Broadgate

Hosted Terms & Conditions
Broadgate Voice and Data Effective from 31 January 2020

1. ABOUT US

1.1 Broadgate Voice and Data 08521765 (the "Company") is a company registered in England and Wales and our registered office is at 90 Paul Street, London, England, EC2A 4NE. Our main trading address is 90 Paul Street, London EC2A 4NE. Our VAT number is 203 8667 09. We operate the website https://broadgatevoice.co.uk/

1.2 To contact us telephone our customer service team at 02030789900 or e-mail sales@broadgatevoice.co.uk .How to give us formal notice of any matter under the Contract is set out in Clause 17.1.

1.3 We are authorised and regulated by Ofcom.

2. OUR CONTRACT WITH YOU

2.1 These terms and conditions (Terms) apply to any order made by the Customer and the supply of Services and Services Equipment by the Company to the Customer. They apply to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.2 The Contract is the entire agreement between you and us in relation to its subject matter. You acknowledge that you have not relied on any statement, promise or representation or assurance or warranty that is not set out in the Contract.

2.3 These Terms and the Contract are made only in the English language.

3. DEFINITIONS

3.1 In these Terms and Conditions in addition to the definitions in the General Conditions, the Mobile Terms, the Mobile Equipment Terms and the Broadband Terms the following terms and expression apply:

3.1.1 Broadband: an asymmetric or symmetric digital subscriber line (ADSL or SDSL).

3.1.2 Contract: the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions.

3.1.3 Commercial Schedule: the schedule appended to the Contract for Services and/or Supply of Goods

3.1.4 Customer: the person or firm who purchases Services and Services Equipment from the Company.

3.1.5 Customer Equipment: any telecommunications apparatus or system owned, controlled or housed by the Customer, excluding Service Equipment.

3.1.6 Customer's Premises: the Customer's premises the address of which is set out in the Commercial Schedule.

3.1.7 Early Termination Charges: the charges incurred by the Company on the early termination of the Contract calculated based on the contractual obligations due from the date of cancellation until the end of the term of the contract regardless of whether any equipment is installed.

3.1.8 Hosted Service: the IP Centrex Service, an internet portal account through which the Hosted Service can be controlled online, and any other services which the Customer requested from Company as specified in the Commercial Schedule (including supply, delivery and installation of Service Equipment, training and Broadband connectivity).

3.1.9 IP Centrex Service: the centrally hosted service for the provision of voice communications over IP networks.

3.1.10 Order Date: the date upon which the Company accepts an order made online at the Company's website.

3.1.11 Services: any services that the Company agrees to provide to the Customer

3.1.12 Service Activation: the first date upon which the provision of services from the Company to the Customer begins.

3.1.13 Service Equipment: equipment (including but not limited to any data collection and call routing devices, routers, switches, handsets and other telecommunications equipment) which the Company (or a third party on Company's behalf) may from time to time deliver to and / or install at the Customer's Premises for the purpose of providing the Hosted Service, as specified in the Commercial Schedule.

3.1.14 Software: the Hosted application software used by Company (or a third party on Company's behalf) to provide the IP Centrex Services.

4. THE SERVICE

4.1 The Company shall respond to any faults reported to it in writing in relation to the Hosted Service as soon as reasonably practicable during Company's normal working hours. The Company will use all reasonable endeavours to correct any faults within the Company's control. The Company will use all reasonable endeavours to ensure the security of the Hosted Service but will not be held liable for faults beyond its control, including where the Hosted Service is provided through a third-party network.

4.2 The Company will use reasonable endeavours to maintain constant access to the internet portal account. The Company shall not be liable for any losses caused by any restrictions in such access.

5. SOFTWARE

5.1 The Company grants the Customer a non-exclusive, non-transferable license to use the Software for the term of the Contract solely in connection with the use of the Hosted Service.

5.2 All intellectual property rights in the Software and the Hosted Service and any associated documentation made available to the Customer under the Contract shall remain the property of the Company or its licensors.

6. BROADBAND

6.1 In order to use the Hosted Service, it is the Customer's responsibility to procure at its own cost a Broadband connection, either through Company or through a supplier approved by Company.

6.2 Where Broadband is supplied by a third party, then Company does not assume any liability or responsibility for the third-party Broadband service.

6.3 The Customer acknowledges that the Hosted Service call quality will be dependent on the specification and availability of the Broadband service to which the Customer is connected and also on the IP or telecommunications network to which the person being called is connected.

6.4 Connectivity: Should a third-party internet/data connection be used for making and receiving calls on the Company's platform, no guarantees are accepted in any circumstances regarding the ability to connect for any call quality while using the service. Furthermore, the customers agree it is their sole responsibility to provide a suitable connection for the service provided by the Company. The Company reserves the right to increase and levy additional support maintenance charges for any Customer not using their connectivity where additional support is required.

7. IMPLEMENTATION

7.1 The Company or its appointed agent will deliver and install the Service Equipment at the Customer's Premises. The Company will use all reasonable endeavours to provide the Service Equipment by such date as it may have advised to the Customer. Any delivery date provided is an estimate only and the Company reserves the right to amend the delivery date. The Company accepts no liability for any delay in delivery however so caused.

7.2 Responsibility for the Service Equipment shall pass to the Customer on delivery to the Customer's Premises. The Customer will be liable for any loss or damage to the Service Equipment except where caused by the Company or anyone acting on Company's behalf. In these circumstances the Company's liability is limited to the cost of the Service Equipment.

7.3 Where the Customer is purchasing the Service Equipment from the Company the Service Equipment will at all times remain the property of Company until such time as the Customer has paid the Company for the Service Equipment in full.

7.4 Where the Service Equipment is supplied to the Customer by a third party on a hire or hire purchase basis, the Customer shall enter into, and observe and comply with the terms of, a separate hire or hire purchase agreement with that third party.

7.5 Unless or until title to the Service Equipment passes to the Customer, the Customer shall not;

7.5.1 add to, modify or in any way interfere with the Service Equipment, not allow anyone other than Company or Someone Authorised by Company to do so; or

7.5.2 move the Service Equipment from the Customer's Premises without the prior written consent of Company.

8. NUMBER PORTING

8.1 Where access to the Hosted Service is facilitated through BT number porting, the Customer authorises the Company (or someone authorised by Company) to obtain the relevant number from the BT lines listed in the Commercial Schedule (or as otherwise agreed between the Company and the Customer) to be routed by the Company (or someone authorised by Company) instead of BT and to forward appropriate details of the Customer's porting application for the Hosted Service to the Company (or someone authorised by Company). The Customer will receive advance notification of the change of service from BT to the Company (or someone authorised by Company). The Company's ability to provide the Hosted Service is subject to being provided with the relevant BT porting the number.

8.2 Upon signing an order to supply services the Customer will allow the Company, to act as proxy on their behalf with reference to all telephone numbers and services supplied to them.

8.3 In the case of analogue lines being utilised for facsimile machines, the standard service is not compatible, and an alternative e-fax service will be offered for numbers that are required to be ported to the Company. This may result in loss of service for a period of up to 15 days. The Company accepts no liability for loss of service in these circumstances.

8.4 The Customer shall pay to the Company an administration fee of £18.28 plus VAT per number ported. Any initial porting fee or cancellation fee will be borne by the customer. Any subsequent porting or resubmitting costs as a result of the previous provider cancelling the port are not the responsibility of the Company. The Company will invoice the Customer directly for any extra fees that arise as a result of the previous provider cancelling the port. The Customer agrees to be responsible for any extra fees incurred by the Company in

circumstances where the previous provider has cancelled the port.

8.5 The Company will only accept porting instructions from the individual named on the account. In the event of a dispute over the Customer's right to port, the original name on the account will be taken as ownership and the customer may be asked for proof of identity before any porting request is accepted.

9. **TERMS**

9.1 The Minimum Term of the Contract is 60 months.

9.2 Where the Customer amends the number of licences or upgrades or downgrades the type of licence, the term of the Contract commences as from the date of that amendment for a term of 60 months.

9.3 Where a promotional or plan benefit (such as an equipment upgrade, free month or discounted pricing of service, free installation, rebate, or other incentive) is provided to the Customer at no charge or at a specified discount based on the Customer retaining the Company's service for a specific length of time, then unless otherwise specified in the offer made by the Company to the Customer the specified period begins on the Order Date and the promotions applied will be added to the end of term. E.g., 3/6 months free, will be added to the end of the minimum term. Upon commencement of the Service to the Customer, the Company requires advance payment in full for the Services to be rendered during the Minimum Term and any setup charges.

9.4 This is a business-to-business Contract and there is no cooling off period for the equipment, licences and software supplied under this Contract. Customers switching fixed line and/or broadband services to the Company can cancel their contract for these services without charge prior to the completion of the transfer. Early Termination Charges will apply for any equipment, licenses or software cancelled after we deliver these to you, and you accept delivery. Payments will be collected, monthly in advance by direct debit. There will be a quarters deposit required at the start of the Contract. The Customer may cancel the Contract or the Service at any time but will be liable for Early Termination Charges. Such charges are calculated based on the contractual obligations due from the date of cancellation until the end of the term of the contract regardless of whether any equipment is installed.

9.5 For the avoidance of doubt, all of the Customers licenses will end on the last day of the Minimum Term of the final license added to the hosted phone system.

9.6 After the Minimum Term as set out in Clause 9.1, unless otherwise agreed by both parties in writing, the Contract shall automatically renew for successive terms of equal length as the Minimum Term unless terminated in accordance with Clause 16.6.2 or cancelled by the Company.

9.7 Where the Customer has 11 employees or less Clause 9.6 does not apply.

10. **USE OF THE SERVICE**

10.1 The Customer will ensure that the Customer Equipment is in proper working order and complies with all applicable standards and approvals for connection to the telecommunications network. The Customer will not do anything that may damage or affect the operation of the telecommunications network.

10.2 If the Hosted Service is to be used to carry alarm signals the Company will not accept responsibility for lack of Hosted Service or failure to deliver an alarm signal due to a) the network going down; b) suspension of the Customer's account or c) reasons outside Company's reasonable control including but not limited to any technical failure of the network; because the network is being tested, modified or maintained or if access to the network is denied.

10.3 The Company will have the right to recover all reasonable costs incurred in investigating or remedying any fault with the Hosted Service where it is caused by the Customer's negligence or default or by the Customer Equipment or where the fault does not lie with Company or any Service Equipment.

10.4 The Customer shall not sub-license, re-sell or offer in any manner to a third party, the Service or use of or access to the Hosted Service, whether for commercial gain or otherwise.

10.5 Where a Customer is terminating a telephone number (an A number);

10.5.1 the Customer shall ensure that such A Number is of a national significance format, is allocated to the Customer and that the Customer possesses all necessary permission in respect of the lines in question or that the Customer has written consent from the allocated owner for its use as an A Number and that such content has not been withdrawn.

10.5.2 the Customer shall ensure that at all relevant times such A Number is in use and shall notify the Company if at any time the A Number is not connected to a terminal or is not capable of receiving calls; and

10.5.3 the Company has the right to suspend/withdraw use of the service if it is subsequently found that the Customer is in breach of this paragraph 10 and the Customer hereby indemnifies the Company against any and all losses or claims arising howsoever as a result of any such breach.

10.6 The Customer acknowledges that the Hosted Service supports 999/112 public emergency calls but that connections to national emergency call handling agents may not be possible in the event of a service outage caused by loss of Customer's connectivity to the internet for whatever reason. In such circumstances Customer's should use their PSTN line to make the emergency call. It may on occasions not be possible for emergency services personnel to identify the Customer's location and telephone number so this information should be stated promptly and clearly by the Customers when making such a call.

10.7 The Company can change the conditions of this agreement including the charges and or duration at any time. The Company will give you at least two weeks' notice of any change to these conditions.

11. **CHARGES AND PAYMENT**

11.1 The Customer shall pay to the Company the Charges in respect of the Hosted Service as specified in the Commercial Schedule all time-based Charges in relation to the Hosted Service and shall be deemed to commence one day after the dispatch, by the Company or on the Company's behalf, of the Service Equipment to the Customer.

11.2 In addition, the Customer shall pay to the Company all charges relating to calls made through the Hosted Service as are set out in Company's Price List as in force from time to time.

11.3 The Company may increase the charges in request of the Hosted Service and/or the charges relating to calls made through the Hosted Service upon seven day's written notice to the Customer, in the event that any changes in applicable laws or regulations result in additional costs being incurred by the Company or incurred by any of the Company's suppliers and passed on to the Company.

11.4 Administrative Charges is applicable for recovering the cost or completion of any request or direction. The charges shall such be as may be listed in the "Admin Fee Schedule" and be modified from time to time. The fee typically starts from £50.

12. **LATE PAYMENT CHARGE AND DISHONORED CHEQUE OR DD INSTRUCTION FEE**

12.1 If the entire amount of payment due is not received by the payment due date, 3% of the overdue amount or £50.00, whichever is greater, will be charged as late payment fee.

12.2 In the event of a failed or cancelled direct debit, 1% of the overdue amount or £25.00, will be charged, whichever is greater. In the event of unauthorized overdue invoice extension into a new billing period, 0.5% of the overdue amount or £10.00, will be charged, whichever is greater, per day until paid.

13. **DISCLAIMERS**

13.1 Save for the warranties and conditions expressly set out in the Contract, the Company gives no warranty or condition regarding the Hosted Service and specifically the Company;

13.1.1 expressly disclaim all conditions and warranties of any kind, whether express or implied, including but not limited to the implied conditions and warranties of satisfactory quality, fitness for a particular purpose, reasonable care and skill and non-infringement; and

13.1.2 gives no condition or warranty that the Hosted Service will meet the Customer's requirements, will be uninterrupted or timely, will be secure or error free or the defects in the Hosted Service will be corrected.

14. **LIABILITY**

14.1 The Company's total liability to the Customer if the Hosted Service is not available for a continuous period of 24 hours or more in any one day and that unavailability is attributable entirely to the fault of Company. In such an event the Company's total liability will be limited to the sum of 5% of the charges relating to Hosted Services incurred in the average month for the previous quarter. Such liability will be paid as a credit against the next invoice.

14.2 The Company's aggregate liability to the Customer under or in connection with the Contract(whether in contract, tort or otherwise including any liability in negligence) in respect of all causes of action arising in a calendar year will not exceed 60% of the total Charges paid or payable by the Customer for the Hosted Service in such calendar year.

14.3 The Company's obligations and responsibilities under this Hosted Service Schedule are solely to the Customer and not to any third party and the Customer will indemnify the Company, its officers, employees and agents against any liabilities or costs arising from any and all claims by any third party in connection with the use of the Hosted Service or any defect in or failure of the Hosted Service.

14.4 In the event of any failure in the Hosted Service, the Company will not be liable to the Customer for any charges incurred by the Customer should the Customer direct its traffic to another service provider.

14.5 The Company shall not be liable for any losses whatsoever, including unavailability of Hosted Services, arising from use of Customer Equipment or any equipment other than the Service Equipment

14.6 The Company's liability for any malfunction of the Service Equipment which is in the Company's reasonable opinion attributable to a fault in the configuration work, shall be limited to the obligation to remedy the fault as soon as reasonably practicable.

14.7 The Company's liability for any malfunction of the Hosted Service which is in the Company's reasonable opinion attributable to the Service Equipment, shall be limited to the obligation to;

14.7.1 use reasonable endeavours to pass on the benefit of any manufacturer's warranty with respect to the Service Equipment; use reasonable endeavours, if so requested to obtain for the Customer,

replacement Service Equipment, provided that it will be entitled to recover from the Customer all costs it incurs in doing so, regardless as to the reason for the malfunction; and

14.7.2 if replacement equipment is purchased by the Customer, the Company shall procure that it is correctly configured without charges.

15. **SUSPENSION OF HOSTED SERVICE**

15.1 The Company may at its sole discretion suspend with immediate effect the provision of the Hosted Service until further notice without liability or compensation to the Customer on notifying the Customer either orally (confirming the same in writing) or in writing in the event that;

15.1.1 the Customer is in breach of any terms of this Hosted Service Schedule;

15.1.2 the Customer prevents or delays any prearranged maintenance from being carried out;

15.1.3 the Customer is suspected, in Company's reasonable opinion, of involvement with fraud or attempted fraud in connection with the use of the Hosted Service;

15.1.4 the Company is obliged to do so in order to comply with an order, instruction or request of any government, emergency service organisation or other competent authority.

15.1.5 If the Company suspends the Hosted Service, then the Customer will reimburse any costs and expenses reasonably incurred as a result of such suspension and/or the services being reinstated.

16. **TERMINATION**

16.1 Without limiting its other rights or remedies, the Company may terminate this Contract with immediate effect by giving written notice to the Customer if:

16.1.1 the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;

16.1.2 the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

16.1.3 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;

16.1.4 the Customer's financial position deteriorates to such an extent that in the Company's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

16.2 The Company reserves the right to suspend or discontinue the Services generally, or to terminate the Customers Service, at any time in its sole and absolute discretion.

16.3 Where the Company terminates the Contract for reasons as set out in Clauses 16.1.1 to 16.1.4 the Customer will be responsible for charges accrued at the date of termination, including a pro-rated portion of the final month's charges and the full month's charges to the end of the current term, including, without limitation, unbilled charges, plus the termination fee, if applicable, all of which will immediately become due and payable.

16.4 Where the Customer fails to terminate the Contract in accordance with Clause 16.6.2 the contract will continue beyond the Minimum Term for a further 24 months.

16.5 Where the Customer attempts to disconnect Services before the end of Minimum Term the Customer will be responsible for all the charges for the current term that are applicable, including unbilled charges and Early Termination Charges.

16.6 Alternatively, this Contract may be terminated:

16.6.1 by the Company, without cause, by giving the Customer 30 days' prior written notice;

16.6.2 by the Customer giving the Company 90 days' written notice, such notice to end on the last day of the Minimum Term of the final licence;

16.6.3 by the Company in the event of non-payment by the Customer; and

16.6.4 by the Company at any time, without notice, if, in Company's sole judgment, the Customer is in violation of any terms or conditions of the Company's Usage Policy.

16.7 On termination of the Contract (however occurring):

16.7.1 the License granted under clause 5.1 will terminate with immediate effect;

16.7.2 the Customer will allow the Company or any third party authorised by the Company prompt access to the Customer's Premises to remove any Service Equipment;

16.7.3 any consequential reprogramming of the Customer Equipment will be the Customer's responsibility and at the Customer's cost.

16.7.4 A £39.16 one off charge for each ceased broadband circuit will be applied. This charge is applied when a broadband circuit is ceased and not transferred to another ISP using a MAC key.

17. **NOTICE**

17.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be:

17.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at 90 Paul Street, London EC2A 4NE; or

17.1.2 sent by email to the address [billing@broadgatevoice.co.uk]

17.2 Any notice shall be deemed to have been received:

17.2.1 if delivered by hand, on signature of a delivery receipt; and

17.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; and

17.2.3 if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume.

17.3 In this Clause 17 business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

17.4 This Clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

17.5 All notices to the Customer shall be delivered to its mailing address or its email address as provided on the Order.

17.6 The parties may change their respective address by notice in writing to the other party.

18. **LEGAL FEES**

18.1 The Customer will be responsible for all legal costs incurred by the Company for any action the Company or the Customer may take in connection with the enforcement or breach of this Contract and the services provided by the Company.

19. **ASSIGNMENT AND OTHER DEALINGS**

19.1 The Company may at any time assign, transfer mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

19.2 The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.

20. **ENTIRE AGREEMENT**

20.1 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

20.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this Contract.

21. **GOVERNING LAW**

21.1 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

22. **JURISDICTION**

22.1 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.