

6.3 Where we agree you may provide your own equipment at the outset or as a replacement, you will, at your own cost, be responsible for repairing, maintaining, and replacing any equipment that no longer operates in accordance with its manufacturer's specifications. Where you replace the Equipment, the replacement shall be (i) equivalent to the original's functionality and performance, and (ii) approved by us in writing. You will be responsible, at your own cost, for (i) reconfiguring any replacement of the Equipment to the same or equivalent configuration as the original (if agreed by the parties, such reconfiguration work may be provided by us as a professional services at our then current standard rates), and (ii) installing such reconfigured replacement in place of the original.

6.4 Any impact on the Service caused by substandard performance or non-availability of the Equipment under Clauses 6.2 or 6.3 shall be excluded from our service level obligations under the Agreement, and such exclusion shall continue for as long as any of the circumstances in Clauses 6.2 or 6.3 continue.

7. FEES AND PAYMENT

7.1 All pricing will be indicative only and is not binding until confirmed by us. The pricing given is valid at the point of quote, but it can only be confirmed after the site survey. Additional charges, such as but not limited to excess construction charges, may be applied, following the site survey. All prices are quoted are exclusive of VAT. Prices are valid for 30 days only.

7.2 Following Acceptance, you must pay the Service Fee monthly in advance, the Installation Fee upfront and any usage fees, if applicable, monthly in arrears. If specified on the Service Agreement, you may pay the Installation Fee monthly in advance in lieu of the upfront fee.

7.3 Unless otherwise agreed by us in writing, any discount specified on the Service Agreement shall only apply during the Initial Term, and shall not apply to subsequent Service periods.

7.4 After the Initial Term, we shall be entitled to revise any fees under the Service Agreement to reflect our then current standard rates by giving you not less than thirty (30) days' written notice.

7.5 We shall be entitled to increase the Service Fee at any time with immediate effect where we can reasonably demonstrate that such an increase is due to an increased cost of providing the Service caused by a third party supplier, or legal or regulatory change. Any such increase in the Service Fee will not exceed the increased cost incurred by us in providing the Service.

7.6 We may require you to pay a deposit and / or require you to procure that your parent company or related company guarantees the payment of any fees under the Agreement. You agree to enter into (and / or procure the execution of) any agreement or deed reasonably required for any such purpose.

7.7 All Charges due to us for traffic routed via any IP address to be used with this service shall be paid in full by you by the due date notwithstanding that they may have arisen from unauthorised, fraudulent or illegal use (except for fraud on the part of us or our employees acting in the course of their employment) and whether or not they derive from installation and access arrangements which have been authorised by us.

7.8 Should any of your site configuration change following site survey and additional engineering time or equipment is required to fulfil the installation, to avoid the need for a re-scheduled appointment, you agree to any additional works that may be carried out by our engineer up to a value of £500 without us seeking further confirmation from you. Should the value exceed £500 then we will only carry out this additional work on your written or email confirmation.

8. SERVICE SUSPENSION

8.1 By giving reasonable notice to you, or if this is not

practicable, such notice as is reasonably practicable in the circumstances, we may suspend the Service (or any part of the Service) for reasons to include but not limited to:

8.1.1 for operational reasons in accordance with the service levels, or

8.1.2 if required because of a regulatory or legal change, or

8.1.3 if we are obliged to comply with the order, instruction, or request of a court, government, agency, emergency service organisation, or other competent administrative or regulatory authority, requiring suspension to the Service, or

8.1.4 if your use of the Service may damage or disrupt the proper functioning of the infrastructure and / or equipment used to provide services to our other Customers, or

8.1.5 if we have reasonable grounds to believe that you are in breach of your obligations, and you either fail to remedy that breach or fail to demonstrate to our reasonable satisfaction that no breach took place within two (2) Working Days of written notice of the suspected breach for a serious breach (serious breach to include, but not limited to, a breach likely to cause serious damage to us or our brand, or that of our contractors, or result in legal action by a third party) or within ten (10) Working Days of written notice of the suspected breach for other breach, or

8.1.6 if an undisputed invoice (or an undisputed part of an invoice) is not paid in full by the due date, provided that we have given you at least five (5) Working Days' notice of such non-payment.

8.2 Suspension of the Service shall cause our service level obligations to be excluded for the period of the suspension. Such suspension of the Service shall continue for as long as any of the circumstances in Clauses 8 continues.

9. TERM AND TERMINATION

9.1 Your obligations under this Agreement will commence on the date you sign the Service Agreement. The term of the contract as indicated on the Service Agreement will start on the date of Acceptance and, for multi Sites, is applicable on an individual Site by Site basis. The contract will then continue for the initial minimum term stipulated within the Service Agreement. For the avoidance of doubt, if not specified on the Service Agreement, the initial minimum term of contract is twenty-four (24) months. At the end of the initial minimum term, the contract will automatically renew for a further period of twelve (12) months, on a rolling twelve (12) month basis, unless we receive prior notice from you giving a minimum of sixty (60) days written notice of your wish to terminate the Service. Such termination is not to take place earlier than the expiry of the current term or renewed term.

9.2 We shall have the right, by giving written notice to you, to terminate the Agreement immediately if you:

9.2.1 commit any material breach of your obligations, and fail to remedy that breach within twenty-eight (28) days of written notice of that breach. The twenty-eight (28) day period only applies where a breach is capable of remedy; if it is incapable of remedy, the Agreement may be terminated by written notice immediately), or

9.2.2 have a winding up petition presented, or enter into liquidation whether compulsorily or voluntarily (otherwise than for the purposes of amalgamation or reconstruction without insolvency), or makes an arrangement with your creditors or petitions for an administration order, or has a receiver or manager appointed over any of your assets, or generally becomes unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986.

9.3 We may terminate the Service or part thereof on 60 days written notice to you provided that such notice extends the termination date beyond the end of the minimum term as set out in the Service Agreement.

9.4 Where the Agreement is terminated or otherwise

brought to an end, all Service Fees for the remainder of the initial term or the renewed term (as applicable) shall become payable immediately.

9.5 If you cancel an ordered Service or any part of it, notwithstanding that such order has only been provisionally accepted by us, you agree to reimburse us for any costs we have incurred in preparing to deliver the Service in addition to the standard cancellation charge, as may be applicable at the time. We will take all reasonable steps to mitigate any such costs but in the case of cancelling an Installation Service then the cancellation charge may include the cost of lost revenue incurred whilst we or our subcontractors re-allocate staff who would have otherwise been engaged in your installation where we cannot re-allocate such staff at short notice and this does not constitute a penalty. If you have had a site survey you will pay the full site survey charges. If the Service includes any excess construction charges such charges will be payable in full by you on cancellation of an ordered Service. If we have provided you with any Equipment you will return such Equipment to us immediately in full working order at your cost.

9.6 We shall have the right to terminate the Agreement immediately if required because of a regulatory or legal change or are required to do so by a direction of Ofcom.

9.7 Change of Site after installation does not affect the terms of the contract except where One2Call has provided an Assured, Converged or Ethernet service as part of a 36 month UKFREE package, in which case the Customer is liable for the first 12 months of the charges relating to the broadband services only.

10. LIABILITY

10.1 We shall not be liable for any delay or failure in performing our obligations or failure to meet any dates under the Agreement caused by any circumstances beyond our reasonable control (such circumstances including, without limitation, any regulatory or legal change).

10.2 All warranties, conditions, obligations, or implied terms which are implied into the Agreement by statute, custom, or law are hereby excluded to the maximum extent permissible in law.

10.3 We do not exclude or limit our liability for death or personal injury caused by our negligence, and/or

10.3.1 breach of the obligations arising from section 12 of the Sale of Goods Act 1979 (seller's implied undertaking as to title, etc.), and / or

10.3.2 breach of the obligations arising from section 2 of the Supply of Goods and Service Act 1982 (implied terms about title, etc. in certain contracts for the transfer of property in goods), and / or

10.3.3 fraudulent misrepresentation.

10.4 We shall not be liable to you for any loss of profit, loss of revenue, loss of anticipated savings, loss of goodwill, loss of data and / or perceived damage to reputation.

10.5 We have no liability for any failure to meet the Required Date or for any failure to meet any service levels or to repair a fault within any given timeframe.

10.6 The overall Service may consist of elements not provided by Gamma (such as but not limited to access circuits, routers, installation) which affects the Service Demarcation Point. You agree that we shall not be responsible or liable for any element of the overall Service not provided by Gamma nor for any affect the non-Gamma elements may have on the Service.

11. DEFINITIONS

"Acceptance" – acceptance by you that the Service has been completed successfully, in accordance with Clause 2.3.

"Equipment" – the preconfigured router, power over ethernet switches (POE), handsets or any other Equipment we may provide as part of the Service.

"Equipment Maintenance" – an optional feature providing on-going maintenance of some Equipment provided as part of the

Service and the Installation Service as further detailed in the **"Equipment Maintenance Service Description"**.

"Network(s)" – the Local Area Network, network equipment, computer systems, and local cable infrastructure, at the Sites, to which the Service will be connected. **"Installation Fee"** – the combined charge for the survey, equipment and the Installation Service, including excess construction charges, as specified on the Service Agreement or other amended documentation following site survey.

"Installation Service" – the work (if any) carried out by us or our subcontractor at each Site to enable you to receive the Service, normally carried out between 09:00 and 17:00 on a Working Day.

"Required Date" – the date you wish the Service to commence.

"Service Agreement" – our completed and signed order form for services and / or products incorporating the product order form(s) and customer requirements form(s).

"Service" – the services, as specified on the Service Agreement, and as may be further detailed in the Order Form and / or the customer requirements form detailing the Sites, Installation Service, Equipment, and Service, the related configuration, solution design, and setup of these, and any project documentation for the Installation Service.

"Service Demarcation Point" – the point(s) to which we will maintain the Service(s). The Service Demarcation Point will be based on the different components that make up the Service and how these are deployed. The Service Demarcation Point for the main Horizon service is typically identified as the connection between the access and the Horizon service, managed by our Session Border Controllers (SBCs) within the network. Where we have supplied the access with the Horizon Service, the point of demarcation will be the customer side port on the pre-configured One2Call supplied router. Where we provide the access and the Installation Service and you take the Equipment Maintenance then the Demarcation Point will be the One2Call provided handset. In all cases One2Call will honour any manufacturer warranty on the One2Call provided handsets.

"Service Fee" – monthly recurring fee for the Service which may be individual fees for individual Services or a combined fee covering multiple Services.

"Working Day" – any day falling on or between Monday to Friday, but excluding all English public and bank holidays.

"You" – the entity which contracts with us.

"We" or **"Us"** – One2Call Ltd and / or our chosen subcontractor(s).