



Terms and Conditions for VoIP Services

These terms and conditions ("Conditions") shall govern the agreement between Spice New Media Limited ("us" or "we") and the individual or organisation applying for the provision of the Goods or Services ("you" or "Subscriber").

1.) VoIP

- a) VoIP stands for Voice over Internet Protocol. It is a service that relies upon the internet, which is out of the control of Spice New Media Limited. Under normal circumstances the service will to the best of its abilities, provide a reliable and high quality communications path; however, the overall reliability of the circuit cannot be guaranteed. By using the Services of Spice New Media Limited you agree to be bound by this Agreement and to use the Services in compliance with this Agreement, our Acceptable Use Policy, and any other policies. The following terms and conditions shall apply to all Subscribers using to the Spice New Media Limited Voice (VoIP) Service. This Agreement is part of and shall be incorporated into the Acceptable Use Policy.
- b) In utilizing the Spice New Media Limited VoIP Service, the Subscriber agrees to adhere to the terms and conditions of the Acceptable Use Policy and this Agreement as Spice New Media Limited may modify it from time to time.
- c) Should any inconsistency or conflict arise between the Acceptable Use Policy and this Agreement, the provisions of this Agreement shall prevail.

2.) 999 & Emergency Services Disclosure

- a) 999 emergency services are provided by Spice New Media Limited but should not be relied upon in the event of an emergency due to the nature of network and broadband connectivity and its reliance on a power source and working copper or fibre line. Subscribers should secure an alternative 999 service.
- b) VoIP phones and adapters do not work without power. In the event of a power outage, your phone service will not work without you providing the electricity locally to power the equipment.

3.) Service

- a) VoIP service is not forcibly regulated by OFCOM as a traditional telecommunications service. This service is subject to different regulatory guidelines than other telecommunications services.
- b) Events beyond our control may affect your service, including power outages, fluctuations in internet connectivity and outages or issues with upstream providers, etc.
- c) This service does not support operator assisted calling, return calls, third party billing or calling card calls.
- d) You acknowledge that our service may not be compatible with all non-voice communications equipment, including, but not limited to home security devices, satellite TV systems, fax machines, modems, medical equipment, etc.
- e) By subscribing to the Spice New Media Limited service, you waive all claims against interference or disruption of these services and equipment. We do not guarantee the service of modems and faxes over VoIP. Some devices may function correctly, while others may not.

buzzbox

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4.) Devices

Spice New Media Limited retains ownership of all VoIP devices during the lease period. In the event of early service or contract termination, you will be required to return equipment to the Spice New Media Limited London office branch.

5.) Billing

- a) Billing is done once per month electronically; full payment is due by the last business day of the month. Payments by cheque, made payable to SPICE NEW MEDIA can be sent to our London office or payments can be made on line or by bank transfer. Complete itemised call history will be provided electronically once per month to the registered email address on account.
- b) We will only give account information to the registered account holder. Please add any third party's name to the application if you want them to administer the account in any way.
- c) New account holders may be required to pre pay for VoIP call charges until such time that a positive credit history is accrued.
- d) Payment Policies and Terms: Payment shall be due to Spice New Media Limited when the invoice is received. A late payment fee shall be assessed on any account not paid by the last business day of the month.
- e) Accounts unpaid for thirty (30) or more days shall be classed delinquent. Delinquent accounts shall be placed on hold and services to the Subscriber shall be suspended until the account is paid in full. For any Subscribers' account that has been placed on suspended service, there shall be due a Fifty Pound (£50) reconnection charge to reactivate Subscribers Services after the arrearage has been paid.
- f) Should any balance remain unpaid as agreed, the undersigned agrees to pay applicable collection fees. In the event of legal action to collect the unpaid balance, the undersigned further agrees to pay court costs and reasonable legal fees.
- g) A Twenty Pound (£20.00) fee will be added to the Subscriber account in the event of any bank returned cheque. In the event that more than one cheque is returned, we will only accept cash or direct bank transfer for payment on the account.

6.) Minute Bundles and Call Charges

- a) Call charges are quoted without VAT.
- b) Top up, chat packs and call plans are valid for the month in which they are purchased and will expire at the end of the calendar month.
- c) Minute bundles are limited to two purchases of any type per calendar month per account.
- d) Unlimited call plans cannot be used with any other buzzbox products unless otherwise stated. Only one unlimited call plan can be applied to a single buzzbox account. The offer cannot be used in conjunction with any other offers.
- e) Unlimited call plans cover calls to 07, 01 and 02 numbers only and each call is subject to a 1 pence setup charge.
- f) Unlimited call plans are limited by a fair usage policy. We reserve the right to review our offer and terms if call volumes regularly exceed three hours per 24 hours.
- g) Unlimited call plans cannot be used in call centre environments or on high volume, short duration calls (low ACD)
- h) We reserve the right to restrict certain call destinations if we suspect unfair use, security compromise, fraudulent activity or any other reason.
- i) Unlimited data plans and 650Gb data plans are limited by a fair usage policy. We reserve the right to review our offer and terms if data volumes exceed 650Gb over two consecutive months.

7.) Termination

- a) Subscriber may terminate this Agreement by submitting a request for termination by postal mail or telephone to the addresses listed in this agreement. Requests received prior to close of business shall have a termination date of the next business day.
- b) Without prior notice, Spice New Media Limited may terminate this Agreement, account password, the account, or your use of the Services, for any reason, including, without limitation, if Spice New Media Limited, in its sole discretion, believes you have violated this Agreement, our Acceptable Use Policy, or any of the applicable user policies, or if you fail to pay any charges when due.
- c) Spice New Media Limited may provide termination notice to you by postal mail to the address you provided for the Services. Termination by Spice New Media Limited for violation of Spice New Media Limited's Acceptable Use Policy shall be subject to the termination fee as described above.
- d) Standard contract length for leased VoIP equipment from Spice New Media Ltd is six months, unless otherwise stated in clause 13, Contract Particulars. A period of thirty (30) days notice is required to terminate the lease contract. Early termination is subject to a termination fee of ninety pounds (£90) and settlement in full of all and any outstanding amounts.

8.) Additional Fees

- a) In the event that special consultancy or networking is needed or requested by the Subscriber, labour will be billed at £50.00/hr.
- b) Late payment will incur an annual 8% above prevailing Bank of England interest rate on any outstanding balances, charged compound monthly.
- c) Payment by means other than by Direct Debit shall incur a £3.50 processing fee on each bill issued.
- d) Failure to collect payment by direct debit will incur a £8 re-processing fee added to the Subscriber account to cover our costs of recollection and administration.

9.) Equipment and Scope of Work

- a) Unless purchased, all equipment will at all times remain the property of Spice New Media Limited. Subscriber may not sell, transfer, lease, encumber or assign all or part of the equipment to any third party until the end of the lease or the equipment has been paid for outright.
- b) Subscriber shall pay for the full cost of, or the repair or replacement of any lost, stolen, unreturned, damaged, sold, transferred, leased or assigned equipment or part thereof, together with any costs incurred by Spice New Media Limited in obtaining or attempting to obtain possession of any such equipment.
- c) On expiration or termination of this Agreement, Spice New Media Limited will arrange to collect any equipment from the Subscriber. Subscriber will be billed retail prices for any/all equipment that cannot be collected when service is cancelled prematurely by either party.

10.) Indemnity

The Subscriber shall defend, indemnify, save and hold Spice New Media Limited harmless from any and all damages, demands, liabilities, losses, costs and claims, including, without limitation, reasonable legal fees, compensatory damages, punitive damages, trebled damages, and statutory damages (hereinafter Liabilities) asserted against Spice New Media Limited, its agents, its Customers, servants, officers and employees, that may arise or result from any service provided or performed or agreed to be performed by the Subscriber, its agents, employees or assigns or any product distributed, offered or sold by the Subscriber, its agents, employees or assigns.

11.) Call Recording

Please note that calls to Spice New Media Limited may be recorded to help us in dispute resolution and for training purposes.

12.) Security of Service

- a) The Subscriber accepts total responsibility for the safety and security of their Spice New Media Limited account and any equipment they may use to access the Spice New Media Limited network and services. The Subscriber is required to instigate necessary safeguards to prevent unauthorised use of the Spice New Media Limited network and services. The Subscriber also accepts responsibility for all persons using their username and password to access the service, whether authorised or not.
- b) Spice New Media Limited accepts no responsibility for any costs incurred by the Subscriber from unauthorised usage of the Subscriber's account.
- c) Spice New Media Limited reserves the right to check the security of the Subscriber's equipment in order to help identify possible security vulnerabilities or if they believe that its Conditions of use are not being followed.

13.) Trial Handset

Handsets are provided on a trial basis for 14 days at no charge. A restocking fee of £20 will be charged in the following circumstances:

- The handset was unopened and no call records from the handset exist on our systems
- The handset was trialed successfully but the attempt to port an existing telephone number away from the Subscriber's current provider was abandoned.
- The Subscriber enters liquidation or ceases trading
- The handset is returned incomplete with missing components

In all other instances, failure to return the handset within eight weeks of the start of the trial period will incur a cost equal to the full retail price of the handset.

14.) Entire Agreement

This Agreement constitutes the entire Agreement between the parties and no other representations or statement will be binding upon the parties. If any part of the Agreement is held to be invalid or unenforceable for any reason, the remaining terms and conditions of this Agreement shall remain in full force and effect.

Use of the buzzbox service, hardware or a single initial call connection over the buzzbox network inside or outside of the contract period automatically implies acceptance of these terms.

1. Definitions and Interpretation

1.1 In this Agreement, unless the context otherwise requires, the following terms shall have the following meanings:

“Acceptable Use Policy” shall mean Spice New Media Ltd’s acceptable use policy available at www.buzzbox.cc as may be amended by Spice New Media Ltd from time to time.

“Agreement” shall comprise the following, including any amendment to, or replacement of them:

- (i) these terms and conditions (including any Annex);
- (ii) the Service Schedules;
- (iii) the other Schedules attached to, or referred to in, this Agreement; and
- (iv) any Sales Order Form(s).

If there is any inconsistency between the parts of this Agreement then these terms and conditions will prevail to the extent of the inconsistency.

“Affiliate” shall mean, in relation to either party, a company which is a subsidiary or holding company of it, or any company which is a subsidiary of any such holding company, “holding company” and “subsidiary” having the meanings ascribed to them in section 1159 Companies Act 2006.

“Agreement variations” may only be made in writing between the parties, including agreeing to add Sales Order Forms to the Agreement.

“Additional Service” shall mean any service that Spice New Media Ltd agrees to provide to Customer that is supplied in addition to the Service(s) to which Customer initially contracted, and that are indicated in further Sales Order Forms and terms and conditions or in this Agreement (subject to the terms of this Agreement and any additional terms set herein).

“Associated Company” in relation to a party, means a subsidiary of the party, a holding company of the party, or subsidiary company of the party’s holding company (where “holding company” and “subsidiary” have the respective meanings set out in section 1159 of the Companies Act 2006).

“BACS” and “CHAPS” shall mean an instruction from a customer to its bank or building society to pay an amount of money to another party electronically.

“Billing Period” shall mean a period of one month.

“Business Day” means any day other than a Saturday, Sunday or recognised public holiday in England.

“Commencement Date” has the meaning given at the start of this Agreement.

“Confidential Information” shall mean (i) the provisions of this Agreement, including all terms related to pricing; and (ii) any information (whether written or oral) disclosed by one party to the other that is identified by the disclosing party as confidential at the time of disclosure or which ought reasonably to be considered as confidential given its content.

“Content” shall mean the audio, video, film, slides or other images or text (digital or otherwise) either provided to Spice New Media Ltd by Customer for Spice New Media Ltd’s performance monitoring of the Services or transmitted by Customer through the Spice New Media Ltd System.

“Direct Debit” means an instruction from a Customer to its bank or building society authorising an organisation to collect varying amounts from its account, as long as the Customer has been given advance notice of the collection amounts and dates.



“Emergency Maintenance” shall mean any maintenance, other than Scheduled Maintenance, carried out by Spice New Media Ltd, as described in Schedule 2.

“End User” shall mean a customer of Customer who purchases, inter alia, any Service(s) regardless as to whether or not to resell the services themselves.

“End User Contract” shall mean any contract between Customer and an End User pursuant to which the End User purchases any Service(s).

“Extension Period” means a period of 12 months and, in relation to ADSL, Spice New Media Ltd Phone and mobile SIMs, a period of 90 days and 30 days respectively.

“Fee(s)” shall mean the fees payable by Customer to Spice New Media Ltd, as may be varied from time to time in accordance with the terms of this Agreement, calculated and payable in accordance with the terms of this Agreement, and which may include service fees, one-time fees and support fees (as more particularly set out in the Sales Order Forms).

“Goods” shall mean any products, including hardware, firmware or software licenses sold, licensed or otherwise provided to Customer.

“Incident” shall mean a failure of the applicable Service to materially comply with the terms of this Agreement.

“In Service Date” shall mean the date upon which the relevant Service has been installed and delivered to the End User according to the terms set forth in the relevant Service Schedule.

“Initial Service Term” in respect of a Service shall be the minimum term commitment stipulated on the Sales Order Form under which that Service has been purchased.

“Intellectual Property Rights” shall mean patents, trade-marks, service marks, trade names, design rights, copyright, database rights, rights in know-how and other intellectual property rights or equivalent forms of protection of whatever nature arising anywhere in the world, whether registered or unregistered and including applications for the grant of any such rights.

“Internet” shall mean the global network connecting a variety of information databases.

“Monthly Service Fees” shall mean the monthly fees payable by Customer in respect of a Service, as specified in the applicable Sales Order Form, or as otherwise agreed in writing by the parties from time to time.

“NDA” means the non-disclosure agreement (if any) entered into by the parties.

“Network” shall mean the Spice New Media Ltd telecommunications network providing connectivity as stated on the Sales Order Form.

“Provisional RFS Date” shall mean the date that Spice New Media Ltd reasonably estimates the In Service Date will be achieved, based on information given by its suppliers.

“Sales Order Form” shall mean a document signed between the Customer and Spice New Media Ltd or such other form or online ordering system as may be designated by Spice New Media Ltd from time to time.

“Scheduled Maintenance” shall mean any scheduled maintenance carried out by Spice New Media Ltd, as described in Schedule 2.

“Service(s)” shall mean the Spice New Media Ltd service(s) to be resold by Customer, as agreed between the parties in one or more Sales Order Forms, subject to the provisions of this Agreement, as more particularly described in the relevant Service Schedule(s).

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“Service Cancellation Order” shall mean Spice New Media Ltd’s standard service cancellation order in effect from time to time.

“Service Levels” shall mean the target performance levels applicable to certain Services as set out in the relevant Service Schedule.

“Service Period” means a Service’s Initial Term and all subsequent extension periods.

“Service Schedule(s)” shall mean those service schedules referred to in Schedule 3 relating to any Service purchased by Customer under this Agreement.

“Specification” shall mean, in relation to Goods, Spice New Media Ltd’s or the applicable manufacturer’s standard specification for that service in effect from time to time.

“Termination Notice” means the minimum notice period that must be given by either party to terminate a Service, as specified in the relevant Sales Order Form.

“Spice New Media Ltd Account Manager” shall mean the representative of Spice New Media Ltd assigned as the Customer’s main point of contact for new sales opportunities and product enquiries.

“Spice New Media Ltd Equipment” means any equipment (including any software) that Spice New Media Ltd supplies for Customer’s or an End User’s sole use as part of a Service.

“Spice New Media Ltd Technology” shall mean any materials, equipment, software or other technology owned by Spice New Media Ltd or used by Spice New Media Ltd under a third party licence or permission, including software and software tools, hardware, computer and telecommunications systems, networks and architecture, and materials and documentation, in whatever format.

1.2 Except where the context requires otherwise the singular includes the plural and vice versa; a reference to one gender includes all genders; words denoting persons include firms and corporations and vice versa.

1.3 Headings are included in this Agreement for ease of reference only and shall not affect interpretation or construction.

1.4 References to clauses and schedules are, unless otherwise provided, references to clauses and schedules of this Agreement.

1.5 The words “include” or “including” shall be construed without limitation to the words following.

2. **Services**

2.1 Spice New Media Ltd sells, and the Customer purchases, Services (as defined in the respective Service Schedules) that the Customer sells to End Users. For each Service to be sold to the Customer the parties shall execute a Sales Order Form (SOF). For the avoidance of doubt the Customer shall be responsible for all sales, pre-sales, 1st line support, billing, and collections in relation to its End Users. The Customer shall at all times conduct its business in a manner that reflects favourably on Spice New Media Ltd and, not by itself or with others, participate in any illegal, deceptive, misleading or unethical practices in connection with the promotion of the Services or the Internet. Spice New Media Ltd reserves the right to modify the Services from time to time as Spice New Media Ltd deems necessary, including those Services that the Customer is providing to its End Users, in order to improve or enhance the Services and provided that such modification shall not have a material detrimental impact on the Services. Spice New Media Ltd’s relationship under this Agreement is solely with the Customer and not with any End Users.

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2.2 Where Customer sells the Services to a third party, who itself resells the Services, Spice New Media Ltd and Customer shall treat all such third parties and their customers as End Users for the purposes of this Agreement.

3. Term

3.1 This Agreement shall commence on the Commencement Date and shall continue in force until terminated in accordance with its terms. The initial term of this Agreement shall be twelve (12) months for fibre services and three (3) months for ADSL2+ services from the date hereof or the expiry of the Initial Service Term of the last active Sales Order Form, whichever is the later. Thereafter, this Agreement will continue in force until terminated by either party providing at least ninety (90) days' prior notice in writing to the other. This Agreement shall be subject to earlier termination in accordance with its terms.

3.2 Each Service shall commence on the relevant In-Service Date and, unless terminated earlier in accordance with the terms of this Agreement, shall continue for the Initial Service Term. Customer may terminate a Service, to take effect on the last day of the Initial Service Term or the last day of an Extension Period by following the process set out in clause 3.3. Spice New Media Ltd may terminate a Service, to take effect on the last day of the Initial Service Term or the last day of an Extension Period by following the process set out in clause 3.4. Upon expiry of the Initial Service Term of a Service, if no Termination Notice has been served by either party then the Service Period will automatically extend for a further Extension Period.

3.3 If Customer wishes to terminate a Service pursuant to clause 3.2, it must serve a Termination Notice on Spice New Media Ltd. Unless otherwise specified in the Sales Order Form, the Termination Notice required for each Service is not less than ninety (90) calendar days. Following receipt of a Termination Notice, Spice New Media Ltd shall provide Customer with a Service Cancellation Order. The Service Cancellation Order shall specify the termination charges, if any, payable by Customer to terminate the relevant Service. Customer shall sign and return the Service Cancellation Order, and termination of the Service will take effect on the later of (i) expiry of the Termination Notice, and (ii) receipt by Spice New Media Ltd of the Service Cancellation Order signed by Customer.

3.4 If Spice New Media Ltd wishes to terminate a Service pursuant to clause 3.2, it must serve a Termination Notice on Customer. Unless otherwise specified in the Sales Order Form, the Termination Notice required for each Service is not less than ninety (90) calendar days. The Termination Notice shall specify the termination charges, if any, payable by Customer in respect of the relevant Service. Termination of the Service will take effect on expiry of the Termination Notice.

4. Order Submission, Credit Approval and Deposits

4.1 Customer may from time to time submit orders to Spice New Media Ltd containing all the information required by a Sales Order Form. All orders submitted by Customer shall be subject to Spice New Media Ltd's written acceptance.

4.2 Orders are subject to credit vetting and approval. Spice New Media Ltd may also require Customer to provide additional information to demonstrate its creditworthiness (to Spice New Media Ltd's satisfaction) before Spice New Media Ltd supplies the Service(s) and/or Goods under this Agreement. Spice New Media Ltd may also require Customer to prepay a deposit as a condition of Spice New Media Ltd's acceptance of an order.

4.3 Customer acknowledges that it may be subject to a credit check from time to time. As a result of such a check, or if Customer breach its payment obligations, Spice New Media Ltd may, at its sole discretion, require Customer to pay a deposit or such other security as Spice New Media Ltd may require, within thirty (30) calendar days, in a manner specified by Spice New Media Ltd. If Customer fails to pay such deposit or other security within this period, Spice New Media Ltd shall have the right to terminate or suspend the Services.

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4.4 If Customer fails to pay any undisputed Fees Spice New Media Ltd may, without prejudice to its other rights and remedies, apply the deposit or other security in satisfaction of the unpaid Fees. On termination of this Agreement Spice New Media Ltd will return or release the deposit or other security upon payment in full for all Fees. Spice New Media Ltd reserves the right to retain interest, if any, accruing on the deposit or other security.

5. Spice New Media Ltd's Commitments to Customer

5.1 Spice New Media Ltd will:

- (a) provide the Services in accordance with the Service Schedule, and using the reasonable skill and care of a competent telecommunications network provider;
- (b) ensure that any Goods supplied as part of the Service(s), as at the date of delivery, conform in all material respects with their Specification;
- (c) ensure that all work carried out by Spice New Media Ltd in connection with the Service(s) is carried out by competent and suitably qualified personnel;
- (d) provide the Service(s) in accordance with the Service Levels, but Spice New Media Ltd does not warrant that the Services will be uninterrupted or fault-free; and
- (e) comply with all laws directly applicable to Spice New Media Ltd in respect of the provision of the Services including the Data Protection Act 1998 directly applicable to Spice New Media Ltd.

5.2 Spice New Media Ltd will use its reasonable endeavours to provide the Service(s) in a timely manner and in accordance with any delivery timescales indicated. Unless otherwise specified, however, all delivery timescales are estimates only, and Spice New Media Ltd shall have no liability to Customer for failure to meet any delivery timescales.

5.3 If it becomes necessary to modify a Service, then Spice New Media Ltd may, by giving Customer prior reasonable notice, migrate Customer to the modified Service or to a suitable alternative Service. The new Service provided will have substantially the same or improved Service Levels to those of the Service as originally contracted. If the proposed modified or alternative Service is materially detrimental to Customer, then Customer may cancel the Service by giving not less than ninety (90) days notice, and without the payment of any early termination charge.

6. Customer Commitments to Spice New Media Ltd

6.1 The Customer:

- (a) shall ensure that all equipment connected to the Services by or on behalf of Customer or an End User is technically compatible with the relevant Service(s) and any applicable Specifications, and that Customer's and each End User's site and the equipment complies with and is used in accordance with all reasonable procedures notified by Spice New Media Ltd and any applicable legislation.
- (b) shall not except in the circumstances required to be permitted by applicable law, alter, rearrange, disconnect, remove, reverse engineer, repair or attempt to repair or tamper with our Service(s) (including any Spice New Media Ltd Equipment) or cause, or allow, a third party to do any of these activities, without Spice New Media Ltd's prior written consent.

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- (c) is solely responsible for selecting, supplying and maintaining its own facilities and equipment, unless outsourced to Spice New Media Ltd by purchasing an available Service.
- (d) accepts that any circuit shifts required from time to time and requested by the Customer, shall be at Spice New Media Ltd's sole discretion when the tail is in contract with Spice New Media Ltd. Customer accepts that circuit shifts are not possible during the first twelve (12) months of the relevant Sales Order Form.
- (e) is solely responsible for the content and security of any data or information which it or an End User (or any person on its or their behalf) sends or receives using the Service(s), and Customer will allow Spice New Media Ltd to copy, display, distribute, download, transmit and otherwise use the Content solely as reasonably required to perform Spice New Media Ltd's obligations under this Agreement.
- (f) will ensure that it and its End Users have all necessary right, title and interest in and to the Content, and that it and its End Users have obtained all consents, licenses, permissions and releases necessary to grant Spice New Media Ltd the right to copy, display, distribute, download, transmit and otherwise use the Content solely as reasonably required to perform Spice New Media Ltd's obligations under this Agreement.
- (g) shall, if given access to the Spice New Media Ltd web service portal comply with the applicable terms of use as made available from time to time on the portal.
- (h) shall comply at all times with all applicable laws and regulations including but not limited to any applicable Data Protection Legislation and with Spice New Media Ltd's Acceptable Use Policy in effect from time to time.
- (i) is responsible for the payment of all charges applicable to the Goods and/or Service (including charges incurred as a result of fraud or unauthorised use of a Service);
- (j) is responsible for the payment of all agreed additional fees or charges arising from its or its End Users' service requests and/or usage including but not limited to facilities, power, bandwidth and/or network capacity above and beyond Customer's entitlement as specified in the relevant Sales Order Form], and any reasonable expenses incurred by Spice New Media Ltd in connection therewith.
- (k) unless otherwise agreed in writing by the parties, shall during the course of this Agreement, have comprehensive general liability insurance covering public liability, employer's liability, professional indemnity, personal injury and death, and property damage insurance with a combined single limit of at least £1 (one) million. Customer shall also maintain insurance covering Goods leased or owned by Customer against loss or physical damage. Customer shall, as and when requested, provide Spice New Media Ltd with such evidence as it may require in relation to Customer's insurance.

7. Pricing

The Customer shall be charged Fees, as set out in the relevant Sales Order Form for the Initial Service Term of each Service sold, and thereafter until the Service is terminated in accordance with the terms of this Agreement.

8. Charges, Invoices and Payment

8.1. The Tariff chosen by the Supplier in respect of the Services on commencement of this Contract will remain the minimum Tariff selected for the Minimum Term and the terms and conditions relating to the selected Tariff shall apply.

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8.2. The Company may on not less than 14 days' notice to the Customer, change the rates in any Tariff or price list, such change not to become effective during the Minimum Term of the relevant Mobile Network Service unless the change arises due to: ^[1]_[SEP]

8.2.1. a change in the costs to the Company due to a requirement or direction of OFCOM; and/or

8.2.2. a change in the costs charged to the Company by its suppliers.

8.3. The Customer will pay any agreed initial Charges, the monthly access Charge and any other fixed monthly Charges (each as defined in the applicable Order Form), on or before the Payment Date. ^[1]_[SEP]

8.4. The Customer shall be invoiced monthly in arrears for any usage based Charges and monthly in advance for any monthly access or other fixed Charges and shall pay the Charges by Direct Debit within fourteen days of the date of the invoice (unless otherwise expressly agreed with the Company and set out on the Order Form). The acceptance by the Company of payment by any method other than Direct Debit may incur a monthly administration fee of £3.50 per Connection. All payments must be received within thirty days of the Company's invoice date. ^[1]_[SEP]

8.5. Where the Tariff and/or Equipment subsidies that the Company makes available to the Customer are subject to the length of contract chosen by the Customer on the Order Form and the terms applicable to such Tariff and/or Equipment, and are based upon the predicted or anticipated revenue over the Customer's contract term for Services (including any notice period). In the event that the Customer fails to make payment for the Services for (or otherwise breach the Contract during) the Minimum Term, and fails to make payment of any early termination charges (including without limitation, those Charges set out in condition 9.5), the Company reserves the right to invoice the Customer for such predicted or anticipated revenue at full retail price without discount, over the full applicable contract term including notice period and to recover any benefits received and losses incurred.

8.6. The Customer shall pay all Charges (namely usage in excess of any allowances or bundles that may be comprised in the monthly Charge but without rebate for any unused element of such allowances or bundles) including without limitation any of the following: any charges incurred from other networks, virtual networks, premium rate and overseas cellular and network operators (without discount) and any handling charges set out in the Tariff. UK calls are billed per second and rounded up to the nearest penny. In addition, the Service Operators may apply a fixed or minimum call charge, details of which can be found in the tariff terms and conditions on the relevant Service Operator websites.

8.7. The Customer may be required to pay a fee of £8.00 per incident for any cancelled, dishonoured or failed Direct Debits or cheques.

8.8. If payment of any sum payable to the Company is not made on or before the due date, the Company shall be entitled to charge interest thereafter on such sum at either the rate of eight per cent per annum above the current base rate of The Bank of England from time to time or, if higher, such rate as the Company would be entitled to claim under the Late Payment of Commercial Debts (Interest) Act 1998 (such interest being deemed to accrue from day to day and being compounded on the last day of each calendar month) from the due date until the date of payment whether before or after judgment.

8.9. Value Added Tax (VAT) and other taxes from time to time in force where appropriate shall be payable on all Charges payable pursuant to these Conditions.

8.10. The Customer will promptly advise the Company in writing of any change to its address or bank details.

8.11. The Customer authorises the Company to charge the Customer's debit/credit card, where details have been provided by the Customer, with an amount equal to the outstanding



balance on the Customer's credit account, where the Customer has failed to pay the Company by the Payment Date.

8.12. The Customer authorises the Company to levy a service Charge of three percent (3%) where the Company is debiting the Customer's credit card account with any outstanding balance.

8.13. Without prejudice to the Company's other remedies, if the Customer's account remains outstanding for any reason after the original due date for payment, the Company reserves the right to refer the outstanding account to a debt collection agency. If the Company instructs a debt collection agency to collect payment (including interest and late payment charges) on its behalf the Customer must pay the Company's costs payable to the agency, who will add the sum to the Customer's outstanding debt.

8.14. If any sum owed by the Customer to the Company under the Contract or any other contract with the Company is not paid by the due date, the Company may deduct this sum from any payment or credit due to the Customer under the Contract or any other contract with the Company.

8.15. Any invoices issued by the Company in respect of the Charges shall, save in the case of manifest error, be final, conclusive and binding on the Customer.

8.16. If the Customer intends to dispute any charge on an invoice, the Customer must do so in writing to the Company within 90 days of the date of the invoice and provide the Company with all relevant information in support of the disputed charge. Where the disputed charge(s) amount to:

8.16.1. less than five per cent of the total charges listed on the invoice, the Customer will pay the full amount of the invoice; or more than five per cent of the total charges listed on the invoice, the Customer must pay the remaining amount of the invoice that is not in dispute. The Customer must inform the Company seven working days before a Direct Debit payment is due if they intend to withhold monies in dispute, This will give the Company time to verify the claim and adjust the amount taken from the Customer's account. If the Customer fails to notify the Company in time to adjust the Direct Debit payment the withheld amount will be deducted from the following Direct Debit payment. If the Customer cancels the Direct Debit payment without prior agreement with the Company they will be liable for the charge stipulated in 6.7.

9. Goods

9.1 Spice New Media Ltd agrees to provide and Customer agrees to lease or purchase (as specified on the relevant Sales Order Form) the Goods set forth in the Sales Order Form(s) and, in the event that the parties agree that Spice New Media Ltd shall perform consulting or technical Service of a specialized nature, the details, deliverables, milestone dates, fees and other pertinent information relating to such activities or Service will be set forth in a Sales Order Form. In such event, Virtual shall provide such Goods and/or Service(s) to Customer using employees or subcontractors of Spice New Media Ltd, at its sole discretion.

9.2 Goods leased to Customer by Spice New Media Ltd or its suppliers shall remain the property of Spice New Media Ltd or its suppliers. Customer shall comply with the terms of any applicable lease relating to such Goods, as those terms are communicated by Spice New Media Ltd to Customer from time to time. Upon termination or cancellation of a Service, all associated Goods leased from Spice New Media Ltd or its suppliers shall be returned to Spice New Media Ltd within fifteen (15) Working Days. For the avoidance of doubt, unless specifically stated otherwise in the applicable Sales Order Form, all equipment provided to Customer or an End User, including any equipment placed on an End User's premises shall be deemed to be leased.

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9.3 Customer shall, in relation to any Goods leased to Customer by Spice New Media Ltd or its suppliers:

- (a) from the date on which such Goods are delivered to Customer (or an End User) until such Goods are re-delivered to or collected by Spice New Media Ltd, maintain in place with an insurer acceptable to Spice New Media Ltd (acting reasonably) insurance covering the Goods to their full replacement value against all usual risks relating to loss or damage from whatever cause (other than exclusions agreed in writing by Spice New Media Ltd);
- (b) not sell, assign, sub-let, pledge or part with possession or control or otherwise deal with the Goods except as authorised in writing by Spice New Media Ltd;
- (c) not create any mortgage, charge, lien or other encumbrance on the Goods; and
- (d) keep the Goods in good condition and working order (fair wear and tear excepted).

9.4 Title to Goods sold to Customer (as specified in the applicable Sales Order Form) shall pass to Customer upon payment in full for those Goods. Title to all other Goods, equipment and/or facilities furnished by Spice New Media Ltd, shall remain with Spice New Media Ltd (or its suppliers). Risk in all Goods, whether sold or leased, shall pass to Customer on delivery to Customer or an End User (as applicable).

9.5 Customer shall notify Spice New Media Ltd, and the applicable shipping company, in writing, within two (2) business days after delivery, of any defective, non-conforming or damaged Goods. Failure to do so shall constitute acceptance of any such Goods and a waiver of any claim against Spice New Media Ltd.

9.6 The return of any Goods shall be subject to Spice New Media Ltd's prior written consent, and the Customer must obtain a return material authorisation from Spice New Media Ltd's provisioning department, and comply with Spice New Media Ltd's returns policy in effect from time to time.

9.7 Equipment provided or installed by or on behalf of Spice New Media Ltd for use in connection with the Service(s) shall not be used for any purpose other than that for which Spice New Media Ltd provided it. In the event that Customer, and End User or any other third party attempts to operate or maintain any Spice New Media Ltd-supplied equipment without first obtaining Spice New Media Ltd's written approval, the Customer shall pay Spice New Media Ltd, in addition to Spice New Media Ltd's other rights and remedies, for any damage incurred, repair and/or replacement (at Spice New Media Ltd's option) necessitated, and service charges relating to the maintenance, inspection, repair or replacement of such equipment. Spice New Media Ltd shall not be responsible for the installation, maintenance, compatibility, or performance of any equipment or software not provided by Spice New Media Ltd. If such equipment or software impairs the Service, Customer shall remain liable for payment. If such equipment or software causes or is likely to cause a hazard or service obstruction, Customer shall, immediately upon notice, remedy the situation. Spice New Media Ltd may, at its sole discretion agree to provide consulting services to remedy the difficulties caused by any of the foregoing, in which case Customer shall pay Spice New Media Ltd at its then current standard rates for the provision of such services.

10. buzzbox Reseller Obligations Regarding End Users

10.1 The Reseller agrees to include in its contracts with End Users, at a minimum, those requirements set out in Schedule 1 below ("End User Terms"), and to enforce the End User Terms. The Reseller shall enforce the Spice New Media Ltd Acceptable Use Policy against its End Users, and shall act immediately to remedy any violation of the Acceptable Use Policy by an End User. The Reseller shall defend, indemnify, and hold harmless Spice New Media Ltd from and against any losses, damages, claims, demands, costs and expenses (including reasonable legal fees and court costs) arising out of or relating to any use of Spice New

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Media Ltd's Services, including but not limited to claims resulting from use of the Services by End Users.

10.2 The Reseller undertakes to mandate upon its End Users an initial term for each Service which is not less than 1 (one) year.

10.3 Upon becoming aware of any breach or suspected breach of the End User Terms by an End User, the Reseller shall forthwith notify Spice New Media Ltd of such breach or suspected breach and, at Spice New Media Ltd's request, investigate such breach or suspected breach and provide such evidence to Spice New Media Ltd as the Reseller is reasonably able to obtain in respect of such breach or suspected breach, and use all reasonable endeavours to procure that the relevant End User remedies the breach without delay.

10.4 Notwithstanding the Reseller's obligation to enforce the End User Terms, the Reseller acknowledges that if in the sole opinion of Spice New Media Ltd an End User is using the Services in breach of the End User Terms then Spice New Media Ltd reserves the right to suspend or terminate the Services in respect of that End User. For the avoidance of doubt, upon the termination or suspension of the Services due to the Reseller's breach of the terms of this Agreement or an End User's breach of the End User Terms, the Reseller shall not be entitled to any refund of the Fees or any part thereof.

10.5 The Reseller shall not make any promises, representations, warranties or guarantees regarding a Service other than those (if any) contained in the Service Schedule for that Service.

11. Service Level Requirements for buzzbox Resellers

The Reseller shall comply with the terms of all applicable Service Schedules, including the Service Levels.

12. Training for buzzbox Resellers

12.1 Technical Representative: The Reseller agrees that a minimum of one (1) of its employees will be assigned as 'technical representative' to act at all times as primary technical and support point-of-contact for Spice New Media Ltd.

12.2 Sales Representative: The Reseller agrees that a minimum of one (1) of its employees will be assigned as 'sales representative' to act at all times as primary sales point-of-contact.

13. Support Obligations for buzzbox Resellers

The Reseller's and Spice New Media Ltd's respective general support responsibilities in relation to the Services are defined in Schedule 2, with service-specific support responsibilities being detailed in the applicable Service Schedule. The Reseller's breach of its obligations specified in Schedule 2 shall be a material breach of this Agreement constituting cause for termination pursuant to clause 15.1(b).

14. Cancellation or Suspension of Services

14.1 In addition to any other suspension and termination rights Spice New Media Ltd may have under this Agreement, Spice New Media Ltd may limit, suspend or terminate all or part of a Service at any time with such notice as is reasonable in the circumstances if:

- (a) in Spice New Media Ltd's reasonable opinion, the supply or use of a Service is, or is likely to become illegal or unlawful; or

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- (b) in Spice New Media Ltd's reasonable opinion, the provision or use of a Service is liable to cause death or personal injury or damage to property.

14.2 Spice New Media Ltd may limit, suspend or cancel all or part of a Service at any time by prior written notice to Customer if:

- (a) the Customer does not make payment of any charges on time (excluding any charges which are properly disputed in accordance with clause 8.7, and continues to withhold payment seven (7) calendar days after Virtual1 has issued a written reminder;
- (b) the Customer consumes a Service in an amount that (as determined by Spice New Media Ltd, acting reasonably) materially exceeds Customer's credit limit;
- (c) the Customer fails to pay a deposit or to provide security within thirty (30) calendar days of a request by Spice New Media Ltd under clause 4.3;
- (d) the Customer (or an End User) is not using the Service in accordance with the terms of this Agreement and/or the Customer's or an End User's use of a Service interferes with the proper operation of Spice New Media Ltd's network and the Customer fails to rectify the situation within a reasonable timeframe, as specified by Spice New Media Ltd.

14.3 Where provision of or access to a Service has been suspended under clause 14.2, the Customer shall, if required to do so by Spice New Media Ltd pay a re-connection charge (as determined by Spice New Media Ltd) if or when Spice New Media Ltd reconnects the Service.

14.4 Spice New Media Ltd may suspend access to any or all Services forthwith in the event that such suspension is:

- (a) for the purpose of carrying out scheduled or emergency maintenance, provided such scheduled maintenance and emergency maintenance is carried out in accordance with this Agreement;
- (b) to substitute, change, reconfigure, relocate or rearrange a Service, as agreed with the Customer; or
- (c) in accordance with an order, instruction or request of any government entity, regulator, or judicial body.

14.5 Where the Customer cancels an order before the In Service Date, the following terms will apply:

- (a) Where the Customer cancels an order which includes the use or provision by Spice New Media Ltd (or its suppliers) of a BT product or service on or after 3 Working Days from the date of Spice New Media Ltd's relevant order completion notification, the Customer shall pay 100% of the installation, connection and ongoing fees for the applicable Service(s) as if such Service(s) had been purchased for the minimum term available, which shall be 12 months for fibre services, 3 months for ADSL2+ services or 1 month for mobile services unless otherwise specified in the relevant Sales Order Form.
- (b) Where the Customer wishes to cancel any other order after the date of issue of an acknowledgement by Spice New Media Ltd, any such cancellation shall be subject to Spice New Media Ltd's prior written consent, and shall be subject to the payment by the Customer of the applicable cancellation charges communicated by Spice New Media Ltd to the Customer following receipt of the cancellation request.

15. **buzzbox Reseller Termination**

15.1 Without prejudice to any right or remedy either party may have against the other, either party (the "**Initiating Party**") may terminate this Agreement with immediate effect by notice in

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writing to the other party (the "**Breaching Party**") on or at any time after the occurrence of any of the following events:

- (a) The Breaching Party shall have a receiver or administrative receiver or administrator appointed over it or over any part of its undertakings or assets or shall pass a resolution for winding up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction where the resulting entity shall assume all of the liabilities of it) or a court of competent jurisdiction shall make an order to that effect or if the Breaching Party shall become subject to an administration order or shall enter into any voluntary arrangement with its creditors or shall cease or threaten to cease to carry on its business; or
- (b) Subject to clauses 15.2 and 15.3 below, the Breaching Party commits any material breach of any provision of this Agreement which shall remain unremedied thirty (30) days after notice of such breach has been served by the Initiating Party on the Breaching Party.

15.2 The Reseller is obliged to enforce the Acceptable Use Policy against its End Users and to act immediately to remedy any breach of the Acceptable Use Policy by an End User. If the Reseller breaches any term of the Acceptable Use Policy, or permits or tolerates such breach, and such breach is not remedied within 30 days, Spice New Media Ltd may suspend the Services or terminate the Services to the relevant End User and without penalty.

15.3 Spice New Media Ltd shall be entitled to terminate this Agreement or, at its option, any affected Sales Order Forms, forthwith if Reseller is in breach of any of the payment terms of this Agreement.

15.4 Upon termination of this Agreement pursuant to this clause 15:

- (a) Reseller shall return to Spice New Media Ltd (or otherwise dispose of as Spice New Media Ltd may instruct) all documentation, information, licensed or leased goods or other materials, and all copies of each of the foregoing, supplied by Spice New Media Ltd to Reseller. Reseller shall certify in writing that no such documentation, information, licensed or leased goods, or other materials have been retained or copied by Reseller.
- (b) In the event that during the course of this Agreement (i) a petition for an administration order or winding up order is presented in respect of the Reseller or (ii) the Reseller goes into either compulsory or voluntary liquidation, the Reseller shall provide Spice New Media Ltd with detailed records of all End Users to whom the Reseller has sold Services. Detailed records shall include full accounts, sufficient billing data for a period of not less than twelve (12) calendar months prior to the date of termination of this Agreement and reasonable detail of any discussions and negotiations with prospective End Users insofar as such discussions relate to the Services.
- (c) In addition to clause 15.4(b), the Reseller agrees to promptly and at its own cost, assign or novate and to do all that is necessary to procure the assignment or novation to Spice New Media Ltd of all those agreements between the Reseller and the End User which Spice New Media Ltd requests to be assigned or novated insofar as those agreements relate to the Services. Reseller shall, in each End User Contract, incorporate a right on Reseller's part, to assign or novate each End User Contract (in so far as it relates to the Services) in such circumstances.
- (d) The Reseller shall cease forthwith any further contact with its End Users in respect of the Services and shall, at the request of Spice New Media Ltd, provide to Spice New Media Ltd details of all those End Users to whom Reseller has undertaken support obligations as defined by Schedule 2 during the term of this Agreement ("**Supported End Users**") and Reseller shall inform such Supported End Users that support services are available directly from Spice New Media Ltd, who may choose to provide an alternative Reseller for the End

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User.

- (e) Spice New Media Ltd shall, where requested by a Supported End User, provide support services to such Supported End User in respect of the Services in accordance with Spice New Media Ltd's then current terms and conditions for support; and
- (f) Spice New Media Ltd shall assume responsibility for the collection from the End User of the fees payable by the End User in respect of the Services assigned or novated in accordance with clause 15.4(c) and, if applicable, the relevant fee in respect of support services, and Spice New Media Ltd shall retain all such fees collected.
- (g) For the avoidance of doubt, upon the termination of this Agreement for whatever reason, Reseller shall not be entitled to any refund of the Fees or any part thereof.

16. Confidentiality

Spice New Media Ltd's performance under this Agreement, the quality of Spice New Media Ltd's service performance, and any data provided by Spice New Media Ltd to the Customer regarding performance of the Spice New Media Ltd Network shall be deemed Spice New Media Ltd Confidential Information under this Agreement. Neither party shall disclose the other party's Confidential Information to third parties without the other party's written consent, except as permitted pursuant to this clause 16. Each party shall disseminate the other party's Confidential Information among its employees and contractors only on a need-to-know basis, and shall use such Confidential Information only for the purpose of performing its obligations hereunder. To the extent a party is required by applicable law, regulation, or a government agency or court order, subpoena, or investigative demand, to disclose the existence or terms of this Agreement, or the other party's Confidential Information, such party shall use its reasonable efforts to minimize such disclosure and obtain an assurance that the recipient shall accord confidential treatment to such Confidential Information, and shall notify the other party contemporaneously of such disclosure. Either party may terminate this Agreement for cause upon ten (10) days' notice and without penalty in the event of any breach by the other party of this clause 16.

17. Intellectual Property Rights

- 17.1 Spice New Media Ltd shall remain the sole owner of and retain all right, title and interest in any service, technical information and all Intellectual Property Rights ("IPR") in the Spice New Media Ltd Technology. Any Spice New Media Ltd Technology will not be work for hire. In return for payment of all fees and charges, Spice New Media Ltd grants to Customer a non-exclusive, non-transferable, non-assignable license, during the term of the relevant Sales Order Form to use any IPR provided with the Service(s) purchased under that Sales Order Form. Spice New Media Ltd shall be free to provide similar IPR to other parties and shall retain the right to unrestricted use of any data, any and all related concepts, know-how, techniques or IPR either acquired or developed as a result of this Agreement.
- 17.2 Spice New Media Ltd may supply to the Customer, during the term of this Agreement, marketing and other material displaying a Spice New Media Ltd trademark™, registered trade mark® or other service mark (together "Trademarks"). Spice New Media Ltd hereby grants to the Customer a non-exclusive, non-transferable, non-assignable licence, during the term of the relevant Sales Order Form to use those Trademarks (in the agreed style) in the marketing and sale of the Services purchased under that Sales Order Form, and the Customer agrees to use such Trademarks solely in relation to those Services and pursuant to the terms of this Agreement. The Customer shall comply with the terms of Spice New Media Ltd's trade mark and logo guidelines in effect from time to time, as communicated by Spice New Media Ltd to the Customer. The Customer shall not remove, alter or obliterate any Trademark nor cause the same to be removed, altered or obliterated. The Customer agrees not to use the Trademarks in connection with any other products or services.

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17.3 The Customer acknowledges and agrees that it has, and will acquire no rights or interests in such Trademarks and will not attempt to acquire or assert such rights without the prior written consent of Spice New Media Ltd.

17.4 The Customer agrees to indemnify Spice New Media Ltd and keep Spice New Media Ltd fully and effectively indemnified against all losses, damages, claims, demands, costs and expenses of whatever nature (including reasonable legal fees and court costs) arising out of or in any way connected with the Customer's unauthorised or illegitimate use of the Trademarks.

18. Third Party Intellectual Property Claims

18.1 Spice New Media Ltd shall indemnify the Customer against any damages awarded against the Customer by a court of competent jurisdiction on an interim or final basis or any damages agreed to in settlement by Spice New Media Ltd as a result of a claim by a third party against the Customer that the use, in accordance with this Agreement, of the Services or any material provided by Spice New Media Ltd under this Agreement infringes the Intellectual Property Rights (other than patent rights) of that third party ("**Claim**"), provided that the Customer:

- (a) notifies Spice New Media Ltd in writing of the Claim promptly upon becoming aware of the Claim;
- (b) makes no admission of fault or liability or other prejudicial statement in relation to the Claim;
- (c) allows Spice New Media Ltd full control over the defence and settlement of the Claim; and
- (d) provides Spice New Media Ltd with all reasonable assistance and co-operation in relation to the defence and settlement of the Claim.

18.2 This indemnity does not apply to the extent the Claim arises out of any modification of any materials or Services provided by Spice New Media Ltd, relates to services or materials provided by a third party in conjunction with the Services, or is caused or contributed to by the Customer or an End User.

18.3 Where any person makes a Claim, Spice New Media Ltd may, at its discretion, modify or replace the Services or materials in response to the Claim. Such modifications or replacements will not cause material detriment to the Service Levels or functionality of the Service.

19. Indemnification by Customer

19.1 The Customer shall indemnify, defend and hold harmless Spice New Media Ltd, its officers, employees, subcontractors, representatives, landlords and/or mortgagees from and against any and all losses, damages, claims, demands, costs and expenses, including reasonable legal fees and court costs (including liability for infringement of a third party's intellectual property rights), personal injury, death or property damage caused by or arising from:

- (a) The content of any communication transmitted via a Service or maintained in connection with any Goods provided hereunder;
- (b) The acts or omissions of an End User or a third party including their respective employees or representatives, in connection with the Service(s) and/or Goods provided hereunder.

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20. Marketing

The Customer agrees that Spice New Media Ltd may refer to Customer and may briefly describe Customer's business in Spice New Media Ltd's marketing materials and on its website. Customer hereby grants Spice New Media Ltd a limited license, during the term of this Agreement, to use any of Customer's trade names and trade marks only for this purpose and only where directly related to the Services under this Agreement.

21. Ownership of Spice New Media Ltd Equipment

Unless otherwise agreed in writing, all Spice New Media Ltd Equipment will remain Spice New Media Ltd's property and will be returned to Spice New Media Ltd promptly on termination of this Agreement, or termination of the relevant Sales Order Form otherwise a fee (to be determined by Spice New Media Ltd) will apply and will be paid by Customer promptly on demand. The terms governing ownership of goods relating to a Service are set out in clause 9.

22. Forecasts

NOT USED

23. Relationship of Parties

The relationship between the Customer and Spice New Media Ltd is that of independent contractors and this Agreement does not establish any partnership, joint venture, employment, franchise or agency relationship between them. Neither party is an agent for the other, and neither party has any authority to make any contract, whether expressly or by implication, on behalf of the other party, without that party's prior written consent for express purposes connected with the performance of this Agreement.

24. Limitation of Liability

24.1 Except for the express provisions of this Agreement and to the maximum extent permitted by applicable law Spice New Media Ltd disclaims and excludes all warranties, terms and other conditions, including but not limited to any warranty, term or other condition of merchantability, satisfactory quality, fitness for a particular purpose or non-infringement, in every case whether implied by statute, common law, custom, collaterally or otherwise.

24.2 Neither party restricts its liability for:

- (a) death or personal injury caused by negligence;
- (b) fraudulent misrepresentation; or
- (c) any other liability which cannot be restricted by applicable law.

24.3 Subject to clause 24.2, in no event shall Spice New Media Ltd be liable to the Customer, whether in contract, tort (including negligence), pre-contract or other representations or otherwise for any loss of business, contracts, profits or anticipated savings, loss of or damage to goodwill or reputation, loss of or corruption to data, in each case whether direct or indirect, or for any indirect or consequential or economic loss whatsoever.

24.4 Subject to clause 24.2, Spice New Media Ltd's aggregate liability under or in connection with this Agreement, whether in contract, tort (including negligence), pre contract or other representations or otherwise, shall in no event exceed £100,000.

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24.5 If Spice New Media Ltd fails to meet any of Service Level as a result of any interruption or delay to the Service(s), then except as otherwise provided in this Agreement (including in the applicable Service Schedule), Spice New Media Ltd accepts liability to Customer, but limits its liability to the applicable service level rebates or credits (as set out in the relevant Service Schedule). Where there is no applicable service level rebate or credit, Spice New Media Ltd limits its liability to an amount equal to the Fees paid for the affected Services for the period of the interruption or delay (as determined by Spice New Media Ltd).

24.6 Each provision in this clause 24 shall be construed separately, applying and surviving even if for any reason one or other of these provisions is held inapplicable or unenforceable in any circumstances, and shall remain in force notwithstanding the termination of this Agreement.

25. Dispute Resolution

25.1 The parties shall endeavour to resolve any dispute or claim relating to this Agreement in accordance with this clause 25 in good faith. Each party must follow the procedures in this clause 25 before starting court proceedings (except for injunctive or declaratory relief).

25.2 If a dispute or claim arises between the parties that cannot be resolved promptly between the parties at an operational level, either party may notify the other party of a formal dispute (“**Dispute**”). Each party must nominate a senior executive to meet within seven (7) calendar days of the date of the notice (or another agreed period) to resolve the Dispute. If the senior executives are unable to resolve the Dispute within the earlier of (i) five working days from the date of first meeting to discuss the Dispute, and (ii) 14 days of service of the notice, either party may initiate court proceedings.

26. Assignment and Subcontracting

26.1 Subject to clause 26.2, neither party shall assign, subcontract or otherwise transfer its rights or obligations under this Agreement without the other party’s prior written consent which shall not be unreasonably conditioned, delayed or withheld; provided, that either party may assign this Agreement to an Affiliate upon prior written notice to the other party provided that such Affiliate has the material and financial standing to perform the obligations of the other party under this Agreement.

26.2 Spice New Media Ltd may subcontract the performance of any of its obligations under this Agreement without the prior written consent of the other party, but Spice New Media Ltd shall remain responsible for the performance of this Agreement notwithstanding any such subcontracting. Spice New Media Ltd may assign or novate this Agreement to any person purchasing all or substantially all the assets of Spice New Media Ltd to which this Agreement relates. Customer may assign or novate this agreement to any person purchasing all or substantially all of the assets of Customer to which this Agreement relates.

27. Force Majeure

27.1 Neither party is liable for not performing an obligation in whole or in part, or for not performing it on time (except an obligation to pay money), because of an event beyond that Party’s reasonable control, including but not limited to a breach or failure that was the result of an act of God, insurrection or civil disorder, riots, war or military operations, inclement weather, failure or shortage of power supplies, flood, drought, lightning or fire, national or local emergency, acts or omissions of government, highway authority or other government authority, compliance with any statutory obligation, industrial disputes of any kind or any other cause beyond that Party’s reasonable control (“Force Majeure Event”).

27.2 If a Force Majeure Event occurs, the party suffering the Force Majeure Event must:



- (a) give the other party notice of the Force Majeure Event promptly and an estimate of the non-performance and delay;
- (b) take reasonable steps to overcome the effects of the Force Majeure Event (but this does not require the settlement of industrial disputes or other claims on unreasonable terms); and
- (c) resume compliance as soon as practicable after the Force Majeure Event ends.

27.3 Either party may terminate this Agreement by immediate notice in writing if the other party is unable to perform its obligations in the circumstances described in clause 27.1 for a continuous period of more than forty five (45) calendar days.

28. Audit

If required to do so by judicial or regulatory authority or if this Agreement is terminated pursuant to clause 15.1 (a) then the Customer will permit Spice New Media Ltd or any third party qualified auditor appointed by Spice New Media Ltd on reasonable notice during normal business hours to examine and take copies of all End User information, records and documentation in the Customer's possession or under the Customer's control.

29. Waiver

A right created by this Agreement may only be waived in writing by the party granting the waiver, and no failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

30. No Third Party Rights

The Contracts (Rights of Third Parties) Act 1999 does not apply to this Agreement and no third party will have the benefit of or the right to enforce any term of this Agreement.

31. Headings

The titles and headings of the clauses and sub-clauses in this Agreement are for convenience only and are not intended for any other purpose whatsoever, or to explain, modify or place any construction upon or on any of this Agreement's provisions.

32. Notices

32.1 Any notices required to be given under the provisions of this Agreement shall be in writing and shall be deemed to have been duly served if hand delivered, or sent within the United Kingdom by first class registered or recorded delivery post or sent from outside the United Kingdom by registered airmail post correctly addressed to the relevant party's address as specified in this Agreement or at such other address as either party may designate from time to time in accordance with this clause.

32.2 Any notice pursuant to clause 33.1 and sent:

- (a) by hand is deemed to be received when delivered by posting through the letter box;
- (b) by post to an address in the UK is deemed to be received by the third Business Day after posting; and
- (c) by post to an address outside the country of posting is deemed to be received by the seventh Business Day after posting.

buzzbox

A Spice New Media Ltd Company.

Registered Address: 48b The Broadway | Darkes Lane | Potters Bar | Hertfordshire | EN6 2HW

Tel: 0330 122 2230 | www.buzzbox.cc | info@buzzbox.cc

Spice New Media Limited is a company registered in England and Wales. Company number 08321006.

33. Severability

If any clause or part of any clause is held by the court to be invalid or unenforceable, that clause or part of a clause is to be regarded as having been deleted from this Agreement and this Agreement otherwise remains in full force and effect.

34. Non-Solicitation

34.1 For the term of this Agreement and a period of one year thereafter neither Party shall, and shall procure that none of its Affiliates shall, entice or endeavour to entice away from either Party or employ, or make any offers of employment to, any person employed by either Party who is or was professionally associated with this Agreement at any time during the period of nine months prior to the termination of this Agreement, except as may be agreed between the parties. For the purposes of this clause 34, "employ" means the engagement of such a person as an employee, director, sub-contractor or independent contractor to carry out duties which are identical or substantially similar to the duties for which such person has been employed or engaged by either Party to carry out, and the terms "employed", "employment" and "employee" shall be construed accordingly.

34.2 The estimate of the impact that breach of clause 34.1 would have is herein specified as liquidated damages in the amount of one year's salary of any such employee at the date of leaving either Party's employment to join the other party. Each party accepts that this is a reasonable estimate of loss, and agrees to pay the same in the event of each and every breach by it of this clause 34. This provision is without prejudice to the right of each party to seek injunctive relief.

35. Entire Agreement

35.1 This Agreement (as amended from time to time) together with any related document expressly referred to in any of its terms, contains the entire agreement between the parties relating to the subject matter covered and supersedes any previous agreements, arrangements, undertakings or proposals, written or oral, between the parties in relation to such matters. No oral explanation or oral information given by any party shall alter the interpretation of this Agreement.

35.2 Each party confirms that, in agreeing to enter into this Agreement, it has not relied on any representation save insofar as the same has expressly in this Agreement been made a representation. Each party agrees that it shall have no remedy in respect of any misrepresentation which has not become a term of this Agreement; save that the agreement of the party contained in this clause 35 shall not apply in respect of any fraudulent misrepresentation whether or not such has become a term of this Agreement.

35.3 No addition to, or modification of, any provision of this Agreement shall be binding on the parties unless made in writing and signed by a duly authorised representative of each of the Parties. The parties hereto have executed this Agreement by their duly authorised representatives from the day, month and year written at the beginning of this document.

36. Governing Law

This Agreement shall be governed by and construed in accordance with English law and the parties hereby irrevocably submit to the exclusive jurisdiction of the English courts in respect of any dispute or matter arising out of or connected with this Agreement.

Schedule 1

End User Terms & Conditions

1. Installation and Maintenance

Where it is necessary for the Customer or its suppliers to effect installation and/or maintenance of a Service, equipment or Goods at the End User's site, the End User shall provide full access to such site and to its personnel, and any technical help reasonably required by the Customer or its suppliers for the installation and maintenance of the Service, Equipment or Goods.

The End User shall use any Customer or supplier Equipment and associated software in strict accordance with any instructions or software licence communicated or made available by the Customer or its suppliers from time to time, and the Customer and its suppliers will not be liable for any repairs whatsoever or howsoever arising other than as a result of normal and proper use in accordance with those instructions and software licences.

2. Insurance

2.1 The End User shall be responsible for insuring any Customer and/or supplier Equipment on the End User site against loss or damage from all risks, such insurance to be for an amount equal to the full replacement value of the Equipment.

2.2 The End User shall be responsible for insuring itself against all loss of or damage/corruption to data. In no event will Customer or its suppliers be liable for loss or damage/corruption to any data stored/transmitted on/using the Service or any Equipment or Goods.

3. Improper Use

Any network and/or Service supplied by the Customer or its suppliers may only be used by the End User for lawful purposes, and the End User agrees to be bound by the Spice New Media Ltd Acceptable Use Policy in relation to the use of the Service and any network.

The End User shall not (and shall not authorise or permit any other party to):

- (a) use the Service or any network supplied by the Customer or its suppliers for the transmission of any information, data or other material which is in violation of any law or regulation, or which is defamatory, menacing, obscene, in breach of any third party intellectual property right (including copyright) or in breach of trade secrets ("Prohibited Material");
- (b) use the Service or any network supplied by the Customer or its suppliers for the transmission of any material that contains software viruses or any other computer code, files or programs designed or intended to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- (c) use the Service or any network supplied by the Customer or its suppliers for mail-bombing or spamming (i.e the act of sending a large number of unsolicited e-mail messages within a short period of time to one or more individual e-mail accounts) or sending one unsolicited e-mail message to ten or more individual e-mail users, where the message could reasonably be expected to cause complaints from some of the recipients; or
- (d) attempting to gain unauthorised access to any account or computer resource not belonging to the End User, or attempt the unauthorised accessing, altering, interfering with, or destruction of any network, system, equipment or information by any means or device.



Any breach of this paragraph 3 shall be deemed to be a material breach of this Agreement and shall entitle the Customer to terminate this Agreement forthwith and for this purpose it shall be irrelevant whether the End User is aware of the content of any information, data or material so transmitted or not. The Customer may suspend the Service without notice with immediate effect if in the Customer's reasonable opinion the End User is in breach of this paragraph 3.

The End User acknowledges that the Customer and its suppliers are unable to exercise control over the content of the information, data and other material passing over any network and/or connections supplied by the Customer or its suppliers, and/or the Service, and the Customer and its suppliers hereby exclude all liability of any kind for the transmission or reception of Prohibited Material of whatever nature.

The End User hereby agrees to indemnify and hold the Customer and its suppliers harmless from and against any claim brought by a third party resulting from the use of any network and/or line supplied by the Customer or its suppliers, and/or the Service by the End User, including but not limited to infringement of any intellectual property right of any kind, and breach of any legislation or regulation, or otherwise arising out of or in connection with any Prohibited Material. The End User shall pay all costs, damages, awards, fees (including reasonable legal fees) and judgements awarded against the Customer and/or its suppliers arising from such claims, and shall provide the Customer and/or its suppliers with prompt notice of such claims, full authority to defend, compromise or settle such claims and all reasonable information, assistance and cooperation necessary to defend such claims, at the End User's sole expense. Such actions will be taken in consultation with the End User.

4. Spice New Media Ltd, Customer and End-User Contract

The End User understands that its service agreement is exclusively between itself and the Customer, that there is no privity of contract and therefore no contractual relationship between itself and Spice New Media Ltd, and that where Spice New Media Ltd acts it does so on behalf of the Customer.

Schedule 2

Customer 1st Line Support Schedule

Customer Support Process

- 1.1 The Customer can submit a request for second line support with Spice New Media Ltd's support team, following Spice New Media Ltd processes and procedures in effect from time to time ("**Customer Support Process**"). The Customer Support Process, as at the date of this Agreement, is described below.
- 1.2 Urgent problems can be placed by phone through Spice New Media Ltd's support team and will be prioritised by Spice New Media Ltd and redirected to the operations centre. All other problems must be placed via e-mail. Spice New Media Ltd's support team will generally handle all calls, but, if considered necessary by Spice New Media Ltd, the support team will escalate a call to other departments within Spice New Media Ltd.

The Spice New Media Ltd Technical Support Group can be contacted as follows by e-mail, or phone.

buzzbox

A Spice New Media Ltd Company.

Registered Address: 48b The Broadway | Darkes Lane | Potters Bar | Hertfordshire | EN6 2HW

Tel: 0330 122 2230 | www.buzzbox.cc | info@buzzbox.cc

Spice New Media Limited is a company registered in England and Wales. Company number 08321006.

Email Addresses:

Fault Type or Reason	Email Address
Ethernet Fault	support@buzzbox.cc
Broadband Fault	support@buzzbox.cc
Mobile Fault	support@buzzbox.cc
Information request	Account Manager or support@buzzbox.cc
Change to live service	support@buzzbox.cc

Incident Case Reference Number:

- 1.3 On receipt of each new incident report in accordance with the Customer Support Process, Spice New Media Ltd will allocate a unique “Case Reference Number” that will be input to the Spice New Media Ltd incident management system. The Customer and Spice New Media Ltd, at the time of making the incident report, will agree the priority level of the Incident in accordance with the table below and based on the impact on the End User. If the Customer and Spice New Media Ltd are unable to agree the priority level of the Incident, Spice New Media Ltd’s determination shall be final. Once opened, a case will remain open until the Incident has been resolved.

Incident Case Prioritisation:

- 1.4 All Customer calls to Spice New Media Ltd reporting incidents in connection with the WAN Services shall be assigned a priority level. Spice New Media Ltd will make remote support services available to the Customer within the hours of Service specified below:

Incident/Fault Restoration Targets:

1.5 Each Spice New Media Ltd Service has a table defining the resolution targets for any incidents/faults (“Target Resolution Time”), and any Service Credits that may be claimed for failure by Spice New Media Ltd to achieve such targets. The Target Resolution Time, and any associated Service Credits, are detailed in the relevant Service Schedules.

Severity	Examples	Priority Classification	Hours of Service
<p>Complete or partial failure of critical service(s):</p> <p>Total loss of connectivity</p>	<ul style="list-style-type: none"> • Network / Power Outage • Server failures or failed pings • Emergency maintenance • Prolonged network degradation including latency, packet loss, or off-network failures • Access problems with application, data, or other systems due to password or profile problems • Service failures including failures that prevent normal browsing of the web • Access protocols down (SMTP, FTP) • Reboots of hardware • The restoration or replacement of critical data from a backup system • Total loss of internet connectivity 	<p>1 - Urgent</p>	<p>09.00 – 17.00 Hrs UK time Monday – Friday Excluding UK public Holidays</p>

<p>Degraded service.</p> <p>Complete or partial failure of non-critical services or applications with minimal customer impact</p>	<ul style="list-style-type: none"> • Small number Circuit drops recorded in log • Intermittent Latency / Packet loss • Loss of connectivity to 3rd party ISPs • Slow mail delivery • Slow serving of web pages 	<p>2 - Medium</p>	<p>09.00-17.00 Hrs UK time Monday – Friday Excluding UK public Holidays</p>
<p>Identified issues with NO impact on End User services</p>	<ul style="list-style-type: none"> • Contact changes • Standard change requests • Other unsupported Customer requests 	<p>3 - Low</p>	<p>09.00-17.00 Hrs UK time Monday - Friday Excluding UK public holidays</p>
<p>No Actions Required: All non-service affecting change</p>	<ul style="list-style-type: none"> • Maintenance notification from customer 	<p>4 Other/Track</p>	<p>09.00-17.00 Hrs UK time Monday - Friday Excluding UK public</p>

Incident/Faults – Progress Updates:

1.6 Spice New Media Ltd shall provide the Customer with regular progress updates for all Incidents reported by the Customer and, in particular, shall provide progress reports for calls of Priority 1 Incidents no less frequently than once every four (4) hours and those of Priority 2 Incidents no less frequently once per day, or as otherwise agreed between Spice New Media Ltd and the Customer. This progress update target is provided on a reasonable endeavours basis. In the unlikely event of a major service outage (as determined by Spice New Media Ltd) the notification interval may be extended by Spice New Media Ltd, at its discretion.

1.7 Where the Customer wishes to get progress on an outstanding Case, it should either:

- (a) Call the Spice New Media Ltd Support Team, quoting the Case reference, or
- (b) Respond to one of the previous emails from Spice New Media Ltd Support regarding the Case.

Unsolicited emails into Support will create a new Case and may get overlooked or the response delayed. To avoid this, the Customer must use one of the methods listed above.

Incident/Faults – Resolution

1.8 An Incident is resolved when the Service is no longer affected and this may be by means of a temporary work-around until a permanent network solution is available.

Time-Keeping for Purposes of Incident Resolution:

1.9 Spice New Media Ltd will use its reasonable endeavours to acknowledge all Incidents within 30 minutes of receipt of notification in accordance with the Customer Support Process, provided that such notification is received within the applicable Hours of Service.

1.10 Clock hours are calculated as follows:

- (a) “Start Time” is the time that an Incident is initiated on the Spice New Media Ltd incident management system.
- (b) “Stop Time” is the time at which the status of the Incident becomes “Resolved”. The case may be kept open for monitoring after such time.
- (c) Parked Time is time during which Spice New Media Ltd is unable to progress the resolution of the

Incident for reasons beyond its reasonable control. “Parked Time” will be excluded from the gross elapsed time and therefore Clock hours will reflect the time for which Spice New Media Ltd is wholly responsible. Clock hours will run during the Hours of Service for the relevant Service, and the clock shall be suspended outside of those Hours of Service. The individual Service Schedules may provide specific details of Parked Time causes.

Escalation Process

1.11 In the event of a Priority 1 or Priority 2 Incident remaining unresolved for a period in excess of the relevant Target Resolution Time, the Customer shall be entitled to escalate the matter by telephoning the Spice New Media Ltd Technical Support as follows.

Spice New Media Ltd's Technical Support Centre Personnel	Hours after Incident Start Time
Case Owner	N/A
Operations Director	6 hours (measured during the applicable Hours of Service only) from the time the Incident is logged on Spice New Media Ltd's incident Management system

Chief Technical Officer	24 hours (measured during the applicable Hours of Service only) from the time the Incident is Spice New Media referred to Ltd's Operations Director (in accordance with this table).
Managing Director	36 hours (measured during the applicable Hours of Service only) from the time the Incident is Spice New Media referred to Ltd's Chief Technical Officer

Service Level Targets:

1.12 Each Spice New Media Ltd Service has a table defining the Service Level Targets and any Service Credits that may be claimed for breach of such. These are detailed in the relevant Service Schedules as they are product specific. Claims for service credits should be sent to billing@buzzbox.cc or Customer's Account Manager.

Maintenance:

2.1 General

Spice New Media Ltd may upon three (3) working days' notice or, in an emergency (as determined by Spice New Media Ltd), as much notice as is reasonably practical under the circumstances, perform scheduled or emergency maintenance (including temporary suspension of Service where Spice New Media Ltd considers this necessary) to maintain or modify the Network, Network Terminating Equipment or the Services and/or to prevent or resolve Incidents. Service suspensions for the purposes of scheduled or Emergency Network modification, or preventative maintenance, will not be counted as outage time for purposes of any Service Level.

2.2 Maintenance Window

The Maintenance Window is on Monday to Friday (inclusive) each week. Where maintenance will result in degradation of Service, Spice New Media Ltd shall use reasonable endeavours to conduct such maintenance between 19:00-08:00 Hours (UK time). Where maintenance will cause an interruption to services, Spice New Media Ltd shall use reasonable endeavours to conduct such maintenance between 20:00-06:00 Hours (UK time).

2.3 Scheduled Maintenance

It may be necessary from time to time for Spice New Media Ltd to schedule downtime for software updates or network enhancements. Unless stated otherwise in the individual Service Schedules, Spice New Media Ltd will use reasonable endeavours to give the Customer a minimum of three (3) Working Days advance notice of such events, and to schedule such events so as to cause minimum impact to the Customer. For the avoidance of doubt, the Customer acknowledges and agrees that it may not be practical to give such notice where downtime is necessary to deal with Incidents occurring in connection with the Service.

2.4 Emergency Maintenance

It may be necessary from time to time for Spice New Media Ltd to carry out emergency maintenance to the network in order to maintain appropriate levels of service quality, to resolve Incidents, or where there is a risk to the operation of the Service. For such events, the Customer acknowledges and agrees that it may not be practical for Spice New Media Ltd to provide the Customer with advanced notification.

2.5 Network Freeze

At the beginning of December in each year Spice New Media Ltd will announce dates of the Network Freeze. The Network Freeze is to allow for reduced engineering staff across the organisations themselves and those that support them. The direct effect is that orders for new services or changes to existing ones are effectively suspended for a period of time during December and January. This does not include scheduled or emergency maintenance.

Support services continue during this period along with any necessary triage work, although workarounds will be employed rather than any changes to core infrastructure as much as possible.