

HOSTED TELEPHONY SERVICE AGREEMENT

The Company is a supplier of hosted telephony services and the Client wishes that the Company provide those services to it.

This Hosted Telephony Service Agreement (“**Agreement**”) sets out certain terms applicable to the Company’s supply, and the Client’s acceptance, of those broadband services and forms part of the Contract between the Company and the Client for those services.

1. DEFINITIONS

1.1 Words beginning with a capital letter in this Agreement shall bear the meaning given in the MCC (as defined below) unless the context requires otherwise. The following definitions in this clause also apply in this Agreement.

In this Agreement, unless the context otherwise requires, the following terms and expression shall carry the meaning as given below:

- a. “**MCC**” means the Master Terms and Conditions of Contract.
- b. “**Guidelines**” means any guidelines, rules or regulations made by Authority that is applicable to the Services.
- c. “**Authority**” means OFCOM or relevant regulating authority that has the right to frame Guidelines for the Services.
- d. “**Services**” means hosted telephony services provided by the Company and described on the Website as “VoIPOffice Hosted Edition”, “VoIPtalk Express PBX”.
- e. “**Website**” means the site located at URL <http://www.telappliant.com>.

The headings herein are for convenience only and shall not affect the interpretation of this agreement.

2. SCOPE OF SERVICES

Client hereby engages Company to perform, and Company hereby agrees to perform the Services for Client, as described in detail on the Website at URL <http://www.telappliant.com/hosted-telephony>.

3. COMPANY’S OBLIGATIONS

- a. Company will endeavour to provide the Services in a professional manner;
- b. Company will provide all software necessary for the provision of Services;
- c. Where agreed by Company in its proposal document, Company will provide Company’s equipment and also install it at Client’s premises.
- d. Where agreed by Company in its proposal document, Company will provide the maintenance services, at the cost of Client, for the Company’s equipments installed at Client’s premises.

- e. If the Company has offered to undertake the obligations specified in Clause 3(c) and 3(d), Client and Company shall, in addition to this Agreement, also enter into an Equipment License and Maintenance Agreement.

4. COMPANY'S WARRANTIES

- a. Company has full capacity, power and authority to enter into this Agreement; and during the continuance of this Agreement, will continue to have full capacity, power and authority to act as company under this Agreement and to carry out and perform all its duties and obligations as contemplated herein and has already taken and will continue to take all necessary and further actions to authorise, the execution, delivery and performance of this Agreement.
- b. Company has the necessary skills, knowledge, experience, expertise, capital, net worth, adequate and competent personnel, systems and procedures, infrastructure including adequate office space to duly perform its obligations in accordance with the terms of this Agreement and to the satisfaction of Client.
- c. Company has not and will not violate, breach any covenants, stipulations or conditions of any agreement, deed entered into by the Company with any third party.
- d. Company has complied with and shall continue to comply with the Guidelines issued by the national and local authorities, which are applicable for the provision of Services.

5. CLIENT'S OBLIGATIONS

- a. Client shall procure all necessary hardware, including VOIP telephone equipment to use the Services in conformity with the provisions of Guidelines.
- b. Client shall be solely responsible to procure and maintain sufficient and dedicated broadband connectivity at its premises to avail the Services.
- c. Client shall be solely responsible to procure and maintain appropriate security infrastructure to connect with the Services.
- d. Client shall keep confidential all data, including user id and passwords to access the Services.
- e. If the Client is based in the UK, then the Client shall comply with following guidelines applicable to provision of Emergency Services (999 dialling):
 - Client will inform Company whether Client will use, or is likely to use, multiple VoIP endpoints via a single VoIP account;
 - Client will convey to Company all VoIP originated Emergency Calls for onward transmission to BT emergency center;
 - Client shall also convey all records of its customer who used the Emergency Services, including their complete name, physical address (including post code), complete telephone number for contacting them, which Emergency Organisation may use for calling such customer;

- Client shall also maintain accuracy of the customer's account and shall provide Company all installation addresses of its customers, if such customers are either using a nomadic application such as a softphone or are using the same VoIP account details over multiple VoIP endpoints,
- Called individual must be contactable at all times via their contact telephone number by the Emergency Operator to confirm their location information. The contact telephone number must not be connected to an automated answering system.
- Client has provided its address details to Company for submission to the BT Emergency Center for processing. Emergency Services will start for Client only after the Company receives a Successful status from the BT Emergency Center.

6. INDEMNIFICATION

Company hereby agrees to indemnify and hold Client harmless at all times from any loss, claim, prejudice, damage, costs, taxes, duties, penalties, interest thereon or expenses of any kind, including reasonable attorney's fees and legal cost to Client may be subjected by virtue of a breach of the representations and warranties or any covenant in this Agreement by Company.

Client hereby agrees to indemnify and hold the Company harmless at all times from any loss, claim, prejudice, damage, costs, taxes, duties, penalties, interest thereon or expenses of any kind, including reasonable attorney's fees and legal cost to the Company may be subjected by virtue of a breach of the representations and warranties or any covenant in this Agreement by the Client.

7. FORCE MAJEURE

Neither Party to this Agreement will be liable for breach of this Agreement to the extent caused by or arising from any Force Majeure Event.

If a delay or failure to perform a party's obligation due to a Force Majeure Event exceeds 30 days the other party may immediately terminate this Agreement on notice to other party

A party does not breach this Agreement & is not liable to the other party for a delay or for failure to perform an obligation (except an obligation to pay money due under this Agreement) resulting from a Force Majeure Event.

8. DISCLAIMER

- a. Company shall not be liable to Client in any manner whatsoever, including refund of charges, if Client is unable to use the Services due to Client's failure to procure and maintain sufficient and dedicated broadband connectivity at its premises.
- b. Company is not liable to Client for Client's failure to properly record and secure data in a format capable of restoration to Client storage media.

- c. Company will provide a limited storage capacity for data generated through the use of Services, as specified in Clause 13. Client may purchase additional storage space from Company as per Client's requirement. Company shall not be liable to Client for any loss of data due to non-maintenance of sufficient storage space by Client.
- d. Client shall be solely liable for maintaining independent backup copy of data generated through the use of Services.
- e. In order to achieve complete functionality of Services or if functionality of Services is impaired due to available data, Company may from time to time require Client to remove any or all stored data. Company shall not be liable to Client for any loss of data due to such removal of stored data. Client agrees to indemnify and hold Company harmless from any claim of whatsoever nature arising from the same.
- f. Upon termination of this Agreement, Company shall remove all of the data stored on Company's equipments and shall not be liable for Client's failure to keep a backup copy of stored data.
- g. Client shall have the facility to use the Emergency Services through VoIP, only if Client continues to comply with all guidelines specified in Clause 5(e) applicable to Emergency Services.
- h. Company's provision of Emergency Services is dependant upon availability of such services through BT Emergency Center, with whom Company has partnered for the purpose.
- i. All call charges will commence on the receipt of an answer signal from the BT Emergency Centre. Company will not be held responsible for any situation where this is generated in error.
- j. Call charges will cease on receipt of a call clear message from either Client's equipment or the BT Emergency Centre. It is Client's responsibility to ensure that this signal is received by Company from Client's equipment.
- k. Client understands and agrees that VoIP originated Emergency call is dependant on:
 - i. VoIP application of device being connected to a power source and enabled internet connection;
 - ii. Provision of correct and complete information by the person calling the Emergency Number, including confirmation/ provision of their location, which will enable the Emergency Organisation to respond;
 - iii. That the VoIP originated Emergency Call may have to pass over the public internet where it will not receive the same network priority or quality assurance as an Emergency Call made on a mobile network or on a circuit-switched fixed line

9. TERM & TERMINATION

Refer to Sections 4 and 15 of the MCC.

10. SUSPENSION OF SERVICES

Company may suspend the provision of the Services without any notice to the Client, in the event:

- a. Client fails to pay any charges by the due date or is in breach of any of the terms of this Agreement, which are capable of remedy; or
- b. Client prevents or delays scheduled maintenance work; or
- c. Client commits, in the reasonable opinion of the Company, an act of fraud or misuse of the Services; or
- d. Any service provider or Authority communicates to Company that use of Services by the Client is in breach of the terms of this Agreement or Guidelines; or
- e. Company needs to carry out any unscheduled maintenance; or
- f. Suspension is required by any other reason that is beyond Company's reasonable control.

11. CHARGES

In consideration of the provision of Services by the Company, the Client shall pay Company the charges specified in the Order Form, and in accordance with the terms specified herein.

12. PAYMENT TERMS

- a. Client shall pay the first month's payment in advance of the service being delivered to the Client. Subsequent month's payments are payable on the first day of the next month.
- b. Subject to a satisfactory credit check and a Direct Debit mandate being in place all call charges will be payable in arrears.
- c. Call records will be made available online and instructions on how to access this will be provided by the Company.
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- e. Any charges for any additional equipment or services required during the terms of this Agreement will be pro-rated to the service charge date and then charged monthly with the other fees.
- f. All fees and charges may be payable by BACS, Credit Card or Direct Debit Facility.

13. AVAILABLE STORAGE CAPACITY

- a. For call recordings a storage capacity of 20GB will be provided or 1 month of call recording storage, whichever is smaller.

THE CLIENT AND THE COMPANY SHALL BE BOUND BY THE TERMS OF THE CONTRACT WHEN THE COMPANY ISSUES WRITTEN ACCEPTANCE OF THE CLIENT'S ORDER FORM.