

Terms and Conditions

1. Term

This Contract will come into effect on the Commencement Date and shall continue for 36 months or the expiry of the Initial Term. Following expiry of the Initial Term this Contract will continue unless and until terminated by giving no less than 90 days' prior written notice, such notice to expire on or after the expiry of the Initial Term. If 90 days notice is not received by Codus IT the contract will be rolled over for another 12 months. This will continue every 12 months until 90 days written notice is given 90 days prior to anniversary date of the original agreement date.

2. Provision of the Service

- 2.1 We will use reasonable endeavours to provide the Service in accordance with the Service Standards and will use reasonable skill and care in the provision of the Service. However, you acknowledge that the Service cannot be provided fault free.
- 2.2 We will use reasonable endeavours to provide the Service for use by You from the Proposed Start Date unless otherwise specifically agreed by the parties in writing or unless We are unable to do so as the result of a failure by You to fulfil Your obligations under this Contract or by any delay caused by a nominated third party (including, without limitation, other IT Service Providers).
- 2.3 We do not guarantee the continuous availability of any Service and You acknowledge that We may be dependent upon third parties (including, without limitation, other IT Service Providers) when providing the Service. Notwithstanding any other provisions of this Contract, but subject to clause 6.1, We will not be liable to You in contract, tort (including negligence) or otherwise for the actions of any third party (including, without limitation, acts or omissions of the other IT Service providers) that affect or otherwise impact upon the provision of the Service.

3. Changes/Additional Services

- 3.1 We may from time to time make changes to the Service Standard. Such changes will be notified to You not less than 30 days prior to their taking effect.
- 3.2 You may at any time on at least 14 days' written notice to Us, request additional services. Any such request should be made to the Codus IT Support Team and will give full details of Your requirements. We will respond within 7 days with details of when the additional service could be provided (if it can) and of the resultant increase in Charges.
- 3.3 No order will be effective until it has been confirmed by Us in writing or by electronic mail and returned to the Codus IT Support Team. We are not obliged to process or accept any order submitted by You.
- 3.4 Any orders will be governed by the terms of this Contract only. If You submit any orders or requests for additional services, it will always be on the basis that the terms of this Contract apply.

4. Charges

- 4.1 Charges for the Services will commence on the day We make the Services available to You (the Service Start Date). We will invoice You in accordance with Our invoice cycle invoiced monthly in arrears. All other Charges will be monthly in advance, we may however on occasions invoice You in arrears for such Charges. If We begin or cease a Service on a day which is not the first or last day of Our invoice cycle, we will apportion the Charges daily for the incomplete period. Hardware sales will be invoiced in advance, with payment to be cleared before delivery.
- 4.2 In the event that any other third-party supplier increases its charges under its agreement with Us, causing an increase in the cost to Us of providing the Service, we will inform you of the charge increase with 30-day notice giving the opportunity to look for alternative 3rd party suppliers or cancel the service. If agreed with the charge increase, the charge will be passed on to the client.
- 4.3 All Charges due under this Contract will be payable within 30 days of the date of the relevant invoice and will be paid in full without any set-off, deduction or withholding of any kind. Codus IT Ltd reserve the right to charge daily interest on any outstanding amounts until payment is received in full at a rate equal to 2% per cent per annum above the base rate of Royal Bank of Scotland Bank Plc as current from time to time whether before or after judgment until the date payment is received and/or suspend the Service (either in whole or in part) until all such Charges have been paid in full.
- 4.4 If at any time during this Contract in Our reasonable opinion Your financial standing changes adversely or You persistently default in paying the Charges then We may request a security deposit against non-payment. If You fail to provide such security deposit within 10 Working Days, then We reserve the right to suspend and/or terminate this Contract with immediate effect by giving You written notice.
- 4.5 You agree that We may invoice You for any service provided under this Contract at any time up to 12 months following the date on which the service was provided.
- 4.6 All Charges are exclusive of value added tax and any other applicable taxes which may from time to time be levied.
- 4.7 Where any Charges or other monies properly due to Codus IT Ltd from You under this Contract or any other agreements that are outstanding We will be entitled to offset such payments against any payments due from Codus IT Ltd to You under this Contract or any other contracts under which Codus It Ltd provide You with IT support or data services.
- 4.8 Codus IT Ltd reserves the right to increase price by 3% above UK retail price index every 12 months during agreement regardless of agreement term.

5. Termination

- 5.1 If either party is:
- 5.1.1 in breach of any provision of this Contract and fails to remedy such breach within 30 days of written notice to do so;
- 5.1.2 unable to pay its debts as they fall due or threaten to suffer any resolution to wind up the business or enter into involuntary or compulsory liquidation or have an administrator,

administrative receiver, receiver or any analogous officer appointed over all or part of its assets; then the other may immediately upon notice in writing (without prejudice to any other rights and remedies We may have) terminate (either in whole or in part) this Contract.

- 5.2 We may terminate this Contract (either in whole or in part) with immediate effect if:
- 5.2.1 Use our service in a way deemed as a criminal offence and/or cause serious harm to Our reputation; and/or
- 5.2.2 Codus IT Limited authorisations to provide the Services are altered in a way that is material to the Service.
- 5.3 We will continue to provide the Services in accordance with Clause 2 until termination of this Contract but if:
- (a) You are late in making any due payment, or;
 - (b) We become entitled to terminate this Contract early for any reason, or;
 - (c) You break any material term of another contract with Codus It Limited then We may partially or completely suspend the Services without limiting Our ability to enforce other remedies that may be available While the Services are suspended You must continue to pay the Charges.

- 5.4 If You choose to terminate this Contract prior to the end of the Initial Term You must give Us not less than 90 days written notice and pay Us a termination payment ("Termination Payment") The Termination Payment will be

5.4.1 monthly average of Costs incurred during the period from the Service Start Date to termination

5.4.2 the Agreed Usage Charge; multiplied by the number of remaining months of the Initial Term minus a 10% deduction for costs not incurred by Us and a 10% deduction for early payment of the monies.

You acknowledge that Our Charges have been calculated on the basis that this Contract will continue until the end of the Initial Term as We may have spent money on set up costs and accordingly agree that it is reasonable for Us to require the payment of the Termination Payment as calculated above.

Upon termination of this Contract You will cease to use the Service and will pay to Us all outstanding Charges due up to and including the date of termination.
The expiry or termination of this Contract will be without prejudice to any other rights either party may be entitled to and will not affect any accrued rights or liabilities of either party.

6. Limitation of liability

- 6.1 Nothing in this Contract shall limit either party's liability for fraud, or for death or personal injury resulting from its own negligence or that of its employees, subcontractors or agents.
- 6.2 Except as expressly provided in this Contract all conditions, warranties, terms, undertakings and obligations express or implied by statute (including, without limitation, those of satisfactory quality or of fitness for a particular purpose (even if that purpose is made known expressly or by implication to Us)), common law, custom, trade usage or otherwise and all liabilities in respect of

the same (if any) are excluded to the maximum extent permitted by English Law.

- 6.3 Both parties accept liability in respect of damage to the others tangible property resulting from its or its employees' negligence up to an aggregate of £25,000;
- 6.4 Other than in respect of clauses 6.1 and 6.4 and subject to clause 6.3, Our maximum aggregate liability in contract, tort, negligence or otherwise arising out of, or in connection with, this Contract will in respect of any and all acts, omissions, defaults or events occurring in a Contract Year be limited in aggregate to the greater of:
- 6.4.1 £25,000; or
- 6.4.2 the value of the Charges paid by You in the preceding Contract Year ("Liability Sum").
If 12 months has not accrued from the Service Start Date, the Liability Sum will be calculated by calculating the monthly average Charges incurred over the relevant period and multiplying it by 12.

7. Force majeure

Neither party will be liable to the other for any loss or damage caused to or suffered by the other as a direct or indirect result of the supply of Services being prevented, restricted, hindered or delayed by reason of any circumstance outside of that party's control. If either party is prevented from performance of its obligations for a continuous period of 3 months either party may terminate this Contract by giving written notice.

8. General

- 8.1 This Contract constitutes the entire agreement and understanding of the parties and supersedes any previous agreement between the parties relating to the subject matter of this Contract.
- 8.2 Each of the parties acknowledges and agrees that in entering into this Contract it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Contract or not) other than as set out in this Contract. Nothing in this Contract will operate to limit or exclude any liability for fraud.
- 8.3 Should any provision of this Contract be held to be void or voidable the remaining provisions of this Contract will continue in full force and effect.
- 8.4 No forbearance, delay or indulgence by either party in enforcing the provision of this Contract will prejudice or restrict the rights of that party nor will any waiver of its rights operate as a waiver of any past or subsequent breach.
- 8.5 We shall use reasonable endeavours to meet any delivery time, date or period. However, such dates shall be regarded as estimates and We shall have no liability as a result of any failure to achieve any such time, dates or periods other than pursuant to the service credit regime.
- 8.6 Members of Codus IT Limited may enforce their rights to carry our obligations in regards to our services outlined above, however no other person or body who is not a party to this Contract has

any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Contract (but this does not affect any rights or remedies of a third party which exist or are available apart from that Act).

- 8.7 You may not assign the whole or part of this Contract without Our prior written consent such consent not to be unreasonably withheld.
- 8.8 We reserve the right to vary these terms and conditions to the extent necessary to consider any changes to Industry Agreements and any relevant Legislation.

Any other variations must be in writing and agreed between the parties.

- 8.9 Any notice under or in connection with this Contract shall unless otherwise agreed be in writing and may be delivered by hand to or sent by first class post or by facsimile (confirmed by post) to the Company Secretary at the address of the party concerned set out in this Contract or any other address notified by that party from time to time.
- 8.10 Any notice addressed as provided in clause 7.10 shall be deemed to have been given or made on the second Working Day after posting if sent by first class post upon delivery if delivered by hand and if sent by fax on the next Working Day after the date of transmission provided the sender's facsimile machine produces a report showing successful transmission to the correct facsimile
- 8.11 This Contract will be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

9. Definitions

- 9.1 Except where the context otherwise requires in these Terms and Conditions the following words and phrases will have the following meanings:

"Acts" the Communications Act 2003, the Telecommunications Act 1984, the Electronic Communications Act 2000 (each as amended);

"Commencement Date" the date this Contract is signed by Codus IT Limited;

"Contract" these Terms and Conditions and the Services Agreement "Contract Year" a period of 12 months from and including the Service start Date and each consecutive 12-month period thereafter;

"Customer Equipment" any equipment at the Site owned by You or a third party which when operated in conjunction with the Codus IT Equipment, allows You to obtain and/or receive the Service;

"Codus IT Support Team" the department to which all fault reports and help queries should be addressed;

"Equipment" Codus IT Equipment and Customer Equipment;

"Industry Agreements" any standard industry agreements or third-party agreement which impact upon Codus IT Limited ability to provide the Service;

"Initial Term" the period stated in the Proposal which commences on the Service Start Date;

"Intellectual Property Rights" all intellectual and industry property rights including patents, knowhow, registered trademarks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trademarks, rights to prevent passing off for unfair competition and copyright, database rights, topography rights and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions;

"Codus Equipment" any equipment located at the Site which is supplied by Us or a third party as part of the Service;

"Proposed Start Date" the date specified in the Outbound Services Agreement or such later date as notified to You by Us should there be any delay in commencement of this Contract, on which the Service is due to be made available to You;

"Service Start Date" the Proposed Start Date or if different the earlier of the date upon which You are notified the Service is available for use or the date You begin using the Service

"Site" the Site where the Services are to be provided, as more fully described in the Service Agreement and where appropriate Part 1;

"Users" any individual authorised by You to use the Service;

"We/Us" Codus IT Limited, whose registered office is 21 St Marys Place, Bury, Lancashire BL9 0DZ.;

"Working Day" Monday to Friday 9.00am to 5.30pm inclusive except for UK bank and public holidays;

"You/Your" means the person or company to whom the Services are provided as detailed in Part 2.