

# Avoira Terms and Conditions for Network Services

## Agreed terms

### 1. Order of Precedence

- 1.1 This document should be read in conjunction with the following other documents, in order of precedence, which together form the contract:
- a. The Customer Service Agreement;
  - b. This document;
  - c. Avoira Service Levels – Network Services (“Service Level Agreement”);
  - d. Avoira Terms and Conditions for the Supply of Goods and Services.

### 2. Service

- 2.1 This agreement covers the Fixed Line and Voice and Data services provided by Avoira to you, the Customer, as named in Section 1 of the Customer Service Agreement. We may vary the way in which the services are provided if we need to maintain or improve their quality or to comply with any law or regulation.

### 3. Duration

- 3.1 This agreement shall run for the term as agreed and stated within the Customer Service Agreement.
- 3.2 Either party to this agreement may end this agreement:
- a. By giving written notice to the other of not less than 30 days following the end of the Contract Period set out in section 1 of the Customer Service Agreement or such period as otherwise set out in the application form (failure to give notice will result in a termination charge which is calculated as 90 day’s charges based on an average of the previous 3 month’s invoices) except in the case of data circuits which require 60 days’ notice;
  - b. Immediately if the other has broken a term of this agreement and, after written notice, has not corrected the breach within 14 days; or
  - c. Immediately if the other stops trading or is likely to become insolvent or be wound up.
- 3.3 At the end of this agreement you must pay us all the sums owing to us and return any of our equipment you have. If you cancel the contract prior to the end of the Contract Period, as set out in section 1 of the Customer Service Agreement, Cancellation Charges apply. Cancellation Charges are calculated as being 100% of the committed line rentals falling due from the cancellation date to the end of the Contract Period as set out in the in the Customer Service agreement along with 50% of the estimated call spend based on the previous 90-day call spend.

### 4. Charges

- 4.1 Avoira will invoice you for calls made or data transmitted in accordance with the prices in our price lists, as amended from time to time. Your invoice will be calculated using data recorded by us and not from your own records. We may change our prices, but will aim to inform you 14 days in advance of any change we are making. Any special charges are set out in the application form. Unless we indicated otherwise, our charges are quoted without VAT, which shall be charged and payable by you at the prevailing rate. We will send you invoices for calls made after the end of each month. We invoice any rental charges in advance (if applicable). You agree to pay our invoices within 14 days of the invoice date. If you are late paying us, we may charge you interest pursuant to the Late Payment of Commercial Debts Act 1998 on the outstanding amount from the date the amount was due until we receive full payment whether or not this agreement has ended. We may at any time ask you for a deposit as security for our charges. In order for you to pay by Direct Debit, you must complete a direct debit mandate. We are under no obligation to provide any services until your bank has confirmed that the direct debit has been set up. We may suspend the services immediately if any payment due under the direct debit is not made or if we are informed that the direct debit is not valid. We may set off moneys owed by us to you in the event that you fail to pay moneys due to us. A charge of £1.50 per month will be made if payment is NOT made by Direct Debit.

### 5. Responsibilities

- 5.1 We agree to provide you with the services you have requested in the Customer Services Agreement subject to the provisions of this agreement. You agree to use the services in accordance with this agreement, any instructions given by us from time to time, any laws, regulations and licences which apply to the use by you of the services. You agree to ensure that the equipment used by you to obtain access to the services conforms to these laws, regulations and licences. You acknowledge that the Services cannot be provided fault-free and we do not warrant error free or uninterrupted use of the Services. Notwithstanding any other provision of the agreement, we shall not be liable to the Customer in contract, tort, or otherwise for any acts or omissions of third-party service providers which affect or otherwise impact the Services.
- 5.2 You agree not to use the services to transmit any material which, in our opinion, may be abusive, offensive, obscene, indecent, menacing and defamatory or which might cause annoyance, inconvenience or needless anxiety to anyone or to commit a fraud or other criminal offence. We may end this agreement without incurring any liability and without giving you notice if you do not comply with your responsibilities set out in these paragraphs.

### 6. Equipment

6.1 To enable you to obtain access to the services set out in the Application Form, we may supply you with equipment, reprogram or arrange reprogramming of your equipment. Avoira will be allowed to reprogram your equipment even if the equipment is covered by an exclusive maintenance agreement with a third party. Avoira will not accept any liability for any loss or damage incurred as a result of reprogramming the equipment. If we supply you with equipment we may charge you in accordance with our price list from time to time. We may charge you for any repair or replacement of the equipment unless the repair or replacement is required because of wear and tear or if the equipment is faulty as a result of our actions.

## 7. Repairs

7.1 Avoira will aim to give the Customer at least 5 days' notice before carrying out any maintenance of the services that may affect you. Avoira shall use reasonable endeavours to correct any defect or fault in the services that the Customer notifies us of as soon as possible.

## 8. Suspension of Services

8.1 Avoira may suspend the services in the following circumstances:

- a. To provide or safeguard any service to any emergency, rescue or other essential service or otherwise in a local or national emergency;
- b. To comply with a request or instruction from the government or other competent authority;
- c. To maintain the quality of the services;
- d. If we reasonably believe that you will fail to pay any amount due to us (whether or not we have issued you with an invoice);
- e. If an event beyond our reasonable control occurs; or
- f. If you break the terms of this agreement

## 9. Liability

9.1 Neither party excludes or limits liability to the other party for:

- a. fraud or fraudulent misrepresentation;
- b. death or personal injury caused by negligence; or
- c. a breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982.

9.2 Subject always to clause 9.1, neither party shall be liable whether in contract, tort (including for negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, for:

- a. any loss (whether direct or indirect) of profits, business, revenue, or goodwill;
- b. loss or corruption (whether direct or indirect) of data or information; or

- c. any special, indirect or consequential loss, costs, damages, charges or expenses, in each case, however arising under this agreement.

9.3 Subject always to clause 9.1, each party's total aggregate liability in contract, tort (including negligence and breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance, contemplated performance, or non-performance of this agreement shall be limited to the total Charges paid by the Customer to Avoira during the 12-month period immediately preceding the date on which the first cause of action under this agreement first arose.

9.4 No action, other than for the non-payment of Charges due to Avoira, regardless of form, may be brought by either party more than one year after the cause of action has accrued.

## 10. Force Majeure

10.1 We shall not be required to compensate you for any event beyond our reasonable control. In this agreement 'beyond reasonable control' includes any act of God, power failure or shortage, employee dispute, act or omission of government highway authorities, other telecommunication operators or their equipment including accesslines, war, military operation, riot or delay or failure in manufacture, production or supply of equipment by third parties.

## 11. Service Important Information

11.1 The Service does allow calls to emergency services numbers 999 and 112. However, calls will fail if there is a power cut or failure. These failures may be caused by reasons outside Avoira's control. Location information transmitted with an emergency service call will be the registered location. The caller must inform the emergency services of the actual location if the call is not made from the registered location.

## 12. General

12.1 You may not transfer this agreement or any rights under it without our prior consent in writing. If any provision of this agreement shall be invalid or unenforceable the remaining conditions shall continue to apply. This agreement, and the Page 5 of 5 documents referred to in it, contain the entire agreement between us. Any variation to this agreement (other than changes made in accordance with this agreement) shall be signed by both of us in writing. If there is any inconsistency between this agreement and an application form, the application form shall take precedence. Any failure by us to enforce a right shall not be deemed waiver of any such right. The agreement is governed by the Law of England and Wales.

## 13. Maintenance Levels

13.1 As set out within the Customer Agreement and the Avoira Service Levels – Network Services.

**14. SIP Trunking Service With Inclusive Minutes To Mobile**

- 14.1 The Free Calls to Mobile is subject to a Fair Usage Policy. Avoira monitors all SIP-Trunking usage and any qualifying endpoint must not exceed agreed minutes per channel or account per month – the Fair Usage Limit. Avoira reserves the right to disconnect any end-point where usage is deemed illegitimate or excessive in terms of standard use and in line with the Fair Usage Policy. Any end-point exceeding the Fair Usage Limit will be subject to a per minute price for the total volume of calls according to the existing tariff currently associated with the account. The Service excludes International Mobile Destinations.
- 14.2 Only end-points connected to a dedicated business PBX qualify for this offer.

**15. 12 Months Free FTTC Rental**

- 15.1 A minimum three (3) year contract period is required for both your SIP and Converged FTTC circuits. In the event that you cancel your Converged FTTC circuit we will bill out the access rental for the unserved term of the contract. In the event that you cancel your SIP service, a minimum of 8 channels will be billed for each month of the unserved period of the contract.
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