

**1 SCOPE**

1.1 The Customer Terms cover the following Products:

- (a) Business Broadband Bundles; and
- (b) Calls and Line Rental.

**2 ORDERING PRODUCTS**

2.1 Customer may submit a Product Order either electronically via the Yorcoms Ltd Website or orally by telephone. No terms the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing will apply to any Contract.

2.2 Yorcoms Ltd may accept a Product Order by approving the Product Order, either electronically or orally. Nothing in these the Customer Terms will oblige Yorcoms Ltd to accept any Product Order, nor to provide any Product, until Yorcoms Ltd accepts a Product Order. Upon acceptance by Yorcoms Ltd, a Product Order will become the Contract which commences on the date of acceptance by Yorcoms Ltd.

**3 INSTALLATION AND SUPPLY OF PRODUCT AND EQUIPMENT**

3.1 Upon commencement of the Contract in accordance with Clause 2.2, Yorcoms Ltd will use reasonable endeavours to provision and/or install the Product and will inform the Customer when the Product is connected ready for use.

3.2 Yorcoms Ltd will supply the Product to the Customer from the Connection Date with reasonable skill and care and in all material respects in accordance with the Contract, but Yorcoms Ltd cannot, given the nature of the Product, guarantee that the Product will be continuously available or error free.

3.3 Yorcoms Ltd reserves the right to cancel the Contract prior to the Connection Date or within a reasonable period of time thereafter where:

- (a) it becomes apparent that the Product cannot be delivered to or installed at the Site due to a geographic, practical or technical restraint; or
- (b) the cost of providing or installing the Product at the Site is materially higher than the usual cost of providing Product to a Customer and the Customer does not agree to pay any additional Charges requested by Yorcoms Ltd.

3.4 Customer must report Incidents using the telephone number on the Yorcoms Ltd Website or as otherwise provided by Yorcoms Ltd.

3.5 Before contacting Yorcoms Ltd about an Incident, the Customer should make all reasonable efforts to rule out the possibility that it is caused by the Customer Equipment.

**4 USE OF THE PRODUCTS**

4.1 The Products are provided for use by the Customer and End Users in the course of the Customer's business and on the condition that the Customer does not resell or otherwise make the Product available to any other person.

4.2 Customer undertakes to use the Product, and to procure that each End User uses the Products, in accordance with:

- (a) the terms and conditions of the Contract and any Legislation applicable to the Customer's use of the Product; and
- (b) any reasonable operating instructions as may be notified in writing to the Customer by Yorcoms Ltd from time to time.

4.3 Without limiting Clause 4.2, the Customer will not, and will procure that each End User will not use a Product to:

- (a) send, communicate, knowingly receive, upload, download or use any material or make any calls that are offensive, abusive, indecent, defamatory, obscene, menacing, cause annoyance, inconvenience, needless anxiety or are intended to deceive;

(b) download, possess or transmit in any way, illegal material;

(c) engage in criminal, illegal or unlawful activities;

(d) violate or infringe the rights or property of any person, including rights of copyright and any other intellectual property rights, privacy or confidentiality;

(e) intentionally impair or attempt to impair, without authorisation, the operation of any computer, prevent or hinder access to any program or data held in any computer or to impair the operation of any such program or the reliability of any such data; or

(f) send, communicate, knowingly receive, upload or download data or make any calls in such a way or in such amount that the Customer knows or ought reasonably to know will have a material adverse effect on the Yorcoms Ltd Network (or any part of it) or Yorcoms Ltd's Customers.

4.4 Customer indemnifies and promises to pay on demand Yorcoms Ltd and its Affiliates for any settlement paid by, damages awarded against and reasonable legal costs and expenses suffered or incurred by Yorcoms Ltd or its Affiliates arising out of or in connection with any claim made or threatened against Yorcoms Ltd or an Affiliate of Yorcoms Ltd by a third party arising out of or in connection with the Customer's or End User's breach of this Clause 4.

**5 MAINTENANCE AND PRODUCT MANAGEMENT**

5.1 Yorcoms Ltd will use reasonable endeavours to carry out any Maintenance during the Maintenance Window.

5.2 Yorcoms Ltd will have the right to withdraw or change a Product and to terminate or vary the Contract for all the Customers to:

- (a) comply with any Legislation or safety requirement; or
- (b) take into account the withdrawal of or a significant change to the technology used to provide the Product.

5.3 In relation to any withdrawal or change under Clause 5.2, Yorcoms Ltd will:

(a) give the Customer as much notice as reasonably practical, and in any event not less than three months' notice; and

(b) use reasonable endeavours to avoid any material adverse impact on the nature or quality of the Products or any material increase in the Charges.

5.4 Where a change to a Product under Clause 5.3(b) results in a material adverse impact on the nature or quality of the Product or a material increase in the Charges, the Customer may terminate the Contract in accordance with Clause 10.2 without incurring any Cancellation Charges.

5.5 Where a Product is withdrawn, Yorcoms Ltd may offer an equivalent or better Product with the same Charges. Yorcoms Ltd will be obliged to do so in respect of the Contract within its Contract Term where a Product is withdrawn under Clause 5.2(b) and pay the Customer's reasonable demonstrable third party costs of moving to the replacement service, up to a maximum of the Recurring Charges payable in respect of the remainder of the Contract Term. Where such equivalent or better Product has lower Charges, Yorcoms Ltd may allow the Customer to benefit from such reduction, if the Customer agrees to pay the costs of moving to the equivalent Product.

**6 SPECIFIC PROVISIONS RELATING TO BROADBAND PRODUCTS**

6.1 Upon activation of a Broadband Product, the Customer accepts it may experience a temporary loss of the Customer's existing line.

6.2 Yorcoms Ltd cannot guarantee the quality on the local loop section provided by any Third-Party Operator and, therefore, cannot guarantee that a Connection can support the Transmission Speed specified in the Product Order.

- 6.3 To prevent spam from entering and affecting the operation of Yorcoms Ltd's systems and the Broadband Product, Yorcoms Ltd may take any reasonable measures or actions necessary to block access to or delivery of any e-mail which appears to be of an unsolicited nature or part of a bulk e-mail transmission. Yorcoms Ltd may also use within its systems virus screening technology that may result in the deletion or alteration of e-mail and or e-mail attachments. However, Yorcoms Ltd does not warrant that such technology will be effective against all virus attacks or unsolicited e-mails.
- 6.4 All Broadband Products are governed by the Customer Terms and any supplementary terms on Yorcoms Ltd's Website.
- 7 SPECIFIC PROVISIONS OF TELEPHONY PRODUCTS**
- 7.1 Nothing in the Contract gives the Customer ownership of any CLI, dialling code or static IP address provided by Yorcoms Ltd as part of the Product.
- 7.2 Customer may port CLIs to Yorcoms Ltd and may also port CLIs from Yorcoms Ltd to other Third-Party Operators with whom Yorcoms Ltd has a relevant porting agreement.
- 7.3 Customer must notify Yorcoms Ltd five Business Days before any significant increase in traffic across the Yorcoms Ltd Network will arise because of the use of the Telephony Product by the Customer (for example ticket sales, marketing promotions, etc). For the purposes of this Clause, a significant increase will mean more than 5,000 calls in a 15 minute period to one phone number (or the aggregate of non-geographic numbers if they point to one number).
- 7.4 If a Telephony Product is subject to line rental, which is the provision of rented access to a telephone line and such ancillary extras as provided by Yorcoms Ltd pursuant to the Contract, the Customer will not divert calls from travelling across the Yorcoms Ltd Network. The provisions of this Clause 7.4 will not apply where Yorcoms Ltd is not currently able to provide the applicable Telephony Product, or as required by Legislation.
- 7.5 Yorcoms Ltd cannot guarantee the correct function of any service not provided by Yorcoms Ltd but which operates across a Telephony Product. A list of services as identified by Yorcoms Ltd or any Third-Party Operator as known to be incompatible with the provision of the applicable Telephony Product, is available from Yorcoms Ltd but the Customer acknowledges this is for illustrative purposes only as third-party services are constantly changing
- 7.6 If the Customer takes a Telephone Preference Service Product, Yorcoms Ltd will provide the Customer with the facility to bar any calls made to CLIs that appear on the latest Telephone Preference Service Product data file made from each line connected to the Telephone Preference Service Product.
- 7.7 Yorcoms Ltd accepts no responsibility arising from mistakes or omissions in data supplied to Yorcoms Ltd by the Telephone Preference Service or any of its agents.
- 8 CHARGES AND PAYMENT**
- 8.1 Yorcoms Ltd will invoice the Customer electronically for the Charges payable under the Contract and the Customer will pay all invoices by direct debit within 14 days of the date of the invoice, subject to Clause 8.5.
- 8.2 Customer may request a paper or pdf invoice, subject to payment of a reasonable administration charge.
- 8.3 All amounts payable by the Customer under the Contract are exclusive of Value Added Tax.
- 8.4 Unless otherwise stated in the Contract, Charges for the Product will be charged in accordance with the Price List.
- 8.5 If the Customer in good faith disputes an invoice, the Customer must notify Yorcoms Ltd in writing of the dispute not more than 14 days after the date of the invoice providing reasonable details of the dispute to allow Yorcoms Ltd to investigate. The Customer must make payment in full of the invoice notwithstanding the dispute raised. If Yorcoms Ltd finds that the invoice is incorrect, Yorcoms Ltd will apply a credit to the Customer's account.
- 8.6 Without limiting any other right or remedy of Yorcoms Ltd:
- (a) if the Customer fails to make any payment due to Yorcoms Ltd under the Contract by the due date for payment, Yorcoms Ltd will have the right to charge interest on the overdue amount at the rate of 4% per cent per annum above the then current Barclays Bank plc base rate accruing on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly;
- (b) if a direct debit is dishonoured or cancelled, Yorcoms Ltd will have the right to make a reasonable administration charge; and
- (c) Yorcoms Ltd may set off any amount owing to it or its Affiliates by the Customer against any amount payable by Yorcoms Ltd to the Customer.
- 8.7 Except where otherwise agreed in the Contract, Yorcoms Ltd may vary the Charges at any time by giving the Customer notice to reflect changing arrangements with any Third-Party Operator or changing legal, regulatory or business requirements. The revised Charges will apply to all Products provided after the effective date of the notice of change. Where such change is to the Customer's material detriment, Yorcoms Ltd will give the Customer not less than one month's notice in writing and the Customer may terminate the Contract in accordance with Clause 10.2.
- 9 CREDIT LIMIT/SECURITY**
- 9.1 Yorcoms Ltd may perform a credit check on the Customer at any time prior to or following acceptance of the Product Order and may impose a Credit Limit on the Customer's account proportionate to the amount of Charges payable under the Contract. Any Credit Limit imposed can be amended without prior notice. If the Customer exceeds such Credit Limit:
- (a) Yorcoms Ltd may demand immediate payment of all unpaid Charges (whether invoiced or not); and
- (b) Customer will remain responsible for all Charges incurred including those exceeding the Credit Limit.
- 9.2 Yorcoms Ltd may require the Customer to provide it with a deposit or other security as a condition of providing the Products. Yorcoms Ltd may hold this deposit or security until the Customer has paid all sums due to Yorcoms Ltd under the Contract. No interest is payable on any deposit held by Yorcoms Ltd.
- 10 TERMINATION**
- 10.1 A Party may terminate the Contract by providing the other Party with no less than 30 days' notice. In the case of Yorcoms Ltd, such notice must expire on or after the end of the Contract Term.
- 10.2 Customer may terminate the Contract, by giving notice in writing to Yorcoms Ltd if:
- (a) Yorcoms Ltd is in material breach of the Contract, which if capable of remedy has not been remedied within 30 days of receipt of written notice specifying the breach in reasonable detail and requiring its remedy;
- (b) Customer exercises their right of exit in accordance with the Ofcom Business Broadband Speeds Code of Practice; or
- (c) the circumstances in Clauses 5.4, 8.7 16.2 or 24.2 arise.
- 10.3 Yorcoms Ltd may terminate the Contract by giving notice in writing to the Customer if:
- (a) Customer fails to pay any sums due to Yorcoms Ltd within 14 days of the date of the invoice;
- (b) Customer is in material breach of the Contract, which if capable of remedy has not been remedied within 30 days of receipt of

written notice specifying the breach in reasonable detail and requiring its remedy;

(e) any indemnity given by such Party in the Contract unless otherwise expressly agreed in writing;

(c) Customer makes any voluntary arrangements with its creditors or becomes subject to an administration order or goes into liquidation, whether voluntary or compulsory (other than for the purposes of a solvent reconstruction or amalgamation), or an encumbrancer takes possession of or a receiver is appointed in respect of any of its assets;

(f) any breach of Clauses 17 or 18; and

(g) any liability to pay the Charges.

(d) Customer fails to give any deposit or security required by Yorcoms Ltd under Clause 9.2; or

12.2 Subject to Clause 12.1, a Party will not be liable to the other Party in contract, tort (including negligence), breach of statutory duty or otherwise for:

(a) indirect, consequential or special loss or damage;

(b) loss of opportunity (whether direct or indirect);

(c) loss of anticipated savings (whether direct or indirect);

(d) loss arising from or damage to a brand, reputation or goodwill (whether direct or indirect);

(e) loss of profit or anticipated profit (whether direct or indirect);

(f) loss of business or contracts (whether direct or indirect);

(g) loss of revenue or anticipated revenue (whether direct or indirect);

(h) loss arising from the loss or degradation of data (whether direct or indirect); and

(i) subject to Clause 22.1, claims brought by or ex-gratia payments made to the Customers, by the Customers or any other third party (whether direct or indirect).

10.4 If the Contract is terminated by the Customer within the Contract Term other than under Clause 10.2, Yorcoms Ltd may invoice the Customer the Cancellation Charges the Customer agrees that the Cancellation Charges are a fair assessment of the losses and damage that Yorcoms Ltd will suffer as a result of the termination.

10.5 If the Contract is terminated outside of the relevant Contract Term Yorcoms Ltd will either:

(a) refund any amount in credit on the Customer's account after Yorcoms Ltd has deducted any amount owed to it by the Customer; or

(b) issue an invoice for the amount owed to Yorcoms Ltd by the Customer as at the date of termination.

## 11 SUSPENSION

11.1 Yorcoms Ltd may, without prejudice to any other right which it might have, elect to suspend the provision of Products under the Contract until further notice on notifying the Customer either orally (confirming such notification in writing) or in writing if:

(a) Yorcoms Ltd is entitled to terminate the Contract;

(b) Yorcoms Ltd has reasonable grounds to believe that the Customer or an End User is using the Product in breach of Clause 4;

(c) Yorcoms Ltd or any third-party providing equipment or services to Yorcoms Ltd in connection with the provision of the Product is obliged to comply with an order, instruction or request of government, regulatory authority, emergency services organisation or other competent authority; or

(d) Customer exceeds the Credit Limit under Clause 9 and has not remedied this situation within 5 Business Days of receiving written notice from Yorcoms Ltd requiring the Customer to do so.

11.2 If Yorcoms Ltd exercises its rights under Clause 11.1 as a consequence of the breach, fault, act or omission of the Customer or an End User, the Charges will continue to be payable and the Customer will pay to Yorcoms Ltd all reasonable costs and expenses incurred by the implementation of such suspension and any recommencement of the provision of Product.

## 12 LIABILITY

12.1 Nothing in the Contract will exclude or limit a Party's liability arising from or in connection with:

(a) any death or personal injury caused by the negligence of such Party, its agents, subcontractors, officers, directors or employees;

(b) any fraudulent acts or omissions of or fraudulent representations made by such Party, its agents, subcontractors, officers, directors or employees;

(c) any breach of statutory implied terms as to title;

(d) any other liability which cannot be excluded or limited by law;

12.3 Subject to Clauses 12.1 and 12.2, a Party's total liability to the other Party in respect of all Losses arising under or in connection with the Contract in contract, tort (including negligence), breach of statutory duty or otherwise, will in no circumstances exceed the greater of:

(a) the Recurring Charges paid by the Customer under the Contract during the 12 months preceding the claim; and

(b) one thousand pounds (£1,000).

12.4 Where the provisions of the Contract are inconsistent with any rights or remedies the Customer has under any Legislation because it is a Small Business the Customer which cannot be varied, the Customer's rights under such Legislation will apply instead of the provisions of the Contract to the extent they are inconsistent.

12.5 Yorcoms Ltd will not be liable to the Customer for any failure of the Product because of:

(a) any act or omission of the Customer, End Users of the Customer's employees, agents or subcontractors;

(b) any Customer Equipment;

(c) failure by the Customer to implement any reasonable instructions issued by Yorcoms Ltd; or

(d) any suspension of the Product under Clause 11.

12.6 Except as expressly set out in the Contract and to the extent permissible by law all other warranties, terms and conditions, guarantees as to quality or fitness for a particular purpose of the Products or any other conditions or guarantees whether express or implied by law, custom or otherwise are excluded.

## 13 EQUIPMENT

13.1 Property in and ownership of:

(a) the Yorcoms Ltd Equipment remains the property of Yorcoms Ltd or its suppliers at all times; and

(b) the Customer Equipment remains the property of the Customer at all times.

Customer must clearly identify any Yorcoms Ltd Equipment at the Site.

- 13.2 Risk in and liability for Yorcoms Ltd Equipment passes to the Customer on delivery of each item and the Customer must insure the Yorcoms Ltd Equipment in respect of all relevant risks from delivery. The Customer will provide a copy of the insurance policy to Yorcoms Ltd upon request.
- 13.3 Customer must:
- (a) not, nor permit any other person, to sell, let, transfer, dispose of, mortgage, charge, modify, repair, service, tamper with, remove or interfere with the Yorcoms Ltd Equipment or suffer any distress, seizure or execution to be levied against any Yorcoms Ltd Equipment;
  - (b) keep the Yorcoms Ltd Equipment at the Site and stationary at all times;
  - (c) house, keep and use any Yorcoms Ltd Equipment in accordance with any written instructions notified to the Customer by Yorcoms Ltd from time to time or, in the absence of such instructions, to the same standard as a reasonable owner of the Yorcoms Ltd Equipment would if it were their property;
  - (d) in the case of an emergency, take whatever steps as are reasonably necessary to safeguard the Yorcoms Ltd Equipment and notify Yorcoms Ltd as soon as possible of the circumstances of such emergency;
  - (e) not remove, tamper with or obliterate any words or labels on the Yorcoms Ltd Equipment or any part thereof; and
  - (f) permit Yorcoms Ltd or its agent to inspect, test and maintain the Yorcoms Ltd Equipment at all reasonable times and on reasonable notice.
- 13.4 Customer must immediately notify Yorcoms Ltd of any loss or damage to any Yorcoms Ltd Equipment. Without prejudice to Yorcoms Ltd' other rights and remedies, where the Customer breaches the provisions of this Clause 13:
- (a) Customer indemnifies and promises to pay on demand Yorcoms Ltd for the costs of repairing or replacing any Yorcoms Ltd Equipment damaged by the Customer's or End User's breach of this Clause 13; and
  - (b) Yorcoms Ltd will not be liable to the Customer for any failure to provide the Product as a result thereof.
- 13.5 Yorcoms Ltd does not provide any warranty in respect of any Yorcoms Ltd Equipment but, where possible, will provide the Customer with the benefit of any manufacturer's warranty.
- 13.6 Customer is responsible for the compatibility of the Product with the Customer Equipment. Yorcoms Ltd will not be liable to the Customer where any Customer Equipment warranties become invalidated as a result of work carried out by the Customer, Yorcoms Ltd or its agents in order to provide the Product
- 13.7 Yorcoms Ltd will be entitled, after termination (for any reason whatsoever) of the Contract by giving notice of its intention to repossess the Yorcoms Ltd Equipment, to:
- (a) require the Customer (at the Customer's cost and risk) to immediately return the Yorcoms Ltd Equipment to Yorcoms Ltd; or
  - (b) enter upon any premises with such transport as may be necessary and repossess any Yorcoms Ltd Equipment.
- 14 SITES AND ACCESS**
- 14.1 Customer must procure at its own expense all permissions, licences, waivers, consents, registrations and approvals necessary for Yorcoms Ltd to deliver, install and provide the Products at the Site.
- 14.2 Where Yorcoms Ltd Equipment is required to be installed at the Site, the Customer must prepare the Site in accordance with Yorcoms Ltd' reasonable instructions.
- 14.3 To enable Yorcoms Ltd to carry out its obligations and exercise its rights under the Contract, the Customer must upon request of Yorcoms Ltd permit or procure permission for Yorcoms Ltd or anyone acting on Yorcoms Ltd' behalf to access the Site at all reasonable times. Yorcoms Ltd will not be liable for any failure to provide the Product to the extent caused by the Customer's failure to comply with this Clause 14.3.
- 14.4 Customer will provide or procure a safe working environment at the Site for Yorcoms Ltd employees and anyone acting on Yorcoms Ltd' behalf. Yorcoms Ltd employees or anyone acting on Yorcoms Ltd' behalf will observe the reasonable regulations affecting the Site as previously advised in writing to Yorcoms Ltd.
- 15 SECURITY AND PASSWORDS**
- 15.1 Customer is responsible for the security of the use of the Product including protecting all passwords, backing -up all data, employing appropriate security devices, including virus checking software, and having disaster recovery processes in place.
- 15.2 Where the Customer is or becomes aware of any matters which it knows or ought reasonably be expected to know constitute a threat to the security of the Product will immediately advise Yorcoms Ltd of such matters.
- 16 EVENTS OUTSIDE THE PARTIES' REASONABLE CONTROL**
- 16.1 A Party will be not liable for any delay in performing or failure to perform any of its obligations under the Contract (other than the Customer's obligation to pay the Charges) which occurs as a result of a Force Majeure Event.
- 16.2 In the event that a Force Majeure Event continues for a period of 60 days, the other Party will have the right to terminate in accordance with Clause 10.2.
- 17 CONFIDENTIALITY**
- 17.1 Neither Party will disclose to any third party without the prior written consent of the other Party any Confidential Information which is received from the other Party as a result of the Contract. Both Parties agree that any Confidential Information received from the other Party will only be used for the purposes of performing its obligations under the Contract. These restrictions will not apply to any information which:
- (a) is or becomes generally available to the public other than as a result of a breach of an obligation under this Clause 17; or
  - (b) is acquired from a third party who owes no obligation of confidence in respect of the information; or
  - (c) is or has been independently developed by the recipient without use of the other Party's Confidential Information.
- 17.2 Notwithstanding Clause 17.1, either Party will be entitled to disclose the Confidential Information of the other Party to a third party to the extent that this is required by any court of competent jurisdiction or by a governmental or regulatory authority, or where there is a legal duty or requirement (other than a contractual duty or requirement) to disclose such Confidential Information.
- 18 INTELLECTUAL PROPERTY**
- 18.1 All Intellectual Property Rights in the Products will be owned by Yorcoms Ltd and its Affiliates save to the extent that any of the same contain Intellectual Property Rights owned by third parties.
- 18.2 Yorcoms Ltd grants to the Customer a non- exclusive, royalty free, licence to use Yorcoms Ltd's Intellectual Property Rights within the United Kingdom, for the purpose of utilising the Product in accordance with the terms of the Contract and any usage guidelines that Yorcoms Ltd may provide from time to time.
- 18.3 Customer grants to Yorcoms Ltd and its Affiliates a non-exclusive, royalty free, licence to use, copy and interface with any Intellectual Property Rights within the United Kingdom in any the Customer Equipment and the information and data in the Product

for the purpose of performing Yorcoms Ltd's obligations under the Contract.

- 18.4 Notwithstanding Clause 18.2, the Customer will not be entitled to use the name, trade mark, trade name, or other proprietary identifying marks or symbols of Yorcoms Ltd or its Affiliates without Yorcoms Ltd's prior written consent.
- 18.5 In the event that the Product contains Intellectual Property Rights owned by third parties which Yorcoms Ltd is not entitled to sub-licence to the Customer, Yorcoms Ltd will use reasonable endeavours to assist the Customer, at the Customer's cost and expense, in obtaining a licence to use those Intellectual Property Rights owned by third parties on terms that are acceptable to the Customer.
- 18.6 In the event that the Customer Equipment contains Intellectual Property Rights owned by third parties which the Customer is not entitled to sub-licence to Yorcoms Ltd, the Customer will use reasonable endeavours to assist Yorcoms Ltd, at Yorcoms Ltd's cost and expense, in obtaining a licence to use those Intellectual Property Rights owned by third parties on terms that are acceptable to Yorcoms Ltd.
- 18.7 Customer will not, and will procure that its personnel and, where used, its sub-contractors and their personnel do not, do anything (whether by omission or commission) during the Contract or at any time thereafter to affect or imperil the validity of any Intellectual Property Rights belonging to Yorcoms Ltd or its Affiliates.
- 18.8 Customer will not obtain any rights in respect of any of Yorcoms Ltd's Intellectual Property Rights by virtue of the Contract.

## 19 DATA PROTECTION

- 19.1 This Clause 19 only applies to the extent that Yorcoms Ltd is Processing Personal Data on behalf of the Customer.
- 19.2 Both Parties will comply with all applicable requirements of the Data Protection Legislation.
- 19.3 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and Yorcoms Ltd is the Processor.
- 19.4 The Personal Data Annex sets out the scope, nature and purpose of Processing by Yorcoms Ltd, the duration of the Processing, the types of Personal Data and the categories of Data Subject.
- 19.5 Without prejudice to the generality of Clause 19.2:

- (a) Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Yorcoms Ltd for the purposes of the Contract; and
- (b) Yorcoms Ltd will:
- (i) Process Personal Data only on the written instructions of the Customer, including regarding transfers of Personal Data outside of the European Economic Area, unless Yorcoms Ltd is required to do so by a legal obligation and, if so, Yorcoms Ltd will notify the Customer of this before such Processing, unless a legal obligation prohibits this;
- (ii) ensure that all personnel authorised by Yorcoms Ltd to Process Personal Data are obliged to keep the Personal Data confidential;
- (iii) ensure that it has in place appropriate technical and organisational measures designed to protect against a Personal Data Breach, appropriate to the harm that might result from such Personal Data Breach and the nature of the Personal Data to be protected. Yorcoms Ltd shall have regard to the state of technological development and the cost of implementing any measures, including, where appropriate:
- (A) pseudonymising and encrypting Personal Data;
- (B) ensuring confidentiality, integrity, availability and resilience of its systems and services;

- (C) ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident; and
- (D) regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it;
- (c) notify the Customer without undue delay if it becomes aware of a Personal Data Breach;
- (d) assist the Customer in responding to any requests from Data Subjects and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators, save that if this is not within the reasonable remit of the Products, this will be at the Customer's cost;
- (e) at the Customer's written direction, delete (or put Beyond Use) or return Personal Data to the Customer once provision of the Products has ceased, unless required by a legal obligation to store the Personal Data; and
- (f) maintain records and information to demonstrate its compliance with Clauses 19.5(b), 19.6 and 19.7 and, where this is not sufficient, allow for audits by the Customer or the Customer's auditor solely to demonstrate compliance, at the Customer's cost, provided that:
- (i) Customer:
- (A) will not exercise its audit rights more than once in any 3 year period, save where the Customer reasonably believes that a further audit is required due to a Personal Data Breach;
- (B) gives at least 30 days' written notice of its intention to audit, including specific details on the scope of the audit and any required evidence;
- (C) conducts its audit during normal business hours and limits its audit to a maximum of 2 Business Days; and
- (D) takes all reasonable measures to prevent material business interruption to Yorcoms Ltd;
- (ii) such audit is subject to the confidentiality provisions of the Contract; and
- (iii) Yorcoms Ltd may demonstrate its compliance with Clauses 19.5(b), 19.6 and 19.7 by complying with an approved code of conduct or by obtaining an approved certification.

19.6 Customer consents to Yorcoms Ltd appointing the Third-Party Processors to assist it in providing the Products. If Yorcoms Ltd intends to change any of the Third-Party Processors, it will notify the Customer by updating the Third-Party Processor List thereby giving the Customer the opportunity to object to such change.

19.7 Yorcoms Ltd shall ensure that all agreements with the Third-Party Processors will incorporate terms that are substantially similar to those set out in this Clause 19. If a Third-Party Processor fails to fulfil its data protection obligations to the Customer, Yorcoms Ltd will remain fully liable to the Customer for such Third-Party Processor's obligations.

## 20 ASSIGNMENT AND SUBCONTRACTING

20.1 Subject to Clause 20.2, neither Party will assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract without the prior written consent of the other Party.

20.2 Yorcoms Ltd may assign, transfer or subcontract any or all of its rights and obligations under the Contract a third party provided that Yorcoms Ltd remains primarily liable for the acts and omissions of such third-party subject to the terms and conditions of the Contract.

20.3 Yorcoms Ltd may at its sole discretion provide the Products to the Customer directly and/or through its Affiliates, agents and subcontractors, provided that Yorcoms Ltd remains primarily liable for the acts and omissions of its Affiliates, agents and subcontractors subject to the terms and conditions of the Contract.

## 21 WAIVERS

21.1 A waiver of any right or remedy under a Contract or by law is only effective if given in writing and will not be deemed a waiver of any subsequent breach or default, except as set out in Clause 21.3.

21.2 A failure or delay by a Party to exercise any right or remedy provided under a Contract or by law will not constitute a waiver of that or any other right or remedy, nor will it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law will prevent or restrict the further exercise of that or any other right or remedy, except as set out in Clause 21.3.

21.3 Customer must bring 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) within 12 calendar months of the date it first became aware or ought reasonably to have become aware of the facts giving rise to the liability or alleged liability or within the relevant statutory limitation period, whichever is the earlier or such dispute or claim will be barred.

## 22 THIRD PARTY RIGHTS

22.1 The Contract will inure for the benefit of Yorcoms Ltd and its Affiliates from time to time.

22.2 Except as expressly provided in Clause 22.1, a person who is not a Party to a Contract will not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

22.3 The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under the Contract are not subject to the consent of any other person.

## 23 NOTICES

23.1 All notices to be given to a Party under the Contract will be in writing in English and will be marked for the attention of the person, and delivered by hand, or sent by first class prepaid post, or by email, as detailed for the Party below:

(a) in the case of Yorcoms Ltd:

Address: Community House, Portholme Crescent, Selby, YO8 4QQ

Attention: Head of Internal Services

Email: [contractnotices@yorcoms.net](mailto:contractnotices@yorcoms.net); and

(b) in the case of the Customer: using the details set out on the quote attached to these the Customer Terms.

23.2 A Party may change the details recorded for it in this Clause 23 by notice to the other in accordance with Clause 23.1.

23.3 A notice will be treated as having been received:

(a) if delivered by hand during Office Hours on a Business Day, when so delivered; and if delivered by hand outside Office Hours, at the start of Office Hours on the next Business Day;

(b) if sent by first class post, at the start of Office Hours on the second Business Day after posting if posted on a Business Day and at the start of Office Hours on the third Business Day after posting if not posted on a Business Day;

(c) if sent by email, at the time of receiving a successful delivery receipt, provided a confirmatory copy of the notice is sent by first class post within 24 hours of sending the email, and

(d) for the purposes of Clause 10.3(a), at the time of a verbal notification to the Customer's finance department.

## 24 VARIATIONS

24.1 Subject to Clauses 5.2 and 8.7, Yorcoms Ltd may need to change these terms from time to time. Where any change is made Yorcoms Ltd will publish such change by publishing a notice or updated terms and conditions on its website.

24.2 Where a change under Clause 24.1 is to the Customer's material detriment, Yorcoms Ltd will give the Customer not less than one month's notice in writing and the Customer may terminate the Contract in accordance with Clause 10.2.

## 25 ENTIRE AGREEMENT

25.1 The 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.

25.2 Each Party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract.

25.3 Each Party agrees that it will have no claim for innocent or negligent misrepresentation or misstatement based on any statement in the Contract.

## 26 SURVIVAL OF CLAUSES

The expiry or termination of the Contract will not affect any provisions of it as are expressed to operate or have effect after its termination and will be without prejudice to any right of action already accrued to either Party in respect of any breach of the Contract by the other Party.

## 27 COMPLAINTS

27.1 For any complaints, the Customer should refer to the Yorcoms Ltd Complaints Policy, a link to which is found in the "Terms & Policies" page of the Yorcoms Ltd website.

## 28 GOVERNING LAW AND JURISDICTION

28.1 The Contract is governed by and will be interpreted in accordance with the laws of England and Wales.

28.2 Each Party irrevocably agrees that the courts of England & Wales will 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).

## 29 DEFINITIONS AND INTERPRETATION

29.1 In the Contract:

(a) words and phrases used with capital letters have the meanings given in the glossary at the end of these the Customer Terms, unless otherwise defined in a Product Order;

(b) references to:

(i) Clauses are to Clauses in these the Customer Terms and to Paragraphs are to paragraphs of any supplementary terms agreed by the Yorcoms Ltd;

(ii) a person includes a corporate or unincorporated body (whether or not having a separate legal personality);

(iii) one gender will include a reference to any other gender;

(iv) a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and will include all subordinate legislation made from time to time under that statute or statutory provision;

(v) writing or written does not include faxes;

(vi) the Contract or to any other agreement or document referred to in the Contract is a reference to the Contract or such other agreement or document as varied or novated (in



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each case, other than in breach of the provisions of the Contract) from time to time;

- (c) words in the singular will include the plural and vice versa;
- (d) other than the Customer's obligation to pay the Charges in accordance with Clause 8.1, time will not be of the essence and any dates given are estimates only;
- (e) the words "**include(s)**", "**including**" or "**in particular**" are deemed to have the words "without limitation" following them; and

(f) any obligation on a Party not to do something includes an obligation not to allow that thing to be done.

29.2 In the case of conflict or ambiguity, the order of precedence for a Contract and any documents attached to or referred to in it will be as follows, in descending order of importance:

- (a) the Product Order; then
- (b) any supplemental terms agreed by Yorcoms Ltd; then
- (c) these the Customer Terms; then
- (d) documents attached or referred to in the Contract.

**PERSONAL DATA ANNEX**

<b>Scope of Processing</b>	Yorcoms Ltd Processes Personal Data to enable it to provide, manage, enhance, review and service the Products and to discharge any legal obligations imposed upon it.
<b>Nature and Purpose of Processing</b>	<p>Yorcoms Ltd Processes the Personal Data to:</p> <ul style="list-style-type: none"><li>(a) make informed decisions about End Users and the Products;</li><li>(b) perform day to day management of accounts and Products;</li><li>(c) record consent, e.g. in relation to marketing preferences or disability or medical conditions, to make its Products more accessible, to provide information in alternative formats and to ensure marketing materials are issued in line with preferences;</li><li>(d) provide, maintain and bill the Products;</li><li>(e) provide access to online platforms;</li><li>(f) meet its legal and regulatory obligations and to comply with orders of the court or other bodies having lawful jurisdiction;</li><li>(g) authenticate End Users on the Yorcoms Ltd Network;</li><li>(h) identify, manage and resolve Incidents;</li><li>(i) assess and report on the credit-worthiness of the Customers or potential the Customers;</li><li>(j) take any other action to the extent necessary to discharge an obligation pursuant to the Contract; and</li><li>(k) receive, manage and resolve requests, queries, complaints and claims.</li></ul>
<b>Categories of Personal Data</b>	<p>The Personal Data Processed shall concern the following categories of Personal Data only:</p> <ul style="list-style-type: none"><li>(a) account data e.g. caller line identification/telephone numbers, account number, device ID, IP address, service history and usage data;</li><li>(b) personal data e.g. name, title, date of birth, address and circuit ID;</li><li>(c) financial data e.g. credit or debit card details and bank details;</li><li>(d) interaction history and connection data e.g. authentication logs, online alias and service performance data;</li><li>(e) company data where this identifies a Data Subject e.g. company name and company registered number;</li><li>(f) contact information e.g. email address;</li><li>(g) social media details e.g. profile IDs and handles;</li><li>(h) identification related data e.g. passport and driving licence;</li><li>(i) professional life data e.g. job title and employer;</li><li>(j) Product information e.g. speed logs; and</li><li>(k) special categories of Personal Data e.g. data relating to physical or mental health and biometric data for voice recognition software or the implementation of security measures.</li></ul>
<b>Categories of Data Subject</b>	<p>The Personal Data Processed shall concern the following categories of Data Subjects only:</p> <ul style="list-style-type: none"><li>(a) officers and staff of the Customer, including employees, consultants, volunteers, agents, temporary workers, casual workers and other individuals authorised to act on behalf of the Customer; and</li><li>(b) Ends Users or their authorised representatives.</li></ul>
<b>Duration of Processing</b>	Yorcoms Ltd shall Process Personal Data for no longer than is necessary for the purposes for which it is Processed.



GLOSSARY

<b>Affiliate</b>	In relation to Yorcoms Ltd, any company which is a Subsidiary or a Holding Company or which is a Subsidiary of any such Holding Company from time to time (where 'Subsidiary' and 'Holding Company' have the meanings given in section 1159 and Schedule 6 of the Companies Act 2006).
<b>Ancillary Charges</b>	Any third-party charges incurred by Yorcoms Ltd relating to the provision of a Product that are not Installation Charges, Recurring Charges, Usage Charges or Cancellation Charges.
<b>Beyond Use</b>	As specified in accordance with guidance issued by the Information Commissioner's Office from time to time.
<b>Broadband Product</b>	The broadband services provided by Yorcoms Ltd to the Customer, to access the internet using the Yorcoms Ltd Network, pursuant to the Contract.
<b>Business Day</b>	A day which is not Saturday, Sunday or a public holiday in England and Wales.
<b>Cancellation Charges</b>	The charges (if any) set out in the Price List payable by the Customer to Yorcoms Ltd as a result of cancelling the Contract during the Contract Term.
<b>Change of Control Customer</b>	Any material changes in the exercise, control or holding of the voting shares in the Customer of any holding company of the Customer  (otherwise than solely for the purposes of a group re-organisation of a solvent group).
<b>Charges</b>	The Installation Charges, the Recurring Charges, the Usage Charges, the Ancillary Charges and the Cancellation Charges.
<b>CLI</b>	The telephone number of a calling party.
<b>Confidential Information</b>	All business and trade secrets, methods of doing business, Customer lists, tariffs and pricing information and all other confidential information and material disclosed by or obtained from the other Party in connection with the Contract.
<b>Connection</b>	The connection of the Product to the Yorcoms Ltd Network and "Connected" will be construed accordingly.
<b>Connection Date</b>	The date Yorcoms Ltd notifies the Customer a Product will be ready for use by the Customer or, where a Connection will be connected to the Yorcoms Ltd Network or if earlier the date upon which the Customer first uses the Product or Connection.
<b>Contract</b>	Product Order and any terms set out in it, which has been accepted by Yorcoms Ltd in accordance with Clause 2.2, incorporating these the Customer Terms.
<b>Contract Term</b>	The period commencing on the date of the Contract and expiring after the period from the Connection Date specified in the Product Order.
<b>Controller</b>	As defined in the Data Protection Legislation.
<b>Credit Limit</b>	A monthly financial limit on the Charges which may be incurred under the Contract.
<b>Customer Equipment</b>	Any equipment, apparatus, software, systems and cabling provided by the Customer and used to access the Products.
<b>Customer Terms</b>	These terms and conditions.
<b>Data Protection Legislation</b>	GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then any successor legislation to GDPR or the Data Protection Act 1998 in the UK.
<b>Data Subject</b>	As defined in the Data Protection Legislation.
<b>End User</b>	Any person authorised by the Customer to use the Product.
<b>Force Majeure Event</b>	Any circumstances beyond a Party's reasonable control including acts of God, theft, war or riot, civil disobedience, national emergency strikes and other labour disputes (other than concerning the Party affected by the Force Majeure Event), fire, flood, act of terrorism, power failures, non-availability of any third-party communication services, or the internet or breakdown of any equipment not supplied under a Contract and acts of government or other competent authority.
<b>GDPR</b>	The General Data Protection Regulation ((EU) 2016/679).
<b>Incident</b>	An unplanned interruption or a reduction in the quality of a Product.
<b>Installation Charges</b>	The charges incurred as a result of or arising from the installation of the Product by Yorcoms Ltd at the Site.
<b>Intellectual Property Rights</b>	Patents, rights to inventions, copyright and related rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off rights in designs, database rights, rights to use, and protect the confidentiality of, Confidential Information, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
<b>Legislation</b>	Any legislation, authorisations, permissions, rules, regulations, codes of practice, orders and guidelines relating to the provision, marketing or use of the Products, including any directives or other requirements issued by any regulator from time to time.
<b>Losses</b>	Liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses).
<b>Maintenance</b>	Proactive maintenance of a Product to minimise Incidents.
<b>Maintenance Window</b>	The hours of 00:00 and 06:00, seven days a week.
<b>Office Hours</b>	9.00am-5.00pm on any Business Day.



## TERMS & CONDITIONS FOR BUSINESS CUSTOMER

<b>Party</b>	Yorcoms Ltd or the Customer and together the “Parties”.
<b>Personal Data</b>	As defined in the Data Protection Legislation.
<b>Personal Data Annex</b>	The section of these the Customer Terms headed “Personal Data Annex” and which may be updated by Yorcoms Ltd by posting an update at <a href="https://www.yorcoms.net/help/terms-conditions-policies">https://www.yorcoms.net/help/terms-conditions-policies</a>
<b>Personal Data Breach</b>	Unauthorised or unlawful Processing of Personal Data or accidental loss or destruction of, or damage to, Personal Data.
<b>Price List</b>	The price list of Charges for the Product available on Yorcoms Ltd Website, and as such are periodically updated and made available to the Customer from time to time.
<b>Processing</b>	As defined in the Data Protection Legislation and the word “Process” shall be construed accordingly.
<b>Processor</b>	As defined in the Data Protection Legislation.
<b>Product</b>	Any service, package of services and Yorcoms Ltd Equipment, provided by Yorcoms Ltd to the Customer pursuant to the Contract and “Products” will be construed accordingly.
<b>Product Order</b>	Each proper request for a Product made pursuant to these the Customer Terms.
<b>Recurring Charges</b>	The regular charges for a Product that are incurred periodically in the same amount, such as line rental.
<b>Site</b>	Any premises not owned or controlled by Yorcoms Ltd, at which the Product is to be provided.
<b>Small Business Customer</b>	The Customer who is neither a communications provider nor a person for which more than ten individuals work (whether as employees, volunteers or otherwise).
<b>Yorcoms Ltd</b>	Yorcoms Ltd, trading as Yorcoms, a company registered in England & Wales with company number 11190211
<b>Yorcoms Ltd Equipment</b>	Any equipment, apparatus, software, systems and cabling provided by Yorcoms Ltd to provide a Product at the Site. The Yorcoms Ltd Equipment does not include the Yorcoms Ltd Network.
<b>Yorcoms Ltd Network</b>	The public electronic communications network operated by Yorcoms Ltd or its Affiliates from time to time.
<b>Yorcoms Ltd Website</b>	The website located at <a href="https://www.yorcoms.net">https://www.yorcoms.net</a> as may be amended from time to time.
<b>Telephone Preference Service</b>	The call screening service provided by Yorcoms Ltd as more particularly described in the Contract.
<b>Telephony Product</b>	The services provided by Yorcoms Ltd to enable the Customer, to make and receive calls over the Yorcoms Ltd Network, pursuant to the Contract.
<b>Third Party Operator</b>	The operator of any electronic communications network or provider of any electronic communications services over which or through Yorcoms Ltd may provide Products.
<b>Third-Party Processor List</b>	A list of the Third-Party Processors, which is available upon request from <a href="mailto:internalservices@yorcoms.net">internalservices@yorcoms.net</a>
<b>Third-Party Processors</b>	Yorcoms Ltd’ third-party processors, who may Process Personal Data outside of the European Economic Area, as detailed on the Third-Party Processor List.
<b>Transmission Speed</b>	The rate either in Kbps or Mbps that data is transferred between the Yorcoms Ltd Equipment and the Broadband Product.
<b>Usage Charges</b>	The charges that are incurred based on use of the Product, such as call charges or bandwidth usage charges. This covers all charges incurred including where the Product is used without the Customer’s knowledge, consent or otherwise.