



General Terms and Conditions

Millgate Limited
7 Vantage Drive
Sheffield
S9 1RG

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These terms and conditions relate to all products and services provided by Millgate (either Millgate Connect or Millgate Limited).

1 Introduction

1.1 Millgate will provide the Services to the Customer on the terms and conditions set out in:

- 1.1.1 General Terms and Conditions;
- 1.1.2 applicable Service Specific Terms; and
- 1.1.3 applicable sales Order.

By accepting an Order, the Customer acknowledges that they have read and understood these documents and the obligations contained therein.

1.2 Unless other terms and conditions are expressly agreed in writing by Millgate by means of a specific written amendment signed by a director of Millgate, the supply of Equipment and the provision of Services will be on the terms and conditions as detailed within clause 1.1 to the exclusion of any other terms and conditions whether or not the same are endorsed upon, delivered with or referred to in any purchase order or other document delivered or sent by the Customer to Millgate.

1.3 The headings in these General Terms and Conditions are for ease of reference only and shall not affect its construction.

1.4 References in these General Terms and Conditions to any statute or statutory instrument shall include any re-enactment, modifications or amendments thereto for the time being in force.

1.5 References to clauses, sub-clauses, paragraphs and schedules refer, unless otherwise stated, to clauses and sub-clauses of, and schedules to, these General Terms and Conditions, and paragraphs to the schedules as applicable.

1.6 A Sales Order and the applicable Service Specific Terms form part of these General Terms and Conditions and shall have the effect as if set out in full in the body of these General Terms and Conditions and any reference to the Agreement includes the Order(s) and Service Specific Terms.

1.7 Unless the context otherwise requires, singular shall include the plural and vice versa.

2 Precedence

2.1 In the event that there is any conflict between the provisions of the Agreement the following details the descending order of precedence and which terms shall be deemed to prevail:

- a) General Terms and Conditions
- b) Service Specific Terms
- c) Operations Guide
- d) Sales Order

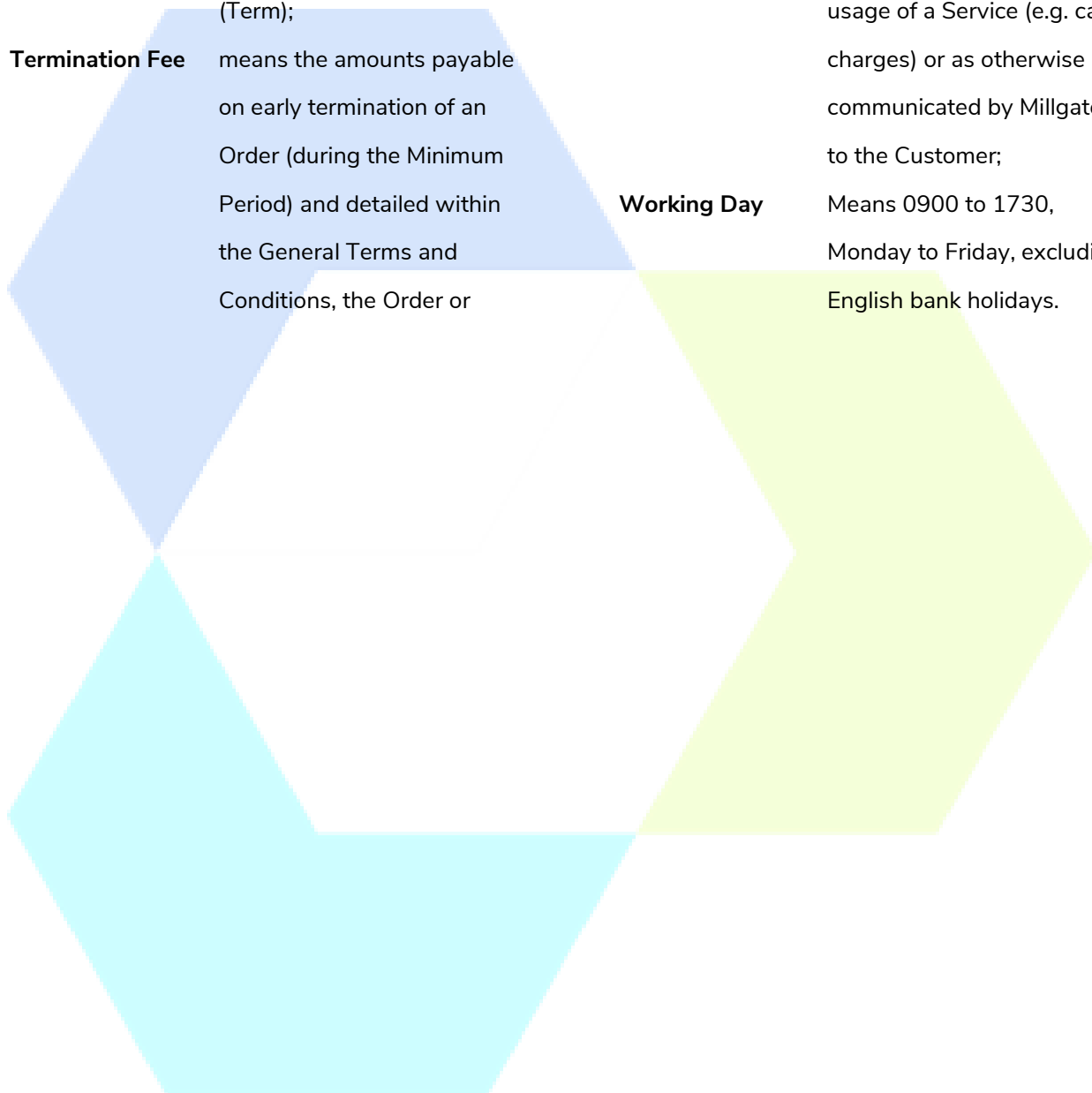
3 Definitions

3.1 These definitions apply to the Mobile Voice and Data Services Sales Order (Direct Distribution) and these Service Specific Terms:

Act	means the Communications Act 2003 and any statutory modification or re-enactment of it;	Bribery Act	(without limitation) the Bribery Act;
Affiliates	means any legal entity controlling, controlled by, or under common control with a party, and “Affiliated” shall be construed accordingly;	AUP	means the current Millgate acceptable use policy, as made available from Millgate from time to time;
Agreement	means these General Terms and Conditions, the applicable Service Specific Terms and associated Sales Order;	Charges	means the Charges for the Services as detailed in an applicable Order or on the Millgate website or as otherwise notified by Millgate to the Customer in writing or detailed within the Agreement;
Anti-Bribery Laws	means any and all statutes, statutory instruments, bylaws, orders, directives, treaties, decrees and laws which relate to the anti-bribery and/or anti-corruption, including	Commencement Date	means the date with which an Order shall be deemed to come into effect as detailed within each applicable Order;

Commissioning	Means enabling a Service or Equipment for use by the Customer;	End Users	regularly scheduled maintenance windows; means the Customer end users of the Services and “Users” shall be construed accordingly;
Content	means data, information (including information made available by means of an HTML “hyperlink”, third party posting or similar means), video, graphics, sound, music, photographs, software or any other materials (in whatever form) made available, displayed or transmitted in connection with a Service including all IPR contained in it, as well as the contents of any bulletin boards or chat forums, and all upgrades, updates, modifications and other versions.	Equipment	means equipment purchased by the Customer, and provided by or on behalf of Millgate to the Customer in connection with this Agreement;
Customer	means the company identified within the applicable Order, and “you” or “your” shall be construed accordingly;	Intellectual Property	means any patent, copyright, registered design, trade mark and any other industrial or intellectual property right in respect of the Services;
Due Date	means 30 days from receipt of any invoice properly made under this Agreement or any applicable Order or such other date as specified within an Order;	Millgate Connect	means Millgate Connect Limited (08222474), 7 Vantage Drive, Tinsley, Sheffield, South Yorkshire, S9 1RJ, and “we” and “our” and “Millgate” shall be construed accordingly;
Emergency Maintenance	means maintenance performed outside of	Millgate Limited	Means Millgate Limited (03229619), 7 Vantage Drive, Tinsley, Sheffield, South Yorkshire, S9 1RJ, and “we” and “our” and “Millgate” shall be construed accordingly;

Minimum Period	means a period of 24 months (or such other duration as is stated within an applicable Order) from the Order Commencement Date;	Recurring Charges	Services, accepted by Millgate; Means any recurring charges as detailed within an Order or the Service Specific Terms or as otherwise communicated by Millgate to the Customer;
Month	means a calendar month;	Risk	means the risk of loss or damage or theft;
Network	means the relevant Network Operator's communications network as may be identified within the applicable Order;	Service(s)	means the services provided by Millgate to the Customer under the terms of the Agreement;
Network Operator	means the relevant operator of a communications network;	Service Levels	means a service level relating to the performance of the Service(s) as detailed within an Order or the Service Specific Terms;
Non-Recurring Charges	Means one off Charges detailed within an Order or the Service Specific Terms or as otherwise communicated by Millgate to the Customer;	Service Provider	Means an organisation who provides access to the Network on behalf of the Network Operator;
Notice	Means a notice given in accordance with the provisions of clause 23 (Notices) and "Notify" shall be construed accordingly;	Service Specific Terms	means the service specific terms in relation to a particular service, which are either available at https://millgate.co.uk/ or will be provided to the Customer on request;
Operations Guide	means the operations guide issued by Millgate or the relevant Network Operator or Service Provider to the Customer from time to time;	Site	means a Customer location at which Services are to be performed or delivered as
Order	means an applicable sales order for the provision of		



Term	agreed between the parties from time to time; means the duration of this Agreement and Order as defined within clause 4 (Term);	Title	applicable Service Specific Terms;
Termination Fee	means the amounts payable on early termination of an Order (during the Minimum Period) and detailed within the General Terms and Conditions, the Order or	Usage Charges	Means Charges relating to usage of a Service (e.g. call charges) or as otherwise communicated by Millgate to the Customer;
		Working Day	Means 0900 to 1730, Monday to Friday, excluding English bank holidays.

4 Term

- 4.1 These General Terms and Conditions and the Service Specific Terms shall be deemed to apply to all Orders from the Order Commencement Date.
- 4.2 Each Order shall be deemed to come into effect on the applicable Order Commencement Date as detailed within each Order and shall continue in full force and effect for the Minimum Period, except and to the extent the Order is terminated in accordance with the provisions of clause 14 (Termination).
- 4.3 Unless otherwise stated in an applicable Order, the parties shall meet to discuss no later than 3 months prior to the expiry of any Minimum Period an extension to the applicable Minimum Period. In the event that the parties do not meet and agree an extension to the Minimum Period then the applicable Order shall be deemed to move to a rolling 3 (three) month term and the provisions of clause 14 shall apply.
- 4.4 Termination or expiry of an applicable Order shall not be deemed to terminate any other Orders currently valid and in force.rm

5 Orders

- 5.1 The Customer shall be entitled to place with Millgate an Order for any Services identified by Millgate from time to time.
- 5.2 Millgate may accept or reject any Order placed under this Agreement. The Customer may not revoke an Order once it has been accepted by Millgate in accordance with clause 5.3.
- 5.3 No Order will be deemed to be accepted by Millgate or convey any obligation on Millgate to deliver Services, until such applicable Order has been signed by a duly authorised representative of Millgate or Millgate has otherwise notified the Customer in writing that the Order has been accepted.
- 5.4 All Orders are subject to survey or post acceptance review. If additional work is required, including ducting, poles, excessive construction work, or Millgate has to expend additional time providing the service, additional Charges may apply. These Charges will be advised to the Customer following completion of the survey and Millgate will obtain the Customer's agreement to these additional Charges before proceeding with the Order.
- 5.5 Where the Customer does not agree to the additional Charges as detailed in clause 5.4 above, then Millgate may cancel the Order for the affected Service without any liability for either party.
- 5.6 Millgate may accept instructions from a person who Millgate reasonably believes is acting with the Customer's authority.
- 5.7 All dates included within an Order are targets and Millgate will use reasonable endeavours to achieve them.
- 5.8 All Orders are subject to the provisions of the applicable Service Specific Terms.

6 Use of Service

- 6.1 Millgate are providing the Services solely to the Customer and not to any third-party end user. The Customer may use the Service for the Customer's own business purposes, provided that the Customer:
- a) complies with, and ensures that any User complies with, the terms of any applicable legislation and any licence applicable to the Customer;
 - b) shall remain responsible for:
 - (i) access and use of the Service by Users;
 - (ii) all Charges incurred in connection with the Services; and
 - (iii) compliance with this Agreement by the Customer and Users;
- 6.2 **Acceptable Use Policy.** The Customer is responsible for its content and that of any of its Users (including any Content hosted by the Customer or any User on behalf of third parties). The Customer acknowledges that it has read and agrees to be bound by and to ensure that any Users will comply with this Acceptable Use Policy ("AUP") and the acceptable use policies of any connected networks and generally accepted standards.
- 6.3 The Service must not be used:
- a) fraudulently or in connection with a criminal offense under the laws of any country where the Service is provided;
 - b) to send, receive, upload, download, use or re-use any information or material which is offensive, abusive, indecent, defamatory, obscene or menacing, or in breach of confidence, copyright, privacy or any other rights;
 - c) in contravention of any instructions that Millgate has given under the Agreement;
 - d) to cause annoyance, inconvenience or needless anxiety;
 - e) to send or provide or receive unsolicited advertising or promotional material.
- 6.4 If the Customer or anyone else, (with or without the Customer's knowledge or approval) uses the Service in contravention of the AUP; or uses the Service in any way which, is, or is likely to be, detrimental to the provision of the Service to the Customer or any other customer and fails to take corrective action within a reasonable period of receiving notice from Millgate, then Millgate may deem this a material breach of the Agreement.
- 6.5 Where the Service enables access to the Internet, the Internet is independent of the Service and use of the Internet is solely at the Customer's risk and subject to all applicable laws.
- 6.6 The Customer must not use a URL which infringes the rights of any person in a corresponding trademark or name.
- 6.7 Except for IP addresses expressly registered in the Customer's name, all IP addresses, Millgate based domain names and telephone numbers made available with the Service shall at all times remain the

property of Millgate or its suppliers and shall be non-transferable. All the Customer's rights to use such IP addresses, domain names or telephone numbers will cease on termination or expiration of the Service.

7 Equipment

- 7.1 If Millgate provides the Customer with any Equipment, the Equipment shall remain the property of Millgate until Title in such Equipment has passed in accordance with the provisions of clause 8 (Risk & Title).
- 7.2 Until ownership of the Equipment has passed to the Customer, the Customer must:
- a) hold the Equipment on a fiduciary basis as Millgate's bailee;
 - b) store the Equipment (at no cost Millgate); separately from all other goods of the Customer or any third party;
 - c) not deal with, modify or interfere with the Equipment or remove or alter any identification mark on the Equipment showing that it is owned by Millgate or a third party and shall not let any other third party have rights over the Equipment;
 - d) notify Millgate immediately of any loss of or damage to the Equipment and the Customer shall be liable to Millgate for any such loss or damage while it is in the Customer's custody except where it can be shown that Millgate or, where applicable, a third-party owner of the Equipment was responsible for such loss or damage;
 - e) permit Millgate to inspect or test the Equipment remotely and/or shall provide access to the Site(s) for such purposes in accordance with clause 7.4 below.
- 7.3 The Customer shall notify Millgate as soon as is reasonably possible in respect of any defect in the Equipment, and in any event within 14 days of delivery of the Equipment, and the provisions of clause 10 (Warranty) shall apply.
- 7.4 The Customer grants to Millgate, its agents and employees an irrevocable licence at any reasonable time to enter any premises where the Equipment is or may be stored in order to inspect, or, where the Customer's right to possession has terminated, to recover the Equipment in which title has not passed.

8 Risk & Title

- 8.1 Risk in any Equipment, supplied by Millgate to the Customer, shall pass to the Customer on delivery.
- 8.2 Title in any Equipment purchased by the Customer from Millgate, shall only pass to the Customer when the Millgate has received in full, in cleared funds, all such sums due in respect of the applicable Equipment.
- 8.3 The Equipment will be deemed to be delivered to the Customer either when the Customer collects the

Equipment from Millgate or where the Equipment is delivered to the Customers registered address, or such other address as detailed on the Order.

9 WEEE Regulations

- 9.1 The Customer and Millgate acknowledge that for the purposes of Regulation 9 of the Waste Electrical and Electronic Equipment Regulations 2006 ("the WEEE Regulations") this clause 9 is an agreement that the parties have made alternative arrangements for the collection, treatment, recovery, recycling and environmentally sound disposal of Equipment that has become waste electrical and electronic equipment "WEEE".
- 9.2 The Customer is responsible under this Agreement for the costs of collection, treatment, recovery, recycling and environmentally sound disposal of any WEEE.
- 9.3 The Customer is responsible for any information recording or reporting obligations imposed by the WEEE Regulations.
- 9.4 The Customer will indemnify Millgate against any claims or legal proceedings that are brought or threatened against Millgate in relation to an act or omission of the Customer in relation to the Customers non-compliance with the WEEE Regulations.

10 Warranty

- 10.1 The Customer acknowledges that Millgate is not the manufacturer of the Equipment, and accordingly, if any Equipment is proved to the reasonable satisfaction of Millgate to be defective in material or workmanship and the Equipment is returned to Millgate within 14 days of its delivery, then at Millgate's sole option, it will:
- a) Repair the Equipment; or
 - b) Replace the Equipment; or
 - c) Substitute substantially equivalent goods; or
 - d) Credit the Customer in respect of any such Equipment.
- 10.2 Where Millgate replaces Equipment or provides substitute goods, the original Equipment returned by the Customer will belong to Millgate.
- 10.3 The obligations in respect of Warranty contained within this clause 10 (Warranty), shall not apply to the extent that:
- a) The Equipment has been altered in any way whatsoever or has been subjected to misuse or unauthorised repair; or

- b) The Equipment has been improperly installed or connected (unless Millgate (or its third party) carried out such installation and connection); or
- c) The Customer has failed to observe any reasonable maintenance requirements relating to the Equipment; or
- d) The Equipment has been expressly sold on a “no warranty” basis.

10.4 Save as provided in this Agreement, Millgate hereby excludes all conditions, warranties and stipulations express or implied, statutory, customary or otherwise to the extent allowable at law, including fitness for a particular purpose.

11 Charges and Payment

11.1 The Customer shall pay all Charges for Services which (where applicable) will be calculated in accordance with the applicable Order or Service Specific Terms, by the Due Date.

11.2 Where applicable, Millgate may set-off any amounts it owes to the Customer against any amounts owed by the Customer to Millgate under the Agreement.

11.3 In the event that payment is not made by the Due Date, then Millgate may, at its sole discretion, apply interest to the applicable outstanding sums, of 4% above the base rate of the Bank of England from time to time in force, calculated on a daily basis from the Due Date, until payment is received.

11.4 Charging will begin on the Commencement Date or as otherwise as set out in the applicable Order.

- a) For the purpose of calculating a Charge payable for any period:
- b) each period will begin on the first day of the relevant Month; and
- c) for any period where Service is provided for less than one Month, the recurring Charges will be pro rata on a daily basis.

11.5 Unless otherwise agreed, or expressly stated in the Order, Millgate will invoice the Charges in pounds (£) sterling as follows (except as specified within an Order or Service Specific Terms:

- a) Non-Recurring Charges will be invoiced on signature of the Order;
- b) Recurring Charges will be invoiced Monthly in advance;
- c) Usage Charges will be invoiced monthly in arrears, calculated in accordance with the Order during the Minimum Period and subsequently at the Millgate then prevailing rates.

Other Charges (e.g. Termination Fees) will be invoiced in accordance with the Order or the Service Specific Terms.

11.6 Millgate reserves the right to apply additional Charges to the Customer for:

- a) investigating Customer reported incidents where Millgate finds no incident or that the incident is not

the responsibility of Millgate; or

b) restoring Service if the Service has been suspended.

11.7 In the event that the parties do not agree an extension in respect of an applicable Order in accordance with the provisions of clause 4.3, then Millgate may apply their then current rates for the Services in respect of any rolling extension period.

11.8 Millgate shall be entitled to increase any Charges any increase in charges levied on Millgate by a Service Provider, including but not limited to an increase based upon the increase in the retail price index.

11.9 Charges are detailed exclusive of all applicable taxes (including but not limited to value-added, sales, use and excise taxes), customs duties, and regulatory and other fees or surcharges (together "Taxes"), relating to the provision of Services.

11.10 The Customer is liable for all such Taxes including those paid or payable by Millgate that under applicable law are permitted to be passed on by Millgate to the Customer.

11.11 In the event that payment of any amount of the Charges becomes subject to withholding tax, deduction, levy or similar payment obligation on sums due to Millgate, the Customer will indemnify Millgate for such additional amounts as are necessary in order that the net amounts received by Millgate after all deductions and withholdings shall be not less than what would have been received in the absence of any such requirement to make such deduction or withholding.

11.12 In the event that the Customer disputes an invoice, acting reasonably and in good faith, the Customer will promptly, but in no event later than fourteen (14) days from the date of invoice, Notify Millgate in writing of such disputed invoice, together with all information relevant to the dispute.

11.13 The Customer must pay all undisputed amounts in accordance with clause 11.1 unless the disputed amount is less than 5% of the total invoice amount in which case the total invoice amount shall be due and payable by the Due Date.

11.14 The parties shall endeavour to resolve any disputes in good faith and as soon as is reasonably practical, and any resolved amounts will be payable within fourteen (7) Working Days after resolution, following which interest may be applied in accordance with the principles of clause 11.13 above.

11.15 Failure to pay an invoice (other than those amounts subject to a bona fide dispute in accordance with clause 11.12 above) by the Customer, may be treated as a material breach under the provisions of clause 14 (Termination).

11.16 For the avoidance of doubt, disputes shall be resolved in accordance with the provisions of clause 22 (Dispute Resolution).

11.17 In the event of non payment by the Due Date, Millgate reserves the right to:

a) restrict, suspend or terminate provision of the relevant Service and Millgate shall be released from its

obligations under this Agreement with respect to such Service until any balance due is paid; and

- b) recover any Equipment (in which Title has not passed in accordance with the provisions of clause 8 (Risk & Title); and the Customer shall indemnify Millgate in respect of any such recovery Charges as may be specified in the applicable Order or as otherwise notified by Millgate to the Customer.

11.18 Where Millgate suspends Service, the Customer will remain liable for payment of any applicable Charges during such period of suspension.

11.19 The Customer will not withhold payment due under an invoice for failure by Millgate to include the Customer references on the invoice.

11.20 The Customer acknowledges that the Customer may be subject to Millgate's credit vetting procedures and that Millgate may, at any time, require the Customer to pay a deposit or provide a guarantee as security for payment of future bills

11.21 Any delay by Millgate in invoicing any Charges shall not prohibit Millgate from raising an invoice at a later date in respect of the same nor shall it relieve the Customer of liability to pay the Charges.

11.22 The Customer may be required to pay a fee of £20.00 per incident for any cancelled, dishonoured or failed Direct Debits or cheques.

11.23 The Customer authorises Millgate 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 Due Date.

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

11.25 Millgate may increase the Charges, once in any 12 month period, in accordance with the applicable increase in the retail price index.

11.26 The provisions of clause 11 (Charges and Payment) are without prejudice to any rights of termination detailed within clause 14 (Termination).

12 Millgate Obligations

12.1 In consideration of the payment of the Charges by the Customer, Millgate will provide the Services as described within the applicable Order for the duration of the Order, except where such Order is terminated in accordance with the provisions of clause 14 (Termination).

12.2 Millgate will provide the contact details (either e- mail, telephone or fax, as appropriate) of designated contact points, which will be the Customer's contact points for placing orders, reporting incidents (faults) and making inquiries relating to the Service.

12.3 Millgate will use reasonable endeavours to meet any dates or Service Levels but, unless otherwise

expressly agreed within an Order or the Service Specific Terms, all timescales are targets only.

- 12.4 Millgate will comply with all reasonable health and safety rules and regulations and security requirements that apply at a Site that have been notified to Millgate in writing.
- 12.5 Millgate shall not be liable for any delay or impact to the Services arising out of Millgate's compliance with the provisions of clause 12.4 above.
- 12.6 Subject to providing such notice as is reasonably practicable in the circumstances, Millgate may (or as applicable the Network Operator or Service Provider may):
- a) in addition to any maintenance performed during regularly scheduled maintenance windows, carry out Emergency Maintenance from time to time.
 - b) suspend a Service in an event of emergency and/or to safeguard the integrity and security of the Network and/or repair or enhance the performance of the Network, or where required to do so on order, instruction or request of Government, a Service Provider, an emergency services organisation, a court of law, tribunal or other competent administrative or regulatory body, including but not limited to OFCOM;
 - c) for operational reasons, change the technical specification of the Service, provided that any such change does not materially decrease or impair performance of the Service; or
 - d) provide an alternative, equivalent service, where it becomes necessary to do so.
- 12.7 Millgate will take reasonable precautions to prevent any unauthorised access by third parties to any part of the Network used to provide Services to the Customer, but shall not be liable for any loss or damage sustained by the Customer in the event of any unauthorised access.
- 12.8 For the avoidance of doubt Millgate shall not be liable whether in contract, tort or otherwise, for any failure in the Services or loss suffered by the Customer, arising from the act or omission of the Customer, Service Provider, Network Operator or any other third party.

13 Customer Obligations

- 13.1 The Customer is responsible for ensuring that all preparatory work, information, items or consents required in order to receive the Services are completed, made available or obtained at the Customer's own cost in sufficient time to allow Millgate to complete its work and deliver the relevant Services.
- 13.2 If Millgate must change Service due to incomplete or inaccurate information provided by the Customer, Millgate may, in its reasonable discretion, apply additional one-time and/or recurring Charges.
- 13.3 The Customer will comply with Millgate's reasonable requests that are necessary for reasons of health and safety, environment, sustainability, security or quality or performance of any Services.
- 13.4 The Customer will, upon reasonable notice from Millgate, allow Millgate and Millgate parties access to the Sites as may be reasonably necessary for the performance by Millgate of its obligations under this

Agreement, including the installation or maintenance of Equipment and the recovery or removal of any Equipment in accordance with the terms of the Agreement.

13.5 If Millgate (or Millgate third parties) is required to install any Equipment or Services a Site, the Customer will, prior to installation and at its own expense:

- a) obtain all necessary consents, including consents for any necessary alterations to buildings and any consents required for the installation and use of any Equipment or the Services over the Customer's network or at the Customer's Site;
- b) permit access to Millgate and any Millgate third parties to the relevant Site as may be required by Millgate to install the Equipment or Services;
- c) provide a suitable and safe working environment, including all necessary trunking, conduits and cable trays, in accordance with the relevant installation standards;
- d) provide any electricity and telecommunication connection points required by Millgate;
- e) provide any openings in buildings required to connect such Equipment or Services to appropriate telecommunications facilities;
- f) provide internal cabling between the Equipment and any Customer equipment, as appropriate;
- g) take up or remove any fitted or fixed floor coverings, ceiling tiles and partition covers in time to allow Millgate to undertake any necessary installation or maintenance Services and carry out afterwards any work that may be required to make good any cosmetic damage caused during the installation or maintenance Services; and
- h) ensure that any floor loading limits will not be exceeded.

13.6 If the Customer delays or fails to perform its obligations under this 13 (Customer Obligations), then at Millgate's option, Millgate may:

- a) change the delivery date or cancel the relevant Order(s) and charge the Customer for any applicable Termination Fees; or
- b) invoice the Customer for any reasonable Charges incurred for any work that is performed by Millgate on behalf of the Customer and that is directly attributable to the Customer's failure to perform.

13.7 The Customer agrees not to contravene the General Conditions, or any other relevant regulations or licences granted thereunder and otherwise not to contravene, and not by any act or omission or use of the Services, cause Millgate or the Service Provider to contravene, any Relevant Laws or General Conditions.

13.8 The Customer will:

- a) comply with the Operations Guide, and any other operational instructions or requirements issued by

Millgate or the Servicer Provider from time to time. Millgate or the Servicer Provider shall be entitled to amend the relevant Operations Guide from time to time by written notice to the Customer; and

- b) adhere to any security procedures and rules which may be published or issued by the Servicer Provider or Millgate from time to time.

14 Termination

14.1 Without prejudice to any other rights that may be available at any time, each party shall have the right, by giving at any time written notice to the other party, to terminate this Agreement immediately if:

- a) the other party commits a material breach of a term of this Agreement that is incapable of remedy; or that, if capable of remedy, the other party fails to remedy within five (5) Working Days of a written notice to do so;
- b) the other party at any time has a court order made or resolution passed for winding it up or a petition is presented for an administration order to be made in relation to it or is otherwise insolvent or unable to pay its debts as they fall due; or
- c) a supervisor, receiver, administrator, administrative receiver or other encumbrancer takes possession of or is appointed over, or any distress, execution or other process is levied or enforced upon the whole or a substantial part of the assets of the other party.

14.2 Without prejudice to any other rights that may be available at any time, Millgate shall have the right, by giving at any time written notice to the Customer, to terminate this Agreement immediately if the Customer is guilty of fraud or wilful default.

14.3 Either party may terminate this Agreement for convenience on 90 days' written notice at any time, provided that such termination shall not affect any existing Order Minimum Period, and the Agreement shall be deemed to apply to all such existing Orders for the remainder of their applicable Minimum Period(s).

14.4 Without prejudice to the provision of clause 11 (Charges and Payment) In the event that any Charges are not paid by the applicable Due Date, then Millgate shall notify the Customer in writing that such sums are overdue. If such sums are not paid within 14 days of such notice, then without prejudice to any other rights or remedies, Millgate shall be entitled to suspend or terminate the Services.

14.5 Any termination of this Agreement shall be without prejudice to the rights of the parties accrued up to the date of such termination.

14.6 The Customer shall not be entitled to terminate an Order following acceptance of such Order by

Millgate.

- 14.7 Millgate may terminate the Agreement (and all applicable Orders) if it is unable, for whatever reason, to provide the Services or if the Millgate or the applicable Service Provider is required to terminate the Agreement by a competent administrative or regulatory authority (including without limit OFCOM) and/or network operator or the Customer is in breach of the AUP.

15 Limitation of Liability

- 15.1 Each party's maximum aggregate liability (excluding any liability to pay any Charges under this Agreement) will be limited to the greater of £10,000 (ten thousand pounds) or 100% of the total Charges paid or payable in the 12 months prior to the applicable breach in respect of the Order to which the alleged breach relates.
- 15.2 Neither Party will, in an action based on breach of contract, be liable to the other for:
- a) loss of profit, business, contract, corruption or loss of data; or
 - b) indirect, consequential, anticipated savings or indirect or special damages; arising from a breach of this Agreement (even if advised of the possibility of such losses arising).
- 15.3 The exclusions and limitations of liability set out in this Agreement will not apply so as to restrict either Party's liability:
- a) for death or personal injury resulting from that Party's negligence; or
 - b) for fraud; or
 - c) in respect of the payment of any amounts that are due and payable in accordance with the terms of this Agreement; or
 - d) for any other liability which cannot be excluded or restricted by law.
- 15.4 Subject to clause 15.3, and to the extent permitted by law, Millgate excludes all liability to the Customer for any costs claims or demands arising from any delay in the provision of, or any defect or interruption in the supply of the Services and/or Equipment.
- 15.5 All warranties and conditions whether express or implied by statute, common law or otherwise in relation to the provision of the Services are hereby excluded to the fullest extent permitted by law.
- 15.6 In no event shall Millgate be liable for the act or omissions of the Network Operator or Service Provider, including but not limited to a failure of the Network Operator or Service Provider to provide connectivity

or availability of the Services.

15.7 The provisions of this clause 15 will survive expiry or termination (as appropriate) of this Agreement.

16 Confidentiality

16.1 Each party agrees to keep confidential all information of a confidential nature (including information relating to any and all Network Operator's or Service Providers or the other party's affairs or business) and all information given in circumstances giving rise to an obligation of confidence (in each case whether or not such information is marked "Confidential") obtained by it under or in connection with the Agreement.

16.2 Neither party shall use or disclose to any third party such information or any part of it (except to the extent strictly necessary for the performance by it of its obligations under this Agreement) without the prior written consent of the other party.

16.3 The restrictions in this clause 16 (Confidentiality) shall not apply to a party in relation to information which:

- a) is in the public domain otherwise than by breach of this Agreement;
- b) was previously in the possession of that party and which was not acquired in confidence directly or indirectly from the other party or the relevant Network Operator or Service Provider;
- c) is lawfully obtained by it from a third party who is free to disclose it otherwise than in confidence;
- d) a party is obliged to disclose by operation of law or by any regulatory authority (including, but without limitation, OFCOM); or
- e) is independently developed by it.

16.4 Where disclosure of information to a third party (including but not limited to a party's employees and agents) is necessary for the performance by a party of its obligations under this Agreement, that party shall prior to such disclosure ensure that such persons know of the provisions of this clause 16 (Confidentiality) and have agreed to abide by them and, if required by the other party, obtain duly binding undertakings to this effect from such third party in favour of the other party.

16.5 The obligations contained in this clause 16 (Confidentiality) shall continue in force for a period of 3 years following the termination of this Agreement.

17 Intellectual Property

17.1 All legal and beneficial intellectual property rights, whether registered or unregistered, including all copyrights, database rights, trade marks, patents, service marks, trade secrets and know-how, in

whatever form in the Services shall remain at all times Millgate's property or the property of its licensor.

- 17.2 To the extent that it is so entitled, Millgate's grants the Customer a non-exclusive non-transferable licence to use such intellectual property rights for the sole purpose of using the Services. The Customer shall not reproduce any software provided by Millgate's. The Customer shall not modify, adapt, translate, reverse engineer or disassemble the software.
- 17.3 Copyright, database rights and any other relevant intellectual property rights in all documents, material, drawings and information in whatever form, including if applicable any access or source codes supplied to the Customer in connection with this Agreement, shall remain vested in Millgate's or the owner of the rights. Such documents, material, drawings and information are confidential and shall not be copied, disclosed or used (except for the purpose for which they were supplied) without Millgate's prior written consent.
- 17.4 Neither party may use the other party's marks in any advertising or publicity without first obtaining the other party's written approval to do so. Unless the approval indicates otherwise, permission to use a party's marks will last only for the duration of the Agreement.
- 17.5 Upon termination for whatever reason of the Services in respect of which any intellectual property licence or right of use is granted under this clause 17 (Intellectual Property), that licence or right of use shall terminate immediately and the Customer shall, as specified by Millgate, immediately return to Millgate or destroy all copies of any documents, material, drawings and information in the Customer's possession or control which describe or contain the relevant intellectual property and are not in the public domain which have been received directly or indirectly from Millgate.

18 Data Protection and GDPR

Applicable Legislation Includes but is not limited to Data Protection Act 2018 and the EU Data Protection Directive 2016/680 (Law Enforcement Directive).

Controller means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the Controller or the specific criteria for its nomination may be provided for by Union or Member State law.

Data Breach means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

Data Subject refers to any individual person who can be identified, directly or indirectly, via an identifier such as a name, an ID number, location data, or via factors specific to the person's physical, physiological, genetic, mental, economic, cultural or social identity.

Personal Data means any information relating to Data Subject

Processing means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

Processor means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the Controller.

- 18.1 Both parties acknowledge and agree that in order for Millgate to provide the Services, Millgate may have access to Personal Data and that the Personal Data (subject to the provisions of this clause 18 (Data Protection and GDPR) may be used, managed, accessed, transferred or held as is reasonably necessary to enable Millgate to provide the Services, provided that, at all times Millgate will comply with the Applicable Legislation.
- 18.2 Depending upon the nature of the Services provided, Millgate may act as either a Controller or Processor or both, in accordance with the Applicable Legislation.
- 18.3 In undertaking activities as a Controller, Millgate may collect, Process, use or share Personal Data with Millgate Affiliates and sub-Processors, within or outside the country of origin in order to do any or all of the following:
- a) Contract management;
 - b) Manage Orders from receipt of request for implementation of an Order and in life service management. Subject always to compliance with the Applicable Legislation and associated data security requirements and policies specifically but not limited to Article 40 (Codes of Conduct) of GDPR.
- 18.4 In undertaking the required activities, Millgate has a statutory duty to agree with the Customer:
- a) the subject matter and duration of the Processing;
 - b) the nature and purpose of the Processing;
 - c) the type of personal data and categories of Data Subject; and
 - d) the obligations and rights of the Controller.
- Given the varying nature of the Services, the obligations contained within 18.4 (a) to (c) above are included within either the Order or the applicable Service Specific Terms. Where Millgate are acting as Controller, this is covered under clause 18.3 above.
- 18.5 Where Millgate are acting as a Processor, Millgate will:
- a) only act on the written instructions of the Controller;
 - b) ensure that people Processing the data are subject to a duty of confidence;
 - c) take appropriate measures to ensure the security of Processing;

- d) only engage sub-Processors with the prior consent of the Controller and under a written contract;
- e) assist the Controller in providing subject access and allowing Data Subjects to exercise their rights under the GDPR;
- f) assist the Controller in meeting its GDPR obligations in relation to the security of processing, the notification of Personal Data breaches and data protection impact assessments;
- g) delete or return all Personal Data to the Controller as requested at the end of the contract; and
- h) submit to audits and inspections and provide the Controller with whatever reasonable information required ensure that we are both meeting their Article 28 obligations and tell the Controller immediately if it is asked to do something infringing the GDPR or other data protection law of the EU or a member state.

Millgate reserve the right acting reasonably, to levy additional Charges on the Customer where assistance in accordance with this clause 18.5, requires Millgate to utilise resource/professional services above that which is contained within the applicable Order. The Customer also acknowledge and agree that audits (except where determined by a regulatory authority) shall be within usual business hours and on reasonable notice.

18.6 Nothing within the Agreement shall be deemed to relieve Millgate acting as the Processor of our own responsibilities and liabilities under the Applicable Legislation.

19 Force Majeure

19.1 A Party is excused from performance and is not liable for any failure due to a cause beyond its reasonable control, including, but not limited to:

- a) any accident, fire, or explosion, (other than in each case, one caused by a breach of contract by or assistance of that party (or its sub-contractor)), storm, flood, earthquake, subsidence, epidemic or other natural physical disaster or acts of God, inclement or severe weather;
- b) industrial disputes, or any shortage of or difficulty in obtaining labour, fuel, raw materials or components failure or shortage of power supplies, lightning or fire;
- c) any action taken by a governmental or public authority of any kind or other competent authority, including, without limitation, not granting a consent, exemption, approval or clearance or imposing an embargo, export or import restriction, rationing, quota or other restriction or prohibition;
- d) any civil commotion or disorder, riot, invasion, terrorist attack, war, threat of or preparation for war, military operations;
- e) acts or omissions of other telecommunications operators (including but not limited to a Service Provider

or Network Operator), or events beyond the reasonable control of its suppliers;

19.2 The affected party will promptly notify the other of any circumstance covered by this clause

19.3 In the event non-performance continues for a period of 3 months either party may terminate the affected Service provided any payments due under the terms of this Agreement have been made.

20 Call Monitoring

20.1 The Customer agrees that Millgate may monitor, and record calls made to or by Millgate by or to or by the Customer (and/or any of their employees or personnel), for training purposes, to improve the quality of its customer services and to assist with complaint handling. The Customer undertakes to make its employees and personnel aware of the rights reserved by Millgate under this clause.

21 Anti-Bribery

21.1 The Customer shall, and shall procure that its officers, employees, agents and any other persons who perform the services for and on behalf of it in connection with the Agreement shall;

- a) comply with all applicable Anti-Bribery Laws and not cause Millgate to breach any Anti-Bribery Laws;
- b) not offer, promise, give, request, agree to receive, receive or accept a bribe or financial or other advantage or commit any corrupt act;
- c) comply with Millgate's Ethics and Anti-bribery Policy as is notified to the Customer.

22 Dispute Resolution

22.1 The parties will use all reasonable efforts to amicably resolve any dispute in good faith.

22.2 The parties will, at a minimum, use the following procedure in the event a dispute arises with respect to any aspect of the Agreement.

- a) Upon written notification by one Party to the other that a dispute exists, "working level" managers of the respective Parties will attempt in good faith to work out a resolution within ten (10) days following the day of written notification of a dispute.
- b) If an agreement cannot be reached by the end of this period, the parties shall prepare a document containing information that is designed to assist resolution of the dispute containing what has been agreed and what remains in dispute between them.
- c) No later than 10 Working Days thereafter, or at some other time as mutually agreed by the parties, representatives of Millgate at Operational Manager level (or higher) and the Customer at Director level or above shall meet to further attempt to resolve the matter or to agree on a course of action to resolve

the matter.

- d) Such course of action may include use of formal dispute resolution processes, including but not limited to non-binding mediation or binding or non-binding arbitration.
- e) In the event that the parties are unable to resolve the matter or agree on a course of action at this executive level within thirty (30) days, either party shall have the right to pursue legal or equitable remedies as it sees fit.

Nothing contained herein shall preclude either party from seeking equitable relief at any time in a court having jurisdiction under the terms of this Agreement.

23 Notices

- 23.1 Any notice given to one party by the other under this Agreement shall be delivered by hand or recorded delivery mail to the party to be notified at the address set out in the Order, or such other address as the addressee shall notify in accordance with the provisions of this clause.
- 23.2 Any such notice shall, in the absence of evidence of earlier receipt, be deemed to be given, in the case of recorded delivery mail, two (2) Working Days after dispatch. Notices given by hand shall be deemed given on delivery.

24 Assignment

- 24.1 Millgate reserves the right, at its sole discretion, to assign all or part of this Agreement at any time to any Affiliate, subject to providing the Customer prior written notice of such assignment.
- 24.2 Subject to the provisions of clause 24.1, any assignment by the Customer or Millgate to a third party requires the prior written consent of either the Customer or Millgate as applicable, such consent will not be unduly delayed or withheld.
- 24.3 Millgate may subcontract the performance of any of its obligations under this Agreement. The Customer agrees and understands that it may need to interact directly with such third parties as directed by Millgate.

25 Status of the Parties

- 25.1 The Customer agrees that it shall not, in any correspondence or dealings, hold itself out or represent itself as being part of Millgate or any Network Operator, Service Provider or any subsidiaries, holding companies or subsidiaries of those holding companies or in legal partnership with, or as an employee, representative, or franchisee of, or party to a joint venture with, any of those parties. It agrees that, other than as expressly stated in this Agreement, it has no authority or power to bind, or to contract or negotiate in the name of, or to incur any debt or other obligation on behalf of, or to create any liability in

respect of Millgate or the applicable Network Operator or Service Provider.

26 Rights of Third Parties

26.1 This Agreement does not create any right enforceable by any party who is not the Customer or Millgate under the Contracts (Rights of Third Parties) Act 1999.

27 Non-Solicitation

27.1 The Customer shall not, without the prior written consent of Millgate, at any time from the date of an applicable Order to the expiry of 12 months after the termination or expiry of an applicable Order, actively solicit or entice away from Millgate, or actively employ or attempt to employ (save where the relevant person has responded to a general advertisement by the Customer for the relevant job vacancy), any person who is, or has been, engaged as an employee or sub-contractor of Millgate in the provision of the Services to the Customer. Any consent given by Millgate in accordance with this clause 27 (Non-Solicitation) shall be subject to the Customer paying to Millgate a sum equivalent to 10 per cent of the then current annual remuneration of Millgate employee or sub-contractor.

28 Variation

28.1 No variation of the Agreement shall be effective unless agreed in writing by nominated representatives of the parties.

29 Severability

29.1 If any one or more of the provisions contained in the Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in the Agreement shall not in any way be affected or impaired by that so long as the commercial purpose of this Agreement is still capable of being fulfilled.

30 Governing Law

30.1 This Agreement, and any issues or disputes of whatever nature arising out of or in any way relating to it or its formation (whether such disputes are contractual or non-contractual in nature, such as claims in tort, for breach of statute or regulation, or otherwise) shall be governed by and construed in accordance with the Laws of England and Wales.

31 Entire Agreement

31.1 The Agreement represents the entire understanding of the parties in respect of the subject matter

contained herein, and shall be deemed to supersede all previous agreements, contracts or other representations or understandings in respect of the subject matter.

31.2 Each party acknowledges that in entering into the Agreement (and any other document to be entered into pursuant to it) it does not rely on any representation, warranty, collateral contract or other assurance of any person (whether party to the Agreement or not) that is not set out in the Agreement or the documents referred to in it. Each party waives all rights and remedies which, but for this clause, might otherwise be available to it in respect of any such representation, warranty, collateral agreement or other assurance. Nothing in this clause seeks to limit or exclude either party's liability for fraud and/or fraudulent misrepresentation.

