

<p>1. INTERPRETATION 1.1 In these Terms Additional Services: means such additional services as are to be provided to the Customer by the Supplier from time to time, such as: Call Recording Storage, Anti-Fraud Protection, HiHi Discover, etc. Connection Date: the date the Service is connected to enable billing to commence. Contract: means the contract for the provision of the Service incorporating these Terms. Customer: means the person named in the HiHi Software Service Agreement for whom the Supplier has agreed to provide the Service in accordance with these Terms. Group: in relation to the Supplier, means 4Com Technologies Ltd, and any company of which 4Com Technologies Ltd is a Subsidiary (its holding company) and any other Subsidiaries of any such holding company. HiHi Software Services Agreement: means the HiHi Software Service Agreement overleaf relating to the Service. Minimum Term: means the minimum contract period applying to each of the Services as specified in the HiHi Software Services Agreement. Service: the telecommunications service detailed in the HiHi Software Service Agreement to be provided to the Customer, including telephone lines, broadband, and or SIP services to route or carry calls, and or data traffic. Subsidiary: in relation to a company wherever incorporated (a holding company) means a "subsidiary" as defined in section 1159 of the Companies Act 2006 and any other company which is a subsidiary (as so defined) of a company which is itself a subsidiary of such a holding company. Supplier: 4Com Network Services Limited, being a company registered in England and Wales with company number 06472696 and whose registered office is at One Lansdowne Plaza, 24 Christchurch Road, Bournemouth, BH1 3NE. Suppliers Website: www.4com.co.uk Terms: means these terms and conditions. 1.2 Headings are for convenience only and do not affect interpretation.</p> <p>2. SUPPLY OF THE SERVICE 2.1 The Service will commence on the Connection Date and shall continue, unless terminated earlier in accordance with condition 8, for the Minimum Term. The term of the Contract shall automatically extend for 12 months (Extended Term) at the end of the Minimum Term and at the end of each Extended Term, unless a party gives written notice to the other party no later than 90 days before the end of the Minimum Term or the relevant Extended Term, to terminate the Contract at the end of the Minimum Term. 2.2 In the event the Customer decides prior to the Connection Date that it does not wish to proceed with the Service, then it must notify the Supplier in writing by recorded delivery prior to the Connection Date. The Supplier shall be entitled to charge the Customer an administrative fee for the Provisioning Work already undertaken. If the Customer wishes to terminate the Services on or after the Connection Date it can only do so in accordance with the Terms. 2.3 Any typographical, clerical, or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.</p> <p>3. PRICE OF THE SERVICE 3.1 The Service will commence on the date of connection and shall continue, unless terminated earlier in accordance with condition 8, for the minimum term. Unregulated contracts will automatically renew for additional periods of 12 (twelve) months (Extended Term) following expiry of the Minimum Term, or the expiry of the Extended Term, as the case may be, unless a party gives written notice to the other party no later than 90 days before the expiry of the Minimum Term, or Extended Term, as the case may be. 3.2 During the Minimum Term of the Contract, and any Extended Term thereafter, the Supplier may provide Additional Services such as detailed below, or as otherwise agreed between the Supplier and the Customer. Where Additional Services are agreed to be provided, references to Services in these Terms include such additional Services. 3.3 Call Recording functionality is included as part of the Service, for which recordings are stored free of charge for 6 months. The Customer can alter the period for which call recordings are stored at any time using their call recording portal. Call storage exceeding the free 6-month allowance (Additional Call Recording Storage) will incur additional storage charges. Call recordings will be deleted after 6 months if additional storage is not requested and paid for. 3.4 The Customer shall be responsible for the cost of all calls made and recorded by the Supplier as having been made, in respect of the Services provided. Save only to the extent expressly agreed pursuant to any Anti-Fraud Protection Additional Service the Supplier may agree to provide, the Supplier shall not be held liable for any costs associated with fraudulent calls made via the Services, howsoever caused. The Customer agrees to take all reasonable steps to prevent any such fraudulent calls. These steps must include, but are not limited to, adopting any security measures notified to it by, or recommended by, the Supplier from time, and adopting all reasonable security measures within their telephone systems (including without limitation keeping any passwords robust and confidential). Non-compliance may result in exclusion of any Anti-Fraud Protection Additional Service offered by the Supplier. Notwithstanding the foregoing, the Supplier reserves the right to take such actions as it deems reasonably necessary to prevent any fraudulent activity of which it may become aware, including without limitation by limiting access to international calls, to certain lines or to other telecommunications systems. 3.5 The Customer shall not engage in any fraudulent or improper use of the Services, or any use that would breach the Supplier's Fair Usage Policy or any applicable Ofcom regulation. 3.6 Where the Service includes a VoIP (Voice over Internet Protocol) telephony service: 3.6.1 The Customer should note that their ability to call emergency organisations (i.e. police, fire, ambulance or coastguard services) may cease if there is a power cut or power failure, or a failure of the internet connection on which the VoIP service relies; 3.6.2 where the VoIP telephony service is to be used principally at a single fixed location, the Customer is advised to register with the Supplier the address of the place where the service is to be used prior to its activation, and update that address information if there is any change. 3.6.3 where the VoIP telephony service is to be accessed from multiple locations, the Customer is advised to register and update the location information associated with it, whenever accessing the VoIP telephony service from a new location.</p> <p>4. TERMS OF PAYMENT 4.1 The Supplier will invoice the Customer for sums due at monthly intervals. 4.2 Sums due will become payable in full on the date specified by the invoice. All payments must be made by direct debit. 4.3 The Supplier shall submit invoices to the Customer via email, and a relevant email address must be provided. 4.4 The Customer may also view their invoices online via the Supplier's website www.4com.co.uk 4.5 The Customer agrees to pay all charges for the Service whether the Service is used by the Customer or someone else, and upon receipt of the Supplier's invoice. 4.6 A late payment fee will be added to future invoices if a direct debit has failed or is cancelled by the Customer. 4.7 If the Services are suspended due to non-payment, a charge may be applied to reinstate the Services, (details of the charges are available at www.4com.co.uk). 4.8 If the Customer fails to make any payment due to the Supplier by the due date, then, without limiting the Supplier's other remedies, the Customer shall pay costs and interest on the overdue amount at the applicable rate from time to time under the Late Payment of Commercial Debts (Interest) Act 1998. Such interest will accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgement. The Customer shall pay the interest together with the overdue amount.</p> <p>5. CUSTOMERS OBLIGATIONS 5.1 The Customer agrees that it will: 5.1.1 allow the Supplier, at its reasonable request, free and safe access to its premises and service connection points, access to information, and assistance from the Customers employees. 5.1.2 not to in any way whatsoever, cause calls to be made which are not routed over the Supplier's preferred network, whether by the use of a manually inputted code, or via cps, or by any other method whatsoever (save in respect of calls to exempt numbers, as notified to the Customer from time to time);</p> <p>6. WARRANTIES AND LIABILITIES 6.1 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance, or warranty made or given by or on behalf of the Supplier which is not set out in the Contract. 6.2 The Supplier cannot guarantee and does not warrant that the Services will be free of interruptions or will be fault-free and will not be held liable for any loss or damages should the Services be interrupted from time to time. You accept that there may also be degradations in the quality of the Service from time to time and that the Supplier will not be liable for any losses or damages should the quality of the Service provided be affected by such matters. 6.3 The Supplier shall not be liable for any costs and interest on the overdue amount at the applicable rate from time to time under the Late Payment of Commercial Debts (Interest) Act 1998. Such interest will accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgement. The Customer shall pay the interest together with the overdue amount. 6.4 indirect or consequential loss, loss of profits, business revenue, goodwill or any economic loss arising under or in connection with the Contract; or, 6.5 any claim arising as a result of the default of the network provider or any other third party or faults in the service provided by the network provider or any other third party. 6.6 any claim in circumstances where any sum owing by the Customer to the Supplier has not been paid. 6.7 the imposition of legal or regulatory restrictions which prevent the Supplier from supplying the Service. 6.8 any unavailability of the Service or reduced performance as a result of (i) the suspension of the Service in accordance with these Terms or (ii) the lawful termination, suspension or limitation of any other services that the Supplier provides to the Customer.</p> <p>6.9 The Supplier shall not be held liable for any costs associated with fraudulent calls made via the Service howsoever caused, and the Customer agrees to take all reasonable steps to ensure that this does not happen. These steps must include, but are not limited to, ensuring that all available security measures are installed within their telephone systems. Non-compliance may result in exclusion of any Anti-Fraud protection offered by the Supplier.</p> <p>7. LIMITATION OF LIABILITY 7.1 Neither party excludes nor limits its liability to the other for: 7.1.1 death or personal injury resulting from its negligence. 7.1.2 fraud or fraudulent misrepresentation. 7.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982. 7.2 Subject to condition 7.1, the Supplier shall under no circumstances whatsoever be liable to the customer whether in contract, tort (including negligence), breach of statutory duty or otherwise, for: 7.2.1 any indirect or consequential loss; or, 7.2.2 any of the following categories of loss: (a) loss of profits (b) loss of sales or business. (c) loss of opportunity, agreements, or contracts. (d) loss or damage to goodwill. (e) loss of or damage to data. 7.2.3 any claim made against the Customer by a third party that does not follow a breach of these Terms by the Supplier. 7.2.4 any loss or damage to the Customer caused by or arising from any act or omission of the Customer, the network provider, any public telephone operator, and other direct or indirect supplier to the Customer, or any other third party. 7.2.5 the imposition of legal or regulatory restrictions which prevent the Supplier from supplying the Services, or any Additional Services (or any part thereof). 7.3 Subject to condition (7.1 & 7.2), the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract whether in contract, tort (including negligence), breach of statutory duty, or otherwise shall not exceed the lesser of: 7.3.1 the aggregate of all charges payable or paid by the Customer for the Services supplied (or to be supplied) in the 12-month period beginning on the Commencement Date or its anniversary in which the event giving rise to the claim occurs; or, 7.3.2 £100,000.</p> <p>8. TERMINATION 8.1 The Services may be terminated (subject to condition 8.2 and 8.3), by the Customer by giving at least 90 days written notice to the Supplier, provided that expiry of the notice coincides with the completion of the Minimum Term, or the Extended Term, as the case may be. In other words, the Customer cannot terminate for its convenience prior to the end of the Minimum Term, or the Extended Term. If no such notice is provided, the term of the Contract shall automatically</p>	<p>continue at the end of the Minimum Term (such extension being an Extended Term). 8.2 If the Customer is a Microenterprise or Small Enterprise Customer, or a Not-For-Profit Customer, the Minimum Term shall not be longer than 24 months for relevant Services, unless expressly agreed otherwise by the Customer. Following expiry of the Minimum Term the Contract shall automatically continue in force unless a party gives the other party not less than 30 days' written notice at any time to terminate the Contract. 8.3 This Contract may be terminated by the Supplier with immediate effect if: (a) a payment due by the Customer under this Contract is overdue and remains overdue more than 14 days after notice by the Supplier, requiring payment of the overdue amount. (b) the Customer is in breach of any other provision of this Contract or any other contract that the Customer has in place with the Supplier, or any third-party funder of goods or services provided by the Supplier, and if the breach is capable of remedy does not remedy the breach within 14 days of the Supplier's notice of such breach. (c) there is a change of control of the Customer (within the meaning of section 1124 of the Corporation Taxes Act 2010) that has not been pre-agreed by the Supplier. (d) the Customer enters any voluntary arrangement with its creditors or becomes subject to an administration order Or (being a sole trader or firm) becomes bankrupt or (being a limited company) goes into liquidation; or an encumbrance, takes possession, or a receiver is appointed, of any of the property or assets of the Customer, or the Customer ceases, or threatens to cease to carry on business; or the Supplier reasonably apprehends that any of these events is about to occur in relation to the Customer and notifies the Customer accordingly. 8.3.1 On termination of the Contract for any reason: 8.3.2 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices plus applicable interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately upon receipt. 8.3.3 If the Contract is terminated by either party at any point during which an Introductory Offer exists, or the direct debit mandate has not yet been cancelled, the Customer shall be deemed to have agreed to the offer and further, agree that they will no longer be entitled to receive any benefit of the offer. 8.3.4 The Customer shall immediately pay the charges in respect of the remainder of the Minimum Term. The charges will be calculated based upon an average of the last 3 months' full billing for the Services, multiplied by the number of months remaining within the Minimum Term, or the Extended Term, as the case may be, which the Customer agrees represents a genuine estimate of the loss suffered as a result of the breach. 8.3.5 the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and 8.3.6 clauses which expressly or by implication have effect after termination shall continue in full force and effect. 8.4 The Customer hereby agrees to repay in full, all termination charges paid by the Supplier to a previous Supplier on behalf of the Customer should the Customer end this Contract at any time prior to expiry of the Minimum Term. 8.5 If the Supplier provides non-Geographic number services to the Customer that provide inbound call revenues, the Supplier shall withdraw all inbound revenues payable to the Customer upon Termination of this Agreement. The Supplier may in turn, levy a standard monthly rental for the Non-Geographic Number(s) concerned. 8.6 The Customer accepts that they do not own the number(s) provided to them and that they have no right to sell or to agree to transfer the number(s) provided to them for use with the Services, and the Customer shall not try to do so. 8.7 The Customer does have the right to request to migrate numbers to another provider subject to its contractual obligations contained within this Contract being met, and also subject to paying an administration charge of £99 per number that is to be migrated to another provider. The Supplier has certain obligations in respect of the switching process (whether or not that also includes telephone number migration, or "porting"), and compensation for to the Customer may be available if those obligations are not met. See the Supplier's Website and/or the OFCOM website at www.ofcom.gov.uk for further details.</p> <p>9. SUSPENSION 9.1 The Service may be suspended by the Supplier without notice and without prejudice to the Supplier's rights under condition 8 in the event any of the events set out at 8.3 apply. 9.2 If the Service is suspended or limited, the Supplier will tell the Customer what needs to be done before they can be reinstated. However, the Customer must continue to pay all charges relating to the Services whilst the Contract continues. The Customer acknowledges that if part of the Service is suspended or limited in accordance with this condition 9, this is likely to affect the availability of the remaining element of the Service and the Supplier shall have no liability in this respect.</p> <p>10. FORCE MAJEURE 10.1 The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of an event beyond the reasonable control of the Supplier, including but not limited to failures or surges of electrical power, damage to property by third parties, strikes, lockouts or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of the Supplier or subcontractors (Force Majeure Events).</p> <p>11. MANAGING THE SERVICE 11.1 If the Customer reports a fault in the Service, the Supplier will respond in line with the level of repair service the Customer has chosen. 11.2 If the Customer reports a fault and the Supplier finds that there is none, or that the Customer has caused the fault, the Supplier may charge the Customer for any work undertaken to discern the reported fault.</p> <p>12. MONITORING CALLS 12.1 The Supplier monitors and records calls relating to customer services and telemarketing. The Supplier does this for training purposes and to improve the quality of its customer services.</p> <p>13. ACCESS TO AND PREPARING THE PREMISES 13.1 The Customer agrees to prepare the Premises according to any instructions either the Supplier or Openreach may give and provide Openreach with reasonable access to the Premises. 13.2 When Openreach work is completed, the Customer will also be responsible for putting items back and for any re-decorating. 13.3 If the Supplier or Openreach need to cross other people's land, or put Openreach equipment on their property, (for example a neighbour or landlord), the Customer agrees to obtain their permission. 13.4 The Supplier and Openreach will meet the Customer's reasonable safety and security requirements when on the Premises and the Customer agrees to do the same for the Supplier and Openreach. 13.5 The Customer agrees to provide, at its expense, a suitable place and conditions for the Supplier's Equipment and where required, a continuous mains electricity supply and connection points. 13.6 The Customer agrees to look after any equipment owned by Openreach and to pay for any repair or replacement needed if it is damaged, unless it is due to fair wear and tear, or is caused by Openreach or anyone acting on behalf of Openreach.</p> <p>14. CALL DIVERSION 14.1 If the Supplier diverts the Customer's calls to another terminating number at the Customer's request (UK Geographic or UK Mobile), the charges for the diverted part of the Call will be borne by the Customer.</p> <p>15. GENERAL 15.1 Assignment and other dealings 15.1.1 The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party. 15.1.2 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract. 15.2 Notices: Any notice or other communication given to the Supplier by the Customer under or in connection with the Contract shall be in writing, addressed to its registered office or such other address as the Supplier may have specified to the Customer and shall be delivered by recorded delivery. 15.2.1 Any notice or other communication given to the Customer by the Supplier shall be given by any of the following methods (at the Supplier's discretion): (a) in writing, addressed to the Customer's registered office (if it is a Company) or its principal place of business (in any other case) or such other address as the Customer may have specified to the Supplier. (b) by email to the relevant email address as the Customer may have notified to the Supplier. 15.2.3 A notice or other communication shall be deemed to have been received 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; if delivered by commercial courier or recorded delivery on the date and at the time that the courier's delivery receipt is signed; or, if sent by email by the Supplier, one Business Day after transmission. 15.2.4 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action. 15.2.5 Subject to condition 8.1 and 8.3, both the Supplier and the Customer can sign notices or other communications via electronic signatures. The Customer shall comply with any direct debit e-signature instructions provided to it by the Supplier from time to time. 15.3 Severance: If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract. If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision. 15.4 Waiver: A waiver of any right under the Contract or law is only effective if it is in writing (and in the case of the Supplier signed by an officer of the Supplier) and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict further exercise of that or any other right or remedy. No single or partial exercise of a right or remedy shall prevent or restrict the further exercise of that or any other right or remedy. No partnership or agency: Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for the other party in any way. 15.6 Data Protection: The Customer and the Supplier will comply with their respective obligations under Data Protection laws. This clause (15.6) is in addition to, and does not, remove or replace, a party's obligations or rights under Data Protection laws. Data Protection Laws means all applicable data protection and privacy legislation from time to time in force to which a party is subject, including the Data Protection Act 2018 and UK GDPR (as defined in the Data Protection Act 2018). 15.7 Third Parties: The Supplier may exercise any of its rights or fulfil any of its obligations hereunder through any company in its Group. Other than a company in the Supplier's Group, a person who is not a party to the Contract shall not have any rights to enforce its terms. 15.8 Variation: Except as set out in these Terms, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by the Supplier. Notwithstanding this the Supplier may change these Terms (including the charges) at any time. The Supplier will publish details of such changes on-line on the Supplier's Website at least 30 days before the change is to take effect. 15.9 Resolving Disputes: The Supplier will try to resolve any disputes with the Customer. However, if the parties cannot agree, the Customer may refer the dispute to a recognised dispute resolution service. Details of these and how to refer a dispute are set out within the Supplier's Website. 16.0 Governing Law: The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales. 16.1 Jurisdiction: Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).</p>
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