

May 2010



## 5 RINGS TELECOM LTD

Terms and Conditions

For the Provision of Telecommunication Services

### 1. Definitions

"**5 Rings Telecom**" "**We**" "**Us**" and "**Our**" means 5 Rings Telecom Ltd, a limited company incorporated in England and Wales, under registration number 6074158 whose registered office is One Jubilee Street, Brighton, East Sussex BN1 1GE and by whatever trading name(s) may be used from time to time. We are registered for VAT purposes under registration number 902 3507 61. We are also registered with the Information Commissioner in compliance with the Data Protection Act 1988 under registration number Z9980795.

"**Agreement**" means these terms and conditions, the Order Form and any other documents referred to in these terms or the Order Form.

"**Customer**" means the person contracting with 5 Rings Telecom for the provision of the Services as specified in the Order Form.

"**Order Form**" means the order form attached specifying the Customer's details, the Services, the Rates and the Subscription Charge **and** the Set up Charges.

"**Publication**" means either by issuance of advertisements or notices in any format or by the posting of the relevant material on the 5 Rings Telecom website.

"**Rates**" means the prices charged by 5 Rings Telecom for the calls made as stated in the Order Form or any other document accompanying the Order Form specifying the Rates or as otherwise later agreed between the parties from time to time and as varied by 5 Rings Telecom in accordance with this Agreement.

"**Services**" means the telecommunication services and any other ancillary services agreed to be provided by 5 Rings Telecom to the Customer as specified in the Order Form which may include the provision of an outbound call service through digital or analogue lines or internet protocol telephony, analogue, digital and internet protocol line rental and features, inbound numbers, broadband, etc (each referred to as "the Product")

"**Set up Charges**" means the charges for setting up the Services as specified in the Order Form.

"**Subscription Charge**" means the monthly charge for additional features selected by the Customer as stated in the Order Form or as otherwise agreed between the parties from time to time or as varied by 5 Rings Telecom in accordance with this Agreement.

"**Term**" means the duration of this Agreement which shall commence on acceptance by 5 Rings Telecom of the Customer's application in accordance with clause 2 of this Agreement and (unless otherwise agreed between 5 Rings Telecom and the Customer) continue until terminated by 5 Rings Telecom or the Customer in accordance with the provisions of clause 10 (Termination).

"**Working Day**" means Monday to Friday (inclusive) in any week excluding all English bank and public holidays.

### 2. This Agreement

2.1 The Customer agrees to provide all information reasonably required by 5 Rings Telecom in order for 5 Rings Telecom to consider the Customer's application for the Services and to notify us immediately of any changes to their details and, if so indicated by us, confirm such changes with any other service provider. All details supplied by the Customer will be used and stored by us in accordance with the terms of our Privacy Policy which is published on our web site at [www.5ringstelecom.co.uk](http://www.5ringstelecom.co.uk).

2.2 Only upon acceptance by 5 Rings of the Customer's application will a binding legal contract be created between 5 Rings Telecom and the Customer. The remaining provisions of this Agreement are the terms which shall govern that contract.

### 3. Credit Checks and Deposits

3.1 The Customer hereby authorises us to check their credit status by whatever means we require.

3.2 We reserve the right at any time to limit the Customer's use of certain facilities or impose a credit limit on the Customer's account and may temporarily suspend the Services if the balance on the Customer's account exceeds this limit.

3.3 We reserve the right to demand a deposit payment or additional deposit payments from the Customer at any time during this Agreement ("the Deposit").

3.4 The Deposit is not a pre-payment for any provision, now or in the future, towards the Services. We shall not be liable to account for interest on the Deposit to the Customer.

3.5 Without prejudice to our rights to terminate this Agreement for the non-payment of any amount due under this Agreement, we may at any time without notice apply all or any part of the Deposit in or towards the satisfaction of all amounts payable by the Customer to us under the terms of this Agreement.

3.6 In the event that we make any deductions from the Deposit in accordance with clause 3.5 above, we shall notify the Customer of the withdrawal as soon as reasonably practicable and the Customer shall be liable for making payment to us to make the deposit back up to its original sum prior to the withdrawal within 14 days of such notice.

3.7 We shall be under no obligation to return all or any part of the Deposit unless and until the Customer has discharged all of their payment obligations to us under this Agreement and this Agreement has been lawfully terminated.

#### **4. The Services**

4.1 5 Rings Telecom shall provide the Services to the Customer during the Term of this Agreement in return for payment by the Customer of the Set up Charges, the Rates and the Subscription Charge and any other sums agreed between the parties as payable in consideration of the supply of the Services.

4.2 5 Rings Telecom shall provide the Services to the Customer with reasonable care and skill.

4.3 We will make the Services available to the Customer as soon as reasonably practicable after we have accepted their order and subject to any industry processes to which we are subject.

#### **5. Maintenance & Telephone Support**

5.1 The Customer agrees that if the Customer experiences any faults or other problems with the Services the Customer will report these immediately to 5 Rings Telecom. 5 Rings Telecom will not be responsible for responding to faults in any time frames specified by any third party.

5.2 5 Rings Telecom will use all reasonable endeavours to ensure that the Services are available subject to the terms of this Agreement. 5 Rings Telecom does not warrant that the Services will be available at any particular time or continuously but we will use our reasonable endeavours with our absolute discretion to resolve any fault as soon as reasonably practicable.

5.3 Where the fault is not a network issue (which shall be a matter for 5 Rings Telecom to decide in our absolute discretion), and is found on internal wiring, customer equipment, or line jacks damaged beyond reasonable wear and tear an engineering charge will be levied at our prevailing rates.

5.4 During periods of maintenance or repair of the Services 5 Rings Telecom may opt to offer diverts to alternative numbers which shall be charged separately at our prevailing rates.

5.5 5 Rings Telecom will provide a Telephone Support service to the Customer for the Customer to report any such defects or faults in the Service to the Customer and the Telephone Support number will be made available to the Customer on request.

5.6 5 Rings Telecom shall use reasonable endeavours to answer any call to **0844 576 0550** within 5 rings provided that the call is received by 5 Rings Telecom between 8.30 a.m. and 8.30 p.m. on a Working Day. An out of hours Telephone Support service may also be provided at the discretion of 5 Rings Telecom but 5 Rings Telecom cannot guarantee any response times in relation to the out of hours service.

5.7 The Customer hereby grants a right for 5 Rings Telecom and any of its employees, representatives or agents to enter onto the Customer's premises or to access the Customer's system by means of a remote connection at all reasonable times to carry out any maintenance work required to ensure the effective operation of the Services.

5.8 The Customer acknowledges that 5 Rings Telecom has not contracted to provide any equipment (unless any equipment is referred to in the Order Form in which case the provisions of clause 17.4 shall apply to the supply and installation of such equipment) or maintain any equipment under the terms of this Agreement and therefore that 5 Rings Telecom shall not be responsible for the supply or maintenance of any equipment.

5.9 We will use all reasonable endeavours to minimise any interruptions of the Service and will, except in the case of emergency works, give the Customer prior notice of all maintenance, alterations or suspensions which shall affect the provision of the Services. We will bear the cost of such maintenance. However, the Customer shall pay all reasonable costs incurred by us in remedying any fault which is attributable to:

- (a) Their negligence, wilful act or omission, breach of this Agreement, or fault; or
- (b) the failure or malfunction of any equipment not provided by 5 Rings Telecom.

#### **6. Disclosure**

If 5 Rings Telecom is taking over the Customer's lines from their previous supplier, the Customer hereby authorises both us and any third party service provider to exchange any information required by us or the third party service provider relating to the Customer or the services provided by that third party to the Customer or to be provided by us to the Customer. Further the Customer hereby grants 5 Rings Telecom authority to act on the Customer's behalf to arrange and maintain the provision of the Services.

#### **7. Use of Services**

7.1 The Customer shall procure that the Services are not used by any person:

- (a) for the transmission in any format of any material which is or may be defamatory, offensive, abusive or of an obscene or menacing character; or
- (b) in a manner which constitutes a violation or infringement of the rights of any person or other legal entity; or
- (c) in a manner which allows third parties to interfere with or corrupt the Services in any way; or
- (d) in breach of any statutory provision or regulation from time to time in force relating to the transmission and use of telecommunication services or which otherwise effect the Services; or
- (e) in any way which is unlawful or fraudulent, or has any unlawful or fraudulent effect; or
- (f) in any manner which shall contravene the requirements from time to time of any third party service provider or us; or
- (g) in any manner or to deliberately create and/or perpetuate the spreading of any virus or other destructive program.

7.2 If a claim is made against us because the Service has been used in breach of this Agreement, the Customer shall fully indemnify us in respect of all costs, claims, losses or expenses incurred by us as a result of such breach.

## **8. Rates, Charges, Taxes, Subscription Charges and Payments**

8.1 Our Rates include normal processing and maintenance for the Services excluding maintenance of any hardware used to provide the Services. The Rates quoted are calculated to two decimal places and will be rounded up to the nearest penny unless otherwise agreed between 5 Rings Telecom and the Customer. All rates are exclusive of VAT for which the Customer shall be additionally liable.

8.2 We reserve the right to modify our Rates and for such modification to take effect upon Publication. Such Publication may be by any reasonable means we deem appropriate including, but not limited to publication on our web site. Nothing in this Agreement shall oblige 5 Rings Telecom to retain its Rates, Subscription Charges or any other charges at any specific level for any specific period.

8.3 The Customer hereby agrees to establish a Direct Debit payment system from the Customer's bank or other financial institution for all and any payments due to 5 Rings Telecom in accordance with the terms of this Agreement.

8.4 5 Rings Telecom shall submit invoices to the Customer by e-mailing the Customer a link to the website where the invoice can be viewed and downloaded where possible at such times and dates as 5 Rings Telecom shall choose once in each calendar month. Full settlement of this invoice to be paid by direct debit as soon as possible and in any event within 28 days of the date of the invoice.

8.5 5 Rings Telecom will provide monthly billing and invoice details by e-mail to the Customer. If the Customer requires paper billing sent by post instead of e-mail, then we reserve the right to apply an additional monthly administration charge at £2.00 per paper copy.

8.6 If the Customer fails to make any payment as set out above we may require the Customer to pay all sums due under this Agreement on demand.

8.7 The time of payment of all sums under this Agreement is of the essence and failure to make payments by the due date will entitle 5 Rings Telecom, in addition to any other rights under this Agreement, to notify a credit reference agency of such default.

8.8 Without prejudice to any other rights of 5 Rings Telecom in the event of late payment in accordance with this Agreement, we reserve the right to charge a reasonable administration fee (to reflect additional administration charges in managing the Customer's account) and daily interest on all amounts unpaid from the due date until payment is received in full in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (or any replacement legislation) as current from time to time.

## **9. Suspension of Services**

9.1 We may, without terminating this Agreement, immediately suspend part or all of the Services without incurring any liability to the Customer if:

- (a) we would be permitted to terminate this Agreement under any provision in it; or
- (b) we are obliged to comply with an order, instruction or request of Government, an emergency services organisation, or other competent regulatory/administrative authority; or
- (c) we need to carry out any maintenance or repair works to enable the proper provision of the Services; or
- (d) we are required to do so by a third party service provider.

9.2 We will give the Customer the maximum period of notice practicable in the circumstances if we need to suspend the Services for any reason. Any reactivation of the Services will only take place once we are reasonably satisfied that the event giving rise to the suspension has ceased and will not recur in the future.

9.3 If we suspend the Services, this will not exclude our right to terminate this Agreement later in respect of that or any other event, nor will it prevent us from claiming damages from the Customer.

## **10. Termination**

10.1 The Customer may cancel this Agreement for any reason provided the Customer notifies us in writing before the expiration of 7 Working Days from the date of our acceptance of their application. Following a valid request to cancel, we will refund any deposit or other advance sums the Customer has paid in respect of the Services less any costs incurred by us on behalf of the Customer up to the date of cancellation as soon as reasonably practicable and, in any event, within 30 days of the date of Customer's cancellation.

10.2 If we do not make the Services available to the Customer within 30 days of acceptance of the application the Customer will be entitled to terminate this Agreement and we will, as soon as reasonably practicable, refund any deposit or other advance sums they have paid to us less any costs we have incurred up to the date of termination on behalf of the Customer.

10.3 Without prejudice to any other rights or remedies we may have (either under this Agreement or at law), we may terminate this Agreement immediately by serving written notice on the Customer if:

- (a) bankruptcy/winding up proceedings have been commenced against the Customer or the Customer does not make any payment under a judgment of a court on time or the Customer enters into an arrangement with the Customer's creditors; or
- (b) the Customer fails to make any payment when it is due under this Agreement or cancels any direct debit in favour of 5 Rings Telecom; or
- (c) the Customer commits a breach of any obligation under this Agreement and (in the case of a remediable breach) fails to remedy the breach within 30 days after receiving written notice to do so from us; or
- (d) any licence to provide the Services or any part of them is revoked or terminated for any reason; or
- (e) we are no longer able to provide the Customer with the Services due to any event beyond our reasonable control included but not limited to circumstances where any third party operator no longer offers us the necessary services and facilities.

10.4 The Customer may terminate this Agreement immediately by serving written notice on us if:

- (a) the Customer does not wish to accept a change to this Agreement (including a change to the Rates), and the Customer has given us written notice within 7 Working Days after Publication of a notice of any change to this Agreement; or
- (b) we commit a breach of any material obligation under this Agreement, and (in the case of a remediable breach) fail to remedy the breach within 30 days of receiving written notice to do so from the Customer.

10.5 Subject to the provisions of clause 17.2.1, either party may terminate this Agreement without cost or by giving 30 days' written notice to the other party.

10.6 Upon termination of this Agreement the Customer must immediately stop using the Services.

## **11. Limitation of Liability**

11.1 We cannot guarantee and do not warrant that the Services will be free of interruptions or will be fault-free at all times and we will not be liable for any loss or damages should the Services be interrupted from time to time. The Customer accepts that there may also be degradations of the quality of the Services from time to time due to matters beyond our control and that we will not be liable for any loss or damages should the quality of the Service we provide be affected by such matters

11.2 We will not be liable to the Customer for failing to provide the Customer with the Services in a timely, uninterrupted and error-free way except as expressly set out in this Agreement.

11.3 Nothing in this Agreement excludes or restricts our liability for death or personal injury resulting from our negligence nor seeks to exclude statutory rights which it is not possible by law to exclude.

11.4 Subject to clause 11.3 above, our liability in contract, tort or otherwise including any liability for negligence howsoever arising out of or in connection with the performance of our obligations under this Agreement is limited to the total charges paid by the Customer in the 12 calendar months preceding any claim.

11.5 We will not be liable to the Customer in contract, tort or otherwise (including negligence) for any loss of revenue, business, contracts, anticipated savings, or profits or any indirect or consequential losses whatsoever and howsoever arising.

11.6 In addition the Customer acknowledges and accepts that the Customer's use of the Services may have an effect on or prevent the Customer from using certain call-related facilities offered by any third party service provider.

11.7 5 Rings Telecom shall not be liable for any charges by the Customer in respect of any alternative services being implemented as a consequence of temporary interruption to the Services.

11.8 Without prejudice to the generality of the above, we shall not be liable to the Customer for any losses suffered by the Customer as a result of any third party interference with the Services including but not limited to hacking or any of the circumstances listed in clause 7.1 of this Agreement and the Customer shall remain liable to pay the Rates in respect of the Services used in any such circumstances as it shall be the Customer's responsibility to ensure the security and integrity of its equipment (including any equipment supplied by 5 Rings Telecom).

## **12. Responsibilities**

12.1 We agree to provide you with the Services subject to the provisions of this Agreement. In consideration of this the Customer agrees:

- (a.) to use the Services in accordance with this Agreement, any instructions given by us from time to time and any laws, regulations and licenses which apply to the use by the Customer of the Services;
- (b.) not to allow an alternative supplier to override or bypass our Services either through the installation of equipment or through the BT local exchange without first obtaining our written consent;
- (c.) to be responsible for any engineering reprogramming costs of the customer's telephone equipment, equipment removal costs and all termination charges or payments of a like nature that may be required to terminate the service of any third party provider;
- (d.) not to use the Services to transmit any material which may be abusive, offensive, obscene, indecent, menacing, defamatory or which might cause annoyance, inconvenience or needless anxiety to anyone or to commit a fraud or other criminal offence and otherwise to comply with clause 7.1; and
- (e.) not to re-supply or re-sell or otherwise make the Services available to any person except on an arms length commercial basis and not to use the Services for any purposes prohibited by law.

## **13. Liability for Matters Outside Our Control**

We will not be obliged to perform any obligation under this Agreement where performance of such obligation is prevented due to any cause beyond our reasonable control. Further we shall have no liability to the Customer for any non-performance of the Services in such circumstances.

## **14. Intellectual Property**

14.1 All intellectual property rights or any rights of a like nature ("Intellectual Property") shall remain the property of 5 Rings Telecom and nothing in this Agreement is intended grant or otherwise imply the grant of any transfer, licence or right to use any 5 Rings Telecom Intellectual Property in any manner whatsoever in the absence of express written agreement.

14.2 The Customer agrees that damages may not always be a suitable remedy and agrees that 5 Rings Telecom shall be entitled to seek injunctive relief.

## **15. Notices**

15.1 Our address for any notices or complaints is Unit 7, Triangle Business Centre, 1 Commerce Way, Lancing West Sussex BN15 8UP or such other address as 5 Rings Telecom notifies the Customer of in writing.

15.2 the Customer's address for service of any notice under this Agreement shall be the address stated in the Order Form.

15.3 Unless stated otherwise in this Agreement, any notice shall be in writing and shall be sent by hand, first class prepaid post or Facsimile. For the avoidance of doubt we will not accept notice by email.

15.4 A notice sent by post will be deemed to be received by the receiving party 48 hours after it was sent by the sending party

15.5 A notice sent by facsimile transmission will be deemed to be received by the receiving party

(a) in the case of notice sent prior to 4 p.m. on a Working Day, on the day the notice was sent; or

(b) in the case of a notice sent after 4 p.m. on a Working Day or otherwise than on a Working Day, the following Working Day.

15.6 A notice delivered by hand will be deemed to have been received by the receiving party

(a) In the case of a notice delivered by hand prior to 4 p.m. on a Working Day, that day; or

(b) in the case of a notice delivered by hand after 4 p.m. on a Working Day or otherwise than on a Working Day, the following Working Day

## 16. General

16.1 Notwithstanding any other provision of this Agreement, we may vary the terms of this Agreement, including the Rates and Subscription Charges, at any time. We will give the Customer at least two weeks notice of such change. Such notice may be by any reasonable means we deem appropriate including, but not limited to, publication on our web site at [www.5ringstelecom.co.uk](http://www.5ringstelecom.co.uk). We will use our reasonable endeavours to ensure that any variation to the Agreement does not result in any deterioration in the Services.

16.2 The Customer is not entitled to assign or otherwise deal with any of their rights and obligations under this Agreement without the prior consent in writing of 5 Rings Telecom. We shall be entitled to assign or transfer our rights and obligations under this Agreement or any part of it to any third party.

16.3 Failure by us to enforce any of our rights under this Agreement is not to be taken as or deemed to be a waiver of that right unless we acknowledge the waiver in writing.

16.4 Part or all of any clause of this Agreement that is held by a court of competent jurisdiction to be unenforceable or illegal will be severed from this Agreement and will not affect the enforceability of the remaining provisions of this Agreement.

16.5 In the event of any inconsistency, discrepancy or ambiguity between these terms and conditions, and any other documentation referred to herein, such inconsistency, discrepancy or ambiguity will be resolved by giving priority to these terms and conditions.

16.6 Any Clauses relating to use of information, equipment, end of use and limitation of liability will survive the termination of this Agreement as will any other clause which, by its context, is intended to survive the termination of this Agreement.

16.7 This Agreement is governed by the laws of England and Wales and the parties agree to that all disputes in connection with this Agreement will be governed by the exclusive jurisdiction of the courts of England and Wales.

16.8 These terms and conditions and any other documentation referred to or referenced herein constitutes the entire understanding between the parties relating to the subject matter hereof unless any representation or warranty made about this Agreement was made fraudulently.

16.9 The Customer confirms that the Customer has not relied on any representation or warranty provided by or on behalf of 5 Rings Telecom whether provided in writing or orally to the Customer prior to the Customer entering into this Agreement.

16.10 Nothing in this Agreement is intended to give any right to any third party and any rights which would have arisen as a result of the Contracts (Rights of Third Parties) Act 1999 is hereby expressly excluded.

## 17. Product Specific Limitations

The following terms apply specifically to the particular products agreed to be supplied to the Customer by 5 Rings Telecom in the Order Form and from time to time which form part of the Services.

### 17.1 Outbound Calls and Line Rentals

17.1.1 5 Rings Telecom will arrange for outbound calls to be routed on the Customer's lines. 5 Rings Telecom reserve the right in our absolute discretion to determine the identity of the network provider whose service those calls will be routed over.

17.1.2 5 Rings Telecom reserve the right to determine the method in which the calls are routed over the network.

17.1.3 In order for 5 Rings Telecom to provide these Services there must not be any preinstalled programming (including but not limited to access codes) in the Customer's **telephone** switch. The Customer shall be liable for the costs of removing any such programming. The Customer is at liberty to arrange the necessary de-programming works or to arrange for 5 Rings Telecom to carry out the work at an additional charge.

17.1.4 The Customer may, by written request or by confirming "YES/NO" in the relevant box on the Order Form, ask for 5 Rings Telecom to bar (or de-bar, as the case may be) premium rate & high risk international numbers from the Services. 5 Rings Telecom will carry out the extra work at the cost of the Customer at our prevailing rates at the time of the work. 5 Rings Telecom will not bar or de-bar premium rate or high risk international numbers unless we have received a written request to do so from the Customer or unless the box on the Order Form has been indicated as "YES/NO". 5 Rings Telecom will bar premium rate & high risk international numbers for all BT fixed line customers unless we have received a written request not to do so from the Customer. This barring is added at carrier level and not at BT level. If BT or LLU network barring is required, this is chargeable at rates provided in the Order Form. This additional barring can be added by confirming "YES/NO" on the selected section of the order form under "Call Barring". 5 Rings Telecom's liability in relation to any fraudulent or illegal use of the Services by any third party will be limited to providing call alerts to the Customer when potentially fraudulent calls have been made. These alerts are only provided when CDRs (Call Data Records) have been received from the carrier and will be provided by 5 Rings Telecom to the Customer as soon as reasonably practicable after 5 Rings Telecom has received the CDRs from the carrier. Without prejudice to the provisions of clause 11 of this

Agreement and for the avoidance of doubt, 5 Rings Telecom is not responsible for any outgoing call costs incurred by calls being made through the Customer's lines by illegal criminal phone hacking organisations or individuals. It is the responsibility of the Customer to ensure their telephone lines are used legally and their telephone system (PBX) and any other equipment (whether or not such equipment is supplied by 5 Rings Telecom) is maintained and remains secure. Call alerts are only provided to improve customer service.

17.1.5 The Customer is not entitled to override any programming installed by 5 Rings Telecom to enable us to provide the Services to the Customer without our prior consent in writing which may be subject (at our sole discretion) to conditions including but not limited to revising our Rates and Subscription Charges.

17.1.6 In consequence of 5 Rings Telecom providing this Service to the Customer the Customer agrees to 5 Rings Telecom also providing the Customer's Line Rental and the Customer shall be responsible for the Line Rental charges in addition to any other payments under this Agreement.

17.1.7 Call charges will be billed monthly in arrears and shall be paid by the Customer in accordance with the terms of this Agreement.

17.1.8 The Customer is not entitled to route calls via any other network. 5 Rings Telecom reserves the right to bar indirect access calls to other networks.

17.1.9 The Customer agrees not to sign up for any other provider's "Carrier Pre Select" ("CPS") service during the Term. The Customer grants 5 Rings Telecom power of attorney of the Customer and otherwise reserves the right to cancel any third party CPS order on a line 5 Rings Telecom provide to the Customer. If calls are routed over the BT network (CPS leakage) and not by our carrier CPS code, the calls will be charged at standard BT retail rates and the Customer shall indemnify 5 Rings Telecom for all additional costs incurred by 5 Rings Telecom in providing the Services to the Customer where calls have been routed over the BT network whether by the Customer or any third party with or without the Customer's authorisation.

17.1.10 5 Rings Telecom may, in our absolute discretion agree from time to time during the Term to offer a suite of features associated with the line which the Customer may subscribe to at our prevailing rates at the time of subscription to the said features. 5 Rings Telecom reserves the right to vary these features during the Term of this Agreement without liability to the Customer. All features subscribed for will be provided by 5 Rings Telecom using reasonable care and skill and always subject to lead-times imposed by third party service providers for which we accept no responsibility or liability.

17.1.11 The Customer may cancel the provision of any additional feature on 7 days written notice to 5 Rings Telecom.

17.1.12 Line Rental charges will be billed monthly in advance and paid by the Customer in accordance with the terms of this Agreement.

17.1.13 Where a new line is required by the Customer 5 Rings Telecom will arrange, at the Customer's sole expense, for the installation of the line and a charge will be made for the installation which shall include any charges incurred by us for the services of any third party. The installation charge shall be billed on the monthly invoice produced following the month in which the line was installed, any rental charges accrued will also be charged. Alternatively, on the request of the Customer 5 Rings Telecom may agree (in our sole discretion) to allow the Customer to pay the installation charge in instalments.

17.1.14 The Customer may cancel the provision of any additional line on 7 days written notice to 5 Rings Telecom. The installation charge and line rental up to the cancellation date cannot be refunded and shall be paid by the Customer in accordance with the terms of this Agreement.

17.1.15 In circumstances where the Customer has digital lines which are provided by BT Retail, at 5 Rings Telecom's option:

(a) 5 Rings Telecom will reimburse the Customer the termination fee incurred by the Customer to BT Retail upon termination of the Customer's contract for the lines with BT Retail. This is subject to the provision of the original invoice raised by BT Retail to the Customer and a copy of the Customer's contract with BT Retail. If we elect this option then we reserve the right to charge the same rates as the Customer was paying BT Retail for the line rental; or  
(b) the Customer shall be solely responsible for the termination fee charged by BT Retail but the Customer will benefit from 5 Rings Telecom's standard line rental charges.

17.1.16 If 5 Rings Telecom have agreed to provide an ISDN30 line as part of the Services to the Customer then the Customer acknowledges that this line will be purchased by us from BT (or any other such provider of our choosing) ("the Third Party Line Provider"). As such the Customer agrees that the Customer's use of that line will be subject to the terms of the contract between us and the Third Party Line Provider. In particular the contract for the ISDN30 line will be subject to a minimum term (usually 12 months) and a termination fee will be payable by us to the Third Party Line Provider if that contract is terminated early.

17.1.17 The Customer hereby agrees to indemnify 5 Rings Telecom in respect of all costs, claims, losses and expenses payable by us to the Third Party Line Provider in the event that the Customer terminates this Agreement with us at such time when a termination fee is payable in respect of the contract with the Third Party Line Provider.

## **17.2 Business and Residential Broadband**

17.2.1 The Customer is entitled to cancel the provision of any broadband service provided by 5 Rings Telecom upon providing 5 Rings Telecom with 30 days' written notice subject to payment of the following cancellation charges depending upon the nature of the service cancelled:

- 17.2.1.1 £149.97 + VAT cancellation charge (3 x £49.99) - Business or Residential broadband connection 24MB Business Max Platinum service -
- 17.2.1.2 £119.97 + VAT cancellation charge (3 x £39.99) - 24 MB Business Max Gold service,
- 17.2.1.3 £50.00 + VAT cancellation charge - 8MB Business Max 1, 2, 3, 4, Bronze or Silver services
- 17.2.1.4 £23.50 + VAT BT cease charge - Small Office Max, Large Office Max or Home Max 1, 2 or 3 services.

17.2.2 A correctly configured router will be required to allow 5 rings Telecom to provide this Service. It is the Customer's responsibility to ensure that they have a router and that this is correctly configured to allow us to provide this Service.

17.2.3 The product specific limitations in terms of download and upload speeds as well as 5 Rings Telecom's rates for the various Broadband products have been provided to the Customer and 5 Rings Telecom reserves the right to change those limitations from time to time upon written notification to the Customer.

17.2.4 The Customer's use of the Service is subject to our Fair Usage Policy (contained in the Schedule to this Agreement) and to other variable factors outside our control which may affect the quality of the service received by the Customer including but not limited to line quality and distance from the exchange. 5 Rings Telecom shall not be liable to the Customer in respect of any degradation in the Service resulting from any matter beyond our reasonable control. 5 Rings Telecom reserves the right to vary the Fair Usage Policy upon providing written notice to the Customer.

17.2.5 Our Fair Usage Policy for all users puts a cap on the Customer's capacity to upload/download in accordance with the specified Cap on the product supplied. If the Customer exceeds the download capacity then download speed will be reduced for the remainder of the peak hours in that day (see following schedule) or additional costs will be charged at the discretion of 5 Rings Telecom.

17.2.6 Our Fair Usage Policy differs depending on the product we have agreed to supply to the Customer (see following schedule).

### **17.3 Inbound Call Handling**

17.3.1 5 Rings Telecom can only provide this Service as part of a package of Services and not as a stand-alone service.

17.3.2 5 Rings Telecom can provide additional inbound numbers to the Customer. These will be supplied subject to our prevailing rates which will be notified to the Customer from time to time in writing.

### **17.4 Hosted VoIP**

#### **Equipment Terms**

17.4.1 Where 5 Rings Telecom have agreed to supply this service to the Customer 5 Rings Telecom may also have agreed to supply equipment necessary for the use of the service including but not limited to VoIP handset and router. 5 Rings Telecom will only be responsible for providing such equipment if it is referred to in the Order Form.

17.4.2 Where 5 Rings Telecom have agreed to supply equipment delivery of equipment will be to the Customer's address specified in the Order Form unless agreed otherwise by the parties. Delivery shall take place as soon as responsibly practicable and the parties agree that time shall not be of the essence for the delivery of any equipment. 5 Rings Telecom shall have no responsibility for any delay in delivery which is caused by anything outside the control of 5 Rings Telecom (including but not limited to any delay in obtaining the equipment from the supplier).

17.4.3 If 5 Rings Telecom fails to deliver the equipment, our liability shall be limited to refunding the sum paid by the Customer to 5 Rings for the equipment.

17.4.4 The Customer acknowledges that any equipment supplied by 5 Rings Telecom is manufactured by a third party and therefore 5 Rings Telecom cannot give any guarantee or warranty in respect of the equipment whatsoever save for any guarantee or warranty provided to 5 Rings Telecom by the manufacturer which 5 Rings Telecom shall use its reasonable endeavours to enforce on behalf of the Customer at the request and cost of the Customer. Save as aforementioned all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

17.4.5 Risk in the equipment shall pass to the Customer on completion of delivery and delivery shall be deemed to be completed at the time when 5 Rings Telecom leaves the equipment at the delivery address.

17.4.6 Title to the equipment shall not pass to the Customer until such time as 5 Rings Telecom has received payment in full of all sums due for the equipment as specified in the Order Form.

17.4.7 Until title to the equipment has passed to the Customer, the Customer shall:

17.4.7.1 hold the equipment on a fiduciary basis as 5 Rings Telecom's bailee;

17.4.7.2 store the equipment separately from all other equipment held by the Customer so that they remain readily identifiable as 5 Rings Telecom's property;

17.4.7.3 not remove, deface or obscure any identifying mark or packaging on or relating to the equipment;

17.4.7.4 maintain the equipment in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;

17.4.7.5 notify 5 Rings Telecom immediately if it becomes subject to any of the events listed in clause 10.3; and

17.4.7.6 give 5 Rings Telecom such information relating to the equipment as 5 Rings Telecom may require from time to time, but the Customer may use the equipment in the ordinary course of its business.

17.4.8 If before title to the equipment passes to the Customer the Customer becomes subject to any of the events listed in clause 10.3, or 5 Rings Telecom reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the equipment has not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy 5 Rings Telecom may have, 5 Rings Telecom may at any time require the Customer to deliver up the equipment and, 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 the equipment.

17.4.9 The Customer shall pay 5 Rings Telecom the sum for the equipment specified in the Order Form and on the dates specified in the Order Form. In the event no date for payment is specified in the Order Form, payment will be due within 30 days of demand made by 5 Rings Telecom.

17.4.10 If the Customer fails to make any payment due to 5 Rings Telecom for the equipment by the due date for payment ("due date"), then the Customer shall pay interest on the overdue amount in accordance with clause 8.8.

17.4.11 The provisions of clause 11 shall apply to any liability of 5 Rings Telecom in relation to the supply of the equipment provided that references in that clause to "the Services" shall be read as references to "the equipment".

#### **Hosted VoIP Service Terms**

17.4.12 Any faults reported to 5 Rings Telecom relating to the Hosted VoIP platform will be picked up within 24 hours and will be resolved as soon as reasonably practicable.

17.4.13 Customers using our Hosted VoIP platform are to ensure all Phonemanager passwords have been changed from the default password originally provided at time of installation. Failure to do this may result in criminal hacking of the Customer's VoIP equipment and for this reason, 5 Rings Telecom would not be responsible for payment of these outgoing call charges.

## SCHEDULE

### FAIR USAGE POLICY

5 Rings Telecom is committed to ensuring our customers receive the best broadband performance for a competitive price.

To achieve this goal we provide a contended broadband service. This means our Internet bandwidth is shared with all our customers at any one point in time to ensure we provide a great performance.

Our Fair Usage Policy for Business customers using our Business Broadband products are handled on a case by case basis as we appreciate that Customers manage their internet usage within their business. Business products must not be used by Residential customers who wish to use file sharing applications.

In the event the cap is reached, 5 Rings Telecom reserves the right to slow the customer's download speed to 256kb for the remainder of the month or additional costs will be charged at the discretion of 5 Rings Telecom.

At the end of the month, your fair usage limits are reset and your broadband contention will return to normal. We will not email you to confirm your fair usage limits have been reset.

If you wish to use file sharing applications without being affected by the fair usage policy, simply schedule your file sharing to operate outside of Peak Hours when network traffic is light (e.g. at 3am).

The table below shows the number of gigabytes (GB) per month that may be downloaded during Peak Hours depending on the product we have agreed to supply to you.

Name of Product	Fair Usage Limit	Contention Ratio
8MB Business Max	5GB	Un-Prioritised
8MB Business Max 2	5GB	Prioritised
8MB Business Max 3	40GB	Un-Prioritised
8MB Business Max 4	40GB	Prioritised
24MB Business Max Bronze	40GB	Un-Prioritised
24MB Business Max Silver	40GB	Prioritised
24MB Business Max Gold	Unlimited*	20:1
24MB Business Max Platinum	Unlimited*	20:1
Small Office Max	Unlimited*	20:1
Large Office Max	Unlimited*	20:1
Home Max 1	2GB	50:1
Home Max 2	10GB	50:1
Home Max 3	20GB	50:1

**\*You should only be affected by the fair usage policy if you use file sharing software such as peer to peer (p2p), file transfer (ftp) or binary newsgroups (USENET) during Peak Hours (6pm until midnight).**

Service restrictions related to the 5 Rings Telecom Broadband Max Services (up to 8 Mbps & up to 24Mbps)

5 Rings Telecom has high speed Business and Home Broadband Max services providing download speeds of up to 8Mbps and 24Mbps. These services have special characteristics compared to the fixed speed products and utilise rate adaption technology meaning that the service speed is not fixed, but will instead be dependant among a number of conditions including:

- The distance of the Customer from it's local exchange
- The quality of the Customer's line
- The quality of the Customer's internal wiring & filters
- The number of ADSL connections within the same cable to the exchange
- Any interference caused by electrical devices within the home or office

The service works by attempting to run the broadband line at the fastest possible speed available given the conditions described above. Therefore the connection speed available may be from 288Kbps to 8Mbps depending on those conditions.

Due to the contended nature of the broadband services, the actual broadband service speed (as distinct from the line speed) the customer will experience will vary depending upon a number of factors including contention within the BT broadband network, contention within our Internet Service Provider's network and to performance issues within the internet.

During the first 10 days after which the Service has been provided, the line will automatically adapt to the fastest rate that can be achieved. This will be rounded down to the nearest 500Kbps step. During the first 10 days the line rate may change whilst the Service finds the correct speed "step" over which the Service can be reliably provided. When this happens the line will re-synchronize and result in a short loss of connection. Depending on the Customer's equipment, it may be necessary for the Customer to re-boot their modem or router to allow it to re-synchronize to the new speed. By the end of the 10 days the service should achieve a speed which The Customer should continue to experience on an ongoing basis. As a result the Customer may experience an intermittent short loss of connection for the first 10 days after which they may have to power their equipment on and off (worst case).

The nature of the Service is that this stable rate may change over a period of time including a reduction of speed. This could be a variety of reasons including changing line conditions and even the number of other broadband services within the telephone cable. This is not a fault however and is characteristic of the Service. If the Customer experiences a dramatic drop in speed then this may be due to a fault.

It is an inherent characteristic of the Service that it will function in a manner as described in this section and there will be no compensation or price reduction should the Service perform to a lesser manner than expected by the Customer.

