obligations under this Contract such as to deliver, install, maintain, connect, trace faults, repair faults or renew or remove any equipment provided by CLASS or any part thereof (including, without limitation, any auto-dialler) or otherwise the Customer shall permit or procure permission for CLASS and its duly authorised representatives to have reasonable access to the Customer's premises and telephone system and/or any such equipment provided by CLASS at all reasonable times and shall provide such reasonable assistance as CLASS shall request.

5.2.3. CLASS shall normally carry out installation and maintenance work at the Site(s) during normal working hours where such work does not involve any suspension of Services but may, on reasonable notice (which shall not be less than 12 hours except in an emergency), require the Customer to provide access at other times. Where necessary CLASS shall be entitled to suspend Services in order to carry out such work. Except where suspension of Services is involved, if CLASS agrees at the Customer's request to carry out such work outside normal

working hours or if it is necessary for CLASS to carry out such work outside normal working hours for reasons beyond its control, CLASS shall be entitled to charge the Customer for any overtime costs.

5.2.4. CLASS shall, when it undertakes installation and maintenance work under this Clause, comply with any reasonable Site procedures notified in writing to CLASS in advance by the Customer.

5.2.5. Equipment/goods supplied belong to CLASS legally and beneficially until Customer has paid all CLASS's charges under this Contract, but the risk attached to owning them passes to Customer as soon as they are delivered into Customer's possession or control.

5.2.6. Even though equipment/goods supplied continue to belong to CLASS, CLASS has the right to recover payment for them. As long as the goods remain CLASS's, and discrete from items which are not CLASS's, CLASS has the right (but not the obligation) to recover these goods. As long as the materials remain CLASS's, Customer must not sell or otherwise dispose of them.

5.3. CLASS shall be entitled to:

5.3.1. Change the codes and/or the numbers allocated to the Customer or the technical specification of a Service where necessary, for operational reasons, statutory or regulatory requirements, provided that any change to the technical specification does not materially affect the performance of the Service;

5.3.2. Suspend the Services for operational reasons or in case of emergency or in accordance with Clause 11; and

5.3.3. Give the Customer instructions which it believes are necessary for reasons of health, safety or the quality of any Service provided by CLASS to the Customer or any third party.

Before doing so, CLASS will give the Customer as much notice as possible.

5.4. The Customer agrees that during the duration of the Contract it shall exclusively route all telephone calls through CLASS's network and shall not attempt to change or subvert this by modifying any of the PABX programming, CPS or any other routing method. If the Customer breaches this Clause 5.4 then Clause 11.7 shall apply.

## **6. Equipment**

6.1. The Customer is responsible for the equipment and must not add to, modify or in any way interfere with the equipment, nor allow anyone else, other than someone authorised by CLASS, to do so. The Customer will be liable to CLASS for any loss of or damage to the equipment,

except where such loss or damage is due to fair wear and tear or is caused by CLASS or anyone acting on its behalf.

6.2. The Customer agrees to:

6.2.1. Ensure that any equipment used by the Customer in conjunction with the Service conforms to the relevant standards and approvals;

6.2.2. Hold such licences as are required by Ofcom and/or under the Communications Act 2003 and any other applicable telecommunications legislation from time to time (including any amendments thereto) to connect with CLASS's equipment and to receive the Service;

6.2.3. Ensure the safe use and custody of all equipment provided by CLASS;

6.2.4. Comply with CLASS's reasonable instructions to modify its equipment in order to receive the Service;

6.2.5. Return all equipment provided by CLASS upon termination of the Contract.

## **7. Use of Services**

7.1. The Customer undertakes to use the Services in accordance with:

7.1.1. Such instructions and conditions as may be notified in writing to the Customer by CLASS from time to time;

7.1.2. The relevant provisions of the Telecommunication Act 1984, Communications Act 2003 (the "Act") and other applicable telecommunications legislation from time to time;

7.1.3. Any direction of Ofcom or other competent authority and any licence granted thereunder which applies to the running of a telecommunication system by the Customer; and

7.1.4. Such terms and conditions of any third party telecommunications operator providing the equipment or telephone lines as CLASS shall notify the Customer from time to time.

7.2. Without limitation to the generality of Clause 7.1 the Customer shall undertake not to use the Services:

7.2.1. For the transmission of material which is defamatory, offensive or of an obscene or menacing character; or

7.2.2. In a manner which constitutes a violation or infringement of the rights of any person, firm or company (including, without limitation, rights of copyright and confidentiality);

7.2.3. As a means of communication for a purpose other than that for which the Services are made available as set out in CLASS's service literature.

7.3. The Customer shall not connect or cause any equipment to be connected to the equipment (if any) providing the Services other than those approved for connection under the Act and CLASS shall not be under any obligation to connect or keep connected any Customer apparatus if it does not so conform or if, in the reasonable opinion of CLASS, it is liable to cause death, personal injury, damage or to impair the quality of the Services.

7.4. If any equipment is installed or provided by or on behalf of CLASS for the purpose of providing the Services (including, without limitation, any auto-dialler), the Customer undertakes not to alter or move such equipment or any part thereof without CLASS's prior written consent. The Customer agrees that any equipment installed or provided by or on behalf of CLASS shall at all times remain the property of CLASS, and shall be returned to CLASS forthwith upon request.

7.5. The Customer shall indemnify and keep indemnified CLASS against any claims or legal proceedings brought against CLASS by any third party arising from the use by the Customer of the Services in breach of this Contract.

7.6. For the avoidance of doubt, the Customer acknowledges that it has access to the public switched telecommunications network using exchange lines provided by British Telecommunications plc; and where appropriate, it is responsible for all costs and expenses relating to reprogramming its PABX or other least cost routing devices so that it can access the Services.

7.7. For the avoidance of doubt, the Customer acknowledges that it has sole responsibility for all charges relating to the use of the Services regardless of whether such use is authorised, unauthorised, fraudulent or otherwise. The Customer must inform CLASS as soon as reasonably practicable if it suspects that fraudulent or unauthorised use of the Services is occurring, although such notification will not limit the Customer's liability to pay the charges as set out herein.

## **8. Acceptable Usage**

8.1. It is a condition of this Contract that Customer should comply at all times with CLASS's Acceptable Usage Policy as attached or as may be updated from time to time on CLASS's website. If Customer breaches CLASS's Acceptable Usage Policy CLASS shall be entitled to suspend or restrict Customer's Service and cancel this Contract and/or take such action as detailed in the Acceptable Usage Policy.



## **9. Fault Resolution**

9.1. The Customer shall notify CLASS of any material fault in the Service and CLASS shall use all reasonable endeavours to remedy the fault as quickly as practicable.

## **10. Charges and Payment**

10.1. In consideration of the Services provided by CLASS the Customer shall pay for all charges for the provision of the Services as detailed in CLASS's price list (from time to time) (the "Charges").

10.2. The Charges for a given billing period will be calculated by reference to the appropriate band of CLASS's tariff structure (which is available for inspection upon request at CLASS's offices).

10.3. CLASS may at any time require the Customer to pay a deposit or provide a guarantee as security for payment of future bills.

10.4. The Charges shall be calculated by reference to data recorded or logged by CLASS and not by reference to any data recorded or logged by the Customer.

10.5. Call charges shall accrue from the date on which the Customer commences use of the Service and shall be invoiced monthly in arrears.

10.6. ADSL, line rental and other fixed charges will be billed by CLASS one month in advance and CLASS shall advise Customer of any Special Rate Number rebates either one month or 3 months in arrears depending on the actual product so that Customer can invoice CLASS accordingly.

10.7. All charges which are periodic in nature shall be prorated on the basis of a 28 day or 30 day month (as applicable) and on the basis of the number of days the Services are provided for the first and last calendar month of the Service. All periodic charges are payable one month in advance.

10.8. All sums due to CLASS shall be payable by the Customer within 30 days of the date of the relevant invoice but CLASS shall have the right to request payment on demand if the Customer fails to make timely payment of any previous invoices. The time of payment of all sums due to CLASS shall be of the essence. The Customer shall be deemed to have accepted any invoice if it is not disputed within the said period of 30 days for payment.

10.9. CLASS reserves the right to charge daily interest on outstanding amounts until payment in full is received at a rate equal to 2% per annum above Barclays Bank plc Base Lending Rate as current from time to time whether before or after judgment. Interest shall accrue notwithstanding termination for any cause whatsoever.

10.10. All charges are exclusive of Value Added Tax for which, if it is applicable, an amount will be added to the Customer's invoice.

10.11. Payment of all sums due to CLASS by the Customer shall be made without any set-off or deduction whatsoever.

10.12. If your organisation is classified as a Microenterprise or Small Enterprise Customer or Not-For-Profit Customer of less than 10 individuals If we make changes to your service, we will give you notice of such changes. You may have the right to terminate your contract within one month after notification, at no additional costs, if any changes are not exclusively of benefit to you. This does not apply if the change is purely administrative and has no negative effect you.

10.13. For the avoidance of doubt, the Customer shall be liable for all and any telecommunication charges payable to any third party arising out of the Customer's use of the Services.

10.14. Where the price of one product is reduced as part of a product bundle to include another product, CLASS has the right to increase the price for that product retrospectively if the Customer discontinues usage of CLASS's other product.

10.15 Where discounted rates are offered as part of a contract with a Minimum Service Period CLASS reserve the right to move the Customer to CLASS standard pricing at the end of the Minimum Service Period if the Customer does not re-contract for a further Minimum service Period.

10.16 If a direct Debit is dishonoured or cancelled, CLASS reserve the right to make a reasonable administration charge.

## **11 Termination and Suspension**

11.1. CLASS shall have the right (notwithstanding anything to the contrary expressed or implied elsewhere in this Contract) to terminate this Contract with immediate effect if:

11.1.1. The Customer fails to make any payment when it becomes due to CLASS, or is in breach of this Contract (and in the case of a remediable breach, fails to remedy the breach within a reasonable period of time specified by CLASS);

11.1.2. A force majeure event (as described in clause 15) occurs and continues for a period exceeding 3 months.

11.1.3. Any licence or agreement pursuant to which CLASS provides the Services expires or is revoked; or

11.1.4. A licence under which the Customer has the right to run its telecommunications system is revoked or amended (and not replaced by an equivalent licence or right) so that CLASS is not permitted by law to provide the Services to the Customer; or

11.1.5. CLASS believes that the Services are being used in a way that is forbidden by Clause 7, or

11.1.6. An interim order is made, or a voluntary arrangement approved, or if a petition for a bankruptcy order is presented or a bankruptcy order is made against the Customer or if a receiver or trustee is appointed of the Customer's estate or (the Customer being a company) a voluntary arrangement is approved or an administration order is made, or a receiver or administrative receiver is appointed over any of the Customer's assets or undertaking or a resolution or petition to wind up the Customer is passed or presented (otherwise than for the purposes of reconstruction or amalgamation), or if any circumstances arise which entitle the Court or a creditor to appoint a receiver, administrative receiver or administrator or to present a winding-up petition or make a winding-up order; or

11.1.7 You cease, or threaten to cease to carry on business.

11.2. If this Contract is terminated by CLASS pursuant to Clause 11.1, the Customer shall pay to CLASS all arrears of Charges and any other sums due to CLASS under this Contract.

11.3. If the Customer wishes to cancel this Contract (whether in whole or in part) at any time prior to or subsequent to connection, CLASS will agree to accept such cancellation upon written notice, subject to the Customer paying any outstanding Charges. CLASS makes no charges directly associated with cancellation or termination unless the Contract is terminated by the Customer in the Minimum Service Period, in which case Clause 11.7 shall apply.

11.4. CLASS reserves the right to terminate the Contract immediately at any time due to abuse and/or material breach of the Contract or breach of CLASS's Acceptable Usage Policy (which Customer acknowledges it has read).

11.5. Upon termination any fees pre-paid by the Customer for unused time remaining less any charges outstanding on Customer's account, will be calculated and returned to Customer either by the same method as they were paid or by cheque (at CLASS's discretion).

11.6. CLASS may at its sole discretion and without prejudice to any rights it may have to terminate this Contract upon giving notice to the Customer either orally (confirming such notification in writing) or in writing, elect to suspend forthwith provision of the Services until further notice in the event that

11.6.1. CLASS is entitled to terminate this Contract pursuant to clause 11.1 or

11.6.2. CLASS is entitled to suspend provision of any other telecommunications service under the terms of any other agreement between CLASS and the Customer; or

11.6.3. CLASS is obliged to comply with an order, instruction or request of Government, an emergency services organisation or other competent administrative or regulatory authority which affects its ability to provide the Service; or

11.6.4. Maintenance or emergency works (as defined in Schedule 2 of the Act) must be carried out on the equipment or for operational reasons or

11.6.5. CLASS reasonably believes that the Customer will fail to pay any amount due under this Contract.

11.7. If during the Minimum Service Period, Customer terminates the Contract or any Service under it other than pursuant to Clauses 2.3 and 3.5, CLASS will charge the Customer the following charges:

11.7.1. In the case of rental services, Customer shall pay the balance of rentals due from the date of termination to the end of the Minimum Service Period (“the Remainder”).

11.7.2. In the case of discounted call rates, Customer shall pay the equivalent of 100% of the average monthly calls (calculated from the date of the Commencement of Service to the date of termination) for each month of the Remainder. For the avoidance of doubt, this sum shall also become payable where the Customer does not cancel the line rental but diverts call traffic in breach of its obligations under Clause 5.4, such sum to be 100% of the average sums that would have been payable (averagely monthly calls) had the calls not been diverted, from the date of the first diversion to the end of the Minimum Service Period.

11.7.3. Where the Customer has a package of Services comprising line rental and discounted calls and/or other services, the sums set out in Clauses 11.7.1, 11.7.2 and 11.7.4 may be charged by CLASS.

11.7.4. Where CLASS has provided installation of equipment free of charge or at a discounted rate for certain packages, or Services, payment of such installation at CLASS’s standard rate for installation may also be charged by CLASS.

11.8. Any exercise by CLASS of its right of suspension in respect of an event referred to in this Clause 11 shall not exclude CLASS’s right subsequently to terminate this Contract.

11.9. In the event a suspension is implemented as a consequence of the breach, fault or omission of the Customer, the Customer shall reimburse CLASS for all reasonable costs and expenses incurred in the implementation of such suspension and/or the recommencement of the provision of the Services as appropriate.

11.10. CLASS shall not be liable to the Customer for any charges incurred by the Customer for the use of other telecommunications services whether provided by CLASS or any other person during any period of unavailability arising as result of CLASS suspending the Services pursuant to.

## **12. Consequences of Termination**

12.1. On termination by either party of any part of the Services under Clause 3, 11 or 15, the Customer shall:

12.1.1. Immediately stop using the relevant Services and equipment; and

12.1.2. Allow CLASS to enter any Site(s) during normal business hours to remove any relevant equipment.

12.1.3. The Customer's obligations in respect of the equipment shall continue until CLASS has removed the relevant equipment.

12.2. If the Customer terminates the Contract during the Minimum Service Period, the Customer shall pay an early termination fee pursuant to Clause 11.7.

12.3. On termination by either party of any part of the Services, CLASS shall, at the request in writing of the Customer, comply with its licence conditions in relation to arrangements for the telephone number(s) previously provided to the Customer under the terminated Services to be transferred to another telecommunications operator nominated by the Customer.

12.4. On termination by either party of any part of the Services, the Customer shall comply with its obligations in respect of intellectual property rights pursuant to Clause 14.

## **13. Limitation of Liability**

13.1. Neither party is liable to the other party except as expressly set out in this Contract and has no other obligation or liability whatsoever in contract, tort or otherwise to the other party.

13.2. CLASS shall not be liable under or in connection with this Contract whether in contract, tort or otherwise (including liability in negligence) for any indirect or consequential loss, corruption or destruction of data, any loss of business, revenue or profits, actual or anticipated savings or for any financial loss whatsoever.

13.3. Nothing in this Contract shall exclude or restrict CLASS's liability for death or personal injury resulting from the negligence of CLASS or its employees.

13.4. Insofar as any part of the Services depends on or is supplied by other telecommunications operators, CLASS is not responsible for their reliability or quality unless CLASS is at fault.

13.5. CLASS will not be liable to the Customer for any failure to comply with its obligations under this Contract to the extent that this liability arises as a result of the failure of the Customer to fulfil its obligations under this Contract.

13.6. The Customer must ensure that it complies at all times with all laws and obligations, including any licence under the Act which is applicable to the Customer. CLASS will have no liability under this Contract for failure to comply with its obligations in any case where the Customer does not comply with any such relevant laws or obligations.

13.7. CLASS's liability in contract, tort or otherwise arising out of or in connection with the performance of CLASS's obligations under this Contract shall be limited to £10,000 for any one incident or series of incidents and £500,000 in aggregate.

13.8. The Customer shall indemnify and keep indemnified CLASS against all and any claims, losses, damages, costs and other liabilities which CLASS may incur or may be established or brought against it by reason of any claim against CLASS by any third party arising out of or in connection with this Contract or the use of the Services.

13.9. The Customer indemnifies and will keep CLASS fully and effectively indemnified against all and any losses, claims, damages, costs, charges, expenses and other liabilities which CLASS may sustain or incur or which may be brought or established against it by any person and which in any case arise out of or in relation to or by reason of:

13.9.1. Any breach by the Customer of its obligations under this Contract; and/or

13.9.2. The negligence, recklessness or unlawful misconduct of the Customer in the performance of its obligations under this Contract.

13.10. In order to minimise the risk of any losses in the event that CLASS is unable to provide the Services due to a technical problem in relation to the telecommunications network by which the Services are provided, the Customer must be aware of and follow the procedure for diverting calls over an alternative network as will be notified to the Customer from time to time.

13.11. In the event that CLASS fails to provide the Services and the Customer diverts or allows the diversion of traffic to another service provider, CLASS shall not be responsible for any costs or expenses arising as a result of such diversion of traffic including, without limitation, such service provider's charges.

13.12. Neither the Customer nor CLASS shall be liable to the other for any loss or damage which may be suffered by the other party due to any cause beyond the first party's reasonable control including, without limitation, any act of God, inclement weather, failure or shortage of power supplies, flood, drought, lightning or fire, strike, lockout, trade dispute or labour dispute, the act or omission of Government, highways authorities, other telecommunication operators or administrations or other competent authority, war or military operations.

13.13. The provisions of this Clause 13 shall continue to apply notwithstanding termination of this Contract.

13.14. Nothing in this Contract shall affect the Customer's statutory rights where the Customer is a consumer pursuant to the Consumer Protection (Distance Selling) Regulations 2000.

#### **14. Information, Confidentiality and Intellectual Property Rights**

14.1. Subject to Clause 14.3, the Customer will promptly provide to CLASS (free of charge) any information which CLASS may require to enable it to proceed with the performance of its obligations under this Contract including any information which CLASS may reasonably request for the purposes of credit verification and debt collection. The Customer permits CLASS to use such information and to provide it to third parties acting on behalf of CLASS for such purposes.

14.2. Subject to clause 14.3, neither the Customer nor CLASS will use, copy, adapt, alter or part with possession of any information of the other which is disclosed or otherwise comes into its possession under or in relation to this Contract and which is of a confidential nature. This obligation will not apply to information which the recipient can prove was in its possession at the date it was received or obtained or which the recipient obtains from some other person with good legal title to it or which is in or comes into the public domain otherwise than through the default or negligence of the recipient or which is independently developed by or for the recipient or which is disclosed in compliance with a law or an order of the court or a competent regulatory authority.

14.3. Both parties shall fully comply with data protection laws in force from time to time insofar as they relate to the Contract and shall procure that their employees shall observe such laws.

14.4. This clause 14 shall remain in effect for two years after the termination of this Contract.

14.5. All legal and beneficial intellectual property rights, whether registered or unregistered, including all copyrights, database rights, trade marks, patents, service marks, trade secrets and know-how, in whatever form in the Services or equipment shall remain at all times CLASS's property or the property of its licensor.

14.6. The extent that it is so entitled; CLASS grants the Customer a non-exclusive nontransferable licence to use such intellectual property rights for the sole purpose of using the

Services or equipment. The Customer shall not reproduce any software provided by CLASS, save that the Customer shall be entitled to make a single back-up copy for security purposes only. The Customer shall not modify, adapt, translate, reverse engineer or disassemble the software, except to the extent permitted by law.

14.7. Copyright, database rights and any other relevant intellectual property rights in all documents, material, drawings and information in whatever form, including if applicable any access or source codes supplied to the Customer in connection with this Contract, shall remain vested in CLASS or the owner of the rights. Such documents, material, drawings and information are confidential and shall not be copied, disclosed or used (except for the purpose for which they were supplied) without CLASS's prior written consent.

14.8. The Customer shall not be entitled to use any trademarks or service marks of CLASS without the prior written agreement of CLASS.

14.9. Upon termination for whatever reason of the Services in respect of which any intellectual property licence or right of use is granted under this Clause 14, that licence or right of use shall terminate immediately and the Customer shall, as specified by CLASS, immediately return to CLASS or destroy all copies of any documents, material, drawings and information in the Customer's possession or control which describe or contain the relevant intellectual property, are not in the public domain and have been received directly or indirectly from CLASS.

## **15. Force Majeure**

15.1. Neither party shall be obliged to carry out any obligation under this Contract where performance of such obligation is prevented due to any cause beyond that party's reasonable control, including, but not limited to, failure or shortage of power supplies, labour shortage or labour dispute, the order, instruction, request, act or omission of government, an emergency services organisation, other communications services operators or administrations or other competent authority, legal or statutory obligations, the obstruction by a third party of line of sight between microwave installations, or difficulty, delay or failure in manufacture, production or supply by third parties of either equipment or services or both resulting from the same or a similar type of force majeure cause.

15.2. If any cause under Clause 15.1 lasts for more than ninety days and prevents either party from performing all or a material part of its obligations during that period either party may, by giving fourteen days' written notice to the other party, terminate any Service affected by that cause without the Customer being required to pay any termination charges.

15.3. The Minimum Service Period for any Service affected by a cause referred to in Clause 15.1 shall be extended by the same period of time as the cause continues.



## **16. Information, Privacy and Data Protection**

16.1. By entering into the Contract, the Customer expressly agrees to the use of personal data for the purposes and on the basis set out below.

16.2. CLASS guarantee that any personal information Customers sent online will be kept secure when received by CLASS.

16.3. Information Customer provides to CLASS must be true, accurate and complete. Customer agrees to inform CLASS of any changes in its details (contact details, address, telephone number or email address) by emailing [billing@classnetworks.com](mailto:billing@classnetworks.com).

16.4. CLASS will use the information Customer gives it, and information arising from CLASS's dealings with Customer ("personal data") to enable CLASS to perform its obligations to Customer. CLASS may also analyse Customer's personal data, for example, for marketing and market research purposes.

16.5. CLASS will comply with its statutory obligations in relation to Customer's personal data, and CLASS will not pass on any "sensitive personal data" (as defined in the Data Protection Act 1998) without Customer's prior consent. However, it may be necessary to pass those details on to CLASS's suppliers and suppliers to British Telecom plc so the goods/services can be provided – if it is necessary to pass on any details to such suppliers, CLASS will only pass on the minimum details that are required.

16.6. Customer has the right to ask CLASS for a copy of its personal data, and to ask CLASS to correct any mistakes.

16.7. Customer may request CLASS at any time during the Contract to block call line identification (CLI) and CLASS will then block CLI on a specific line or lines within 28 days of request.

16.8. CLASS may monitor or record calls for training or to improve the quality of its customer service.

16.9. For CLASS's policy on itemised billing, the Customer is referred to CLASS's service literature.

16.10. CLASS processes certain types of traffic data as described in the Privacy and Electronic Communications (EC Directive) Regulations 2003, such as call data records received from its suppliers. This data is processed by CLASS to enable it to be able to accurately bill the Customer.

16.11. If the Customer is an individual about whom CLASS processes personal data (as defined in the Data Protection Act 1998), the following shall apply:

16.11.1. CLASS may process such personal data for the purposes of administering the relationship with the Customer and, as part of its use of such data, may transfer that data to other CLASS affiliates in jurisdictions outside the EEA which do not provide the same level of protection for personal data as exists within the EEA.

16.11.2. CLASS may also, from time to time, use such personal data to provide the Customer, whether by telephone or facsimile or electronic mail or other means of communication, with details of products and services of CLASS and/or CLASS Affiliates which may be of interest to the Customer. Customer hereby expressly consents to such communications and acknowledges that it may opt-out of this service at any time by email [dataprotection@Classnetworks.com](mailto:dataprotection@Classnetworks.com).

16.12. CLASS maintain records of all contracts, and if Customer so request, CLASS will provide Customer with a copy of any contract between CLASS and Customer entered into within the last 24 months.

16.13. CLASS can if requested arrange for Customer's telephone number(s) to be listed with British Telecom Directories.

## **17. Notices**

17.1. Any notice given under this Contract, except a notice of a fault, must be in writing and may be delivered by hand or by prepaid post to the addressees at the following addresses:

17.1.1. To CLASS, at the address as shown on the last invoice rendered to the Customer or such other address as CLASS may nominate for that purpose;

17.1.2. To the Customer, at the address notified to CLASS as the address to which notices or invoices may be sent or the Customer's usual or last known address or its registered office.

17.2. Any notice shall be deemed to have been made to the other party if delivered by hand, when delivered; if posted by pre-paid post, on the second working day following posting.

## **18. Complaints**

18.1. The addresses to which Customer should write if it has any complaint are: Customer Services Department, Class Networks, Givons House, Givons Grove, Leatherhead, Surrey, KT22 8YT or email [customer.services@classnetworks.com](mailto:customer.services@classnetworks.com).

18.2. If Customer has any questions about these terms and conditions or any questions about CLASS's services it should email: [contact@classnetworks.com](mailto:contact@classnetworks.com).

## **19. Description**

CLASS does its best to ensure that the descriptions and illustrations of the goods it supplies are fair, honest and accurate.

## **20. Warranties Equipment/Goods Supplied**

20.1. CLASS warrant that the equipment/goods: – are of satisfactory quality

– are safe for normal use

– are fit for normal use and purposes stated in the specification (but not fit for any use which CLASS states on its website or in its service literature may be inappropriate)

– comply materially with the written description given on the CLASS website.

20.2. All equipment/goods are guaranteed for a period of 12 months from the date of the commencement of the Contract.

## **21. CLASS's Service Obligations**

21.1. CLASS will provide the Services with the reasonable degree of skill and care of a competent telecommunications service provider.

21.2. CLASS warrants that the Services:

– will be provided using reasonable skill and care

– are fit for normal use in accordance with CLASS's Acceptable Use Policy

– comply materially with the written description given in its service literature.

21.3. Customer acknowledges that CLASS's provision of the Services and its ability to provide the service is dependent on British Telecom plc. and other suppliers and its ability to provide certain

parts of the service to CLASS. CLASS cannot warrant that the Services will be free of interruption or that transmission of information through the Services will be secure.

21.4. It is entirely Customer's responsibility to ensure that its equipment is correctly configured and Classable of using the Services.

21.5. It is not technically possible to provide the Services free from errors and/or faults and CLASS does not undertake to do so. CLASS operates a support facility to enable errors and/or faults to be reported and resolved but CLASS cannot warrant that all errors and/or faults will be corrected. This shall be Customer's sole remedy and CLASS's sole responsibility for errors in the Services and/or a breach of any warranty by CLASS in this Clause 21.

## **22. General**

22.1. The Customer shall not assign or delegate or otherwise deal with any of its rights and obligations under this Contract without CLASS's prior written consent given by a duly authorised representative, such consent not to be unreasonably withheld or delayed. CLASS shall have the right to assign or otherwise delegate all or any of its rights and obligations to any other person upon serving notice to the Customer.

22.2. This Contract represents the entire agreement in relation to the subject matter of this Contract between CLASS and the Customer and supersedes all other agreements and representations made by either party whether oral or written.

22.3. Failure by either party to exercise or enforce any right conferred by this Contract shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof or of any other right on any later occasion.

22.4. This is a plain in English contract. Other than defined terms, words and expressions have their normal English meaning as they would be understood by a reasonable person in the context of this Contract.

22.5. This Contract shall be governed by and construed and interpreted in accordance with English law and the parties hereby submit to the jurisdiction of the English Courts.

22.6. If any provision of this Contract is held by a court or any governmental agency or authority to be invalid, void or unenforceable, the remainder of this Contract shall, to the extent possible, remain legal, valid and enforceable.

22.7. Notwithstanding any other provision of this Contract, CLASS may change the terms of this Contract at any time by notice in writing to the Customer. The change will take effect on the date set out in the notice.

22.8. If CLASS makes a mistake in any bill, it will correct it as soon as the mistake comes to CLASS's attention, and CLASS will, if appropriate; refund any money to Customer promptly.

22.9. Unless the Contract states otherwise in writing, the benefit of this Contract is personal to the Customer and only the Customer can enforce the contractual terms. CLASS may use subcontractors to perform its obligations under this Contract.

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