



Cloud Office Hosted Telephony Terms and Conditions

Unless the context otherwise requires:

“Agreement” means the “Order Form”, the “Registration Form” (if any), and the terms and conditions herein;

“Customer” means the party contracting with Atlas and defined in Order form and/or registration form for the service;

“Order Form” means the relevant Order Form(s) for the Service or Services, issued by Atlas;

“Registration Form” means the relevant Customer Registration form for the Service or Services, issued by Atlas;

“Service” means the Service listed on the relevant Order Form(s),

“Atlas” means Atlas Communications (NI) Ltd of 1 West Bank Close, Belfast, BT3 9LD, its successors and assigns;

“Atlas Equipment” means any hardware, cabling, peripherals, software or any other equipment that Atlas shall provide to the Customer as part of the Services, whether owned by Atlas or a third party supplier, but specifically excludes any such equipment that has been sold to the Customer;

“Atlas Website” means the website operated by Atlas currently at URL www.atlas-comms.com (such URL’s may change from time to time);

“Commencement Date” means the date on which this Master Services Agreement is signed by the parties or when Atlas first commences performance of its obligations under this Agreement, whichever is the earlier;

“Confidential Information” means all confidential information disclosed by a party or its employees, officers, representatives or advisers (together its “Representatives”) to the other party and that party’s Representatives Agreement including any information relating to the business, affairs, customers, clients and suppliers of the disclosing party (or of any Affiliate of the disclosing party) and any information relating to the services, product information, know-how, designs, trade secrets or software of the disclosing party;

“Contract Year” means each successive period of 12 calendar months during the Term commencing on the Commencement Date;

“Control” means the beneficial ownership of more than fifty per cent (50%) of the issued share capital or the legal power to direct or cause the direction of the general management or affairs of the company, partnership or other entity in question and “Controls”, “Controlled” and “Controlling” shall be construed accordingly;

“Credits” means any sums that may be credited to the Customer by Atlas under the terms of this Agreement, including the Service Credits;

“Customer” means the person, group of people, company or partnership, that receives the Services from Atlas under the terms of this Agreement, as identified in the Order Form;

“Customer Data” means any data provided to Atlas by the Customer or on the Customer’s behalf;

“Customer Equipment” means any hardware, cabling, peripherals, software or any other equipment other than the Atlas Equipment;

“Customer Laws” means all applicable laws, rules, regulations, mandatory guidelines and codes, which, in the case of the Customer and its Affiliates, impose legal or regulatory requirements on a recipient of the Services;

“Customer Materials” means the Customer Data, the Customer Materials, documents and any other tangible materials provided to Atlas by the Customer or on the Customer’s behalf;

“Data Protection Legislation” means in EU countries, the EC Directive on the protection of individuals with regard to the processing of personal data, the free movement of such data (95/46/EC) and all local laws or regulations giving effect to this Directive; the Privacy and Electronic Communications Regulations 2003; and/or in non-EU countries, any similar or equivalent laws, regulations or rules relating to information or data identifying individuals;

“Fees” means the fees and charges payable by the Customer for the Services as described in an Order Form;

“Force Majeure Event” means any circumstances beyond the reasonable control of either party to this Agreement including strikes, lock-outs or other industrial action (other than strikes, lock-outs or other industrial action of any contractors of the party seeking to rely on the Force Majeure Event); civil commotion, riot, invasion, war (whether declared or not) or threat of or preparation for war; fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster; reduction or interruption of any utilities howsoever caused; reduction or interruption of the use of telecommunications, networks, the internet, railways, shipping, aircraft, motor transport or other means of public or private transport; virus and/or hacking attacks or other malicious acts of a third party not under the control of a party; and compliance with any law or governmental order, rule, regulation or direction.

“Initial Term” means in relation to a Service, the agreed period from the Service(s) Commencement Date, or such other period as set out in the Order Form;

“International Service” means a Service provided by Atlas to a Customer outside of the United Kingdom, as set out in the Order Form, SOW and/or the Service Description; DELETE

“Laws” means Atlas Laws and the Customer Laws;

“Master Services Agreement” or “MSA” means these terms and conditions;

“Minimum Written Notice” means, unless otherwise specified in the Order Form, the period of 30 days;

“Order Form” means the order form(s) provided by Atlas to the Customer for the Customer’s signature which lists the Services requested by the Customer, the Fees for such Services and which has been accepted by Atlas in accordance with this Agreement;

“Parties” means Atlas and the Customer and "party" means either of them;

“Premises” means the premises owned and/or operated by the Customer where the Services shall be performed or where any Atlas Equipment shall be installed;

“Renewal Term” means the agreed period of months commencing on the expiry of the Initial Term and each successive period thereafter (or such other period as is set out in the Order Form) in the event that Atlas has not received Minimum Written Notice (each being a “Renewal Term”);

“Replacement Services” means Services that Atlas agrees to provide to the Customer from time to time to replace or supplement the existing Services;

“Services” means such service or services identified in the Order Form and as further described in the Service Description applicable to that Service or the Services identified in an SOW (including, in each case the provision of associated Service Deliverables);

“Service Commencement Date” means the date in respect of each Service on which that Service is made available for use to the Customer in accordance with the provisions of this Agreement;

“Service Credits” means the service credits applied where Atlas is in default of the Service Levels;

“Service Description” means the document(s) setting out a description of the Services referred to in the Order Form;

“Service Deliverables” means any materials, equipment, software, deliverables or other items of any type developed, created or supplied (whether alone or jointly) by Atlas or any Atlas Affiliate in the course of the provision of the Services;

“Service Levels” means the service levels for each Service (where applicable);

“Service Term” means, in relation to each of the Services, the period from the Service Commencement Date to the termination (for any reason) of such Service(s) pursuant to this Agreement;

“SOW” means the Statement of Work, which may be provided by Atlas to the Customer, if applicable, along with the confirmation of the Order;

“Supplier Laws” means all applicable laws, rules and regulations codes that impose legal or regulatory requirements on Atlas and its Affiliates;

‘Supplier’s Customer Service Manager’ means any customer service manager appointed from time to time by Atlas.

‘Supplier’s Project Manager’ means Atlas’s project manager appointed

‘Supplier’s System’ means the information and communications technology system to be used by Atlas in performing the Services, including the Hardware, the Software and communications links between the Hardware and the Computing Infrastructure.

‘Unauthorised Change’ means any change, addition, removal, or use of any part of the Computing Infrastructure that does not comply with the Change Control Procedure.

“Target Installation Date” means the date agreed between the parties for the installation of a Service(s);

“Term” means the duration of this Agreement; “Trial” means the trial of a Service by the Customer;

'Virus' means without limitation, any malicious code, Trojans, worms and viruses, lock, authorisation key or similar device that impairs or could impair the operation of the Software and or the Services.

"Working Day" means 08.30 to 17.00, Monday to Friday excluding UK Public Holidays.

1. SUPPLY

- 1.1 The specific Service configuration may, at Atlas' discretion, vary from time to time. Atlas undertake to inform the Customer of such variations where necessary to do so.
- 1.2 The Service description is deemed to be incorporated into the Agreement.

2. PRICE AND PAYMENT

- 2.1 The Customer shall pay Atlas monthly on receipt of an invoice in accordance with Atlas' Order Form subject to any mutually agreed variation. For any one-off capital items, the customer shall pay within 30 days of the date of invoice.
- 2.2 Atlas reserve the right to vary the specific service configuration and pricing (including to this MSA, Acceptable Use Policy, Service Description or SLA). The Customer shall receive three months prior written notice of any such variation. Atlas agree that the pricing remain fixed for the duration of the initial term (as defined below) unless otherwise specified in any schedule of services.
- 2.3 Notwithstanding the provisions of Clause 2.2 Atlas will ensure that any change(s) applied to a Service Description provide functionality and/or features equivalent to or exceeding the functionality and/or features for that Service prior to the change(s).

3. TERM AND TERMINATION

- 3.1 The Initial Term of this Agreement is for a minimum period of one month, commencing on the date to be agreed in writing in separate correspondence ("the commencement date"). Such correspondence is deemed to be incorporated into the Agreement. This agreement will continue automatically thereafter on a yearly basis unless terminated according to the terms below.
- 3.2 The customer may serve a minimum of one month's notice of termination at any time during the Initial Term PROVIDED THAT such notice will be effective on or after the expiry of the initial Term.
- 3.3 The customer may terminate this contract at any time after the expiry of the Initial Term on giving three months prior notice in writing. If the Customer terminates this Agreement at any time after the end of the Initial Term without giving three months' notice as required above, Atlas will charge a termination Fee of three months Annual Subscription fee, payable at the date of termination.
- 3.4 Either party may terminate this agreement forthwith where the other party is in a material breach of this agreement and fails to remedy the same within 21 days of written notice demanding such remedy.
- 3.5 Either party may terminate this agreement forthwith where the other party commits any act of bankruptcy; or compounds with its creditors; or a petition or receiving order in bankruptcy is presented or made against the other party; or in a petition to wind up the other party or an administration order presented in relation to the other party or a resolution or petition is passed or presented (otherwise than for reconstruction or amalgamation) or a receiver or administrative receiver is appointed.
- 3.6 If this agreement is terminated (howsoever occasioned save in respect of a default by Atlas or in accordance with clause 3.2 above) before the expiry of the Initial Term, Atlas will charge the Customer a termination fee of 50% of the total subscription fee payable in respect of the Initial Term or the subscription fee payable for the remainder of the Initial Term (whichever is less).

4. USE OF SERVICE

- 4.1 The Customer and the Customers employees at the site(s) specified in the Order Form or schedule of services may only use the Service for lawful purposes.
- 4.2 The Customer shall be responsible for the safe custody and safe use by it of the Service and, without prejudice to the generality of the foregoing or any other provisions of the agreement, the Customer shall:
- (a) not (nor authorize or permit any other party to use the Service for the transmission of any material which is in violation of any law or regulation or which is defamatory, menacing, obscene, in breach of third party intellectual property rights (including copyright), adversely affects Atlas' ability to provide services to its customers or is in breach of any trade secrets.
 - (b) not cause any attachments, other than those that meet the appropriate essential requirements of regulation 4 of the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 (as from time to time amended), to be connected to the Service and Atlas shall not be under any obligation to connect or keep connected any Customer apparatus if it does not so conform or if in the reasonable opinion of Atlas it is liable to cause death, personal injury or damage or to impair the quality of the Network Service;
 - (c) not to use the Service as a means of communication for a purpose other than that for which the Service is provided and as may be set out in any relevant literature supplied by Atlas from time to time;
 - (d) not to use the Service in a manner which constitutes a violation or infringement of the rights of any other person;
 - (e) to maintain its telecommunications apparatus at all times during the period of the agreement in good working order and in conformity with any relevant regulatory standards or approvals, any relevant laws, and/or any licence for the item as from time to time applicable;
 - (f) to implement adequate control and security over the use of the Network Services provided to the Customer including but not limited to the prevention of viruses, worms, Trojan horses, denial of service or brute force attacks and/or any calls generated by rogue diallers or hackers;
 - (g) not to use the Network Services in a way that breaches or infringes any relevant laws, any third party rights or any licence applicable to the Customer or that is in any way unlawful or fraudulent; and
 - (h) not to send or procure the sending of any unsolicited advertising or promotional material.
- Any breach of this clause shall be deemed to be a material breach of the Agreement and shall entitle Atlas to terminate the Agreement pursuant to clause 3.4 and for this purpose it shall be irrelevant whether the Customer is aware of the content of any material so transmitted or not. Notwithstanding and in addition to clause 3.4 Atlas may suspend the Service without notice with immediate effect if in Atlas' reasonable opinion the customer is in breach of this clause.
- 4.3 The Customer acknowledges that Atlas is unable to exercise control over the content of the information passing over any provided Atlas connection and/or the Atlas network and/or the Service, and Atlas hereby exclude all liability of any kind for the transmission or reception of infringing information of whatever nature.
- 4.4 The Customer hereby agrees to indemnify and hold Atlas harmless from any claim brought by a third party against Atlas resulting from the use of the Service by the Customer, including but not limited to infringement of any intellectual property right of any kind, legislation or regulation. The Customer shall pay all reasonable costs, damages,

awards, fees (including reasonable legal fees) and judgments finally awarded against Atlas arising from such claims, and shall provide Atlas with notice of such claims, full authority to defend, compromise or settle such claims and reasonable assistance necessary to defend such claims, at the Customer's sole expense. Such actions will be taken in consultation with the Customer.

- 4.6 The Service may be used by the Customer to link into other networks worldwide and the Customer agrees to conform to the Acceptable Use policies of such networks.
- 4.7 Any equipment installed or provided by or on behalf of Atlas for the purposes of providing the Network Services (excluding for the avoidance of doubt any Equipment purchased by the Customer under or as an annex to the agreement) shall at all times remain the property of Atlas and shall be returned to Atlas forthwith upon request. The Customer shall be liable to Atlas for all losses, costs and expenses incurred by Atlas for the recovery, replacement or repair of such equipment (save to the extent that the same is caused by the fault of Atlas).
- 4.8 Telephone calls that are provided over by Atlas and the Customer commits to using Atlas for the carriage of these calls during the term of the agreement. Should the Customer use an alternative carrier for calls after the Acceptance Date and during the term of the agreement, or prevent Atlas from carrying calls in any monthly period so that the call charges are significantly reduced in comparison to the Customer's previous average invoicing profile, Atlas may charge the Customer the differential between the average monthly spend on calls prior to such commencement or prevention and the subsequent monthly spend on calls (if any). The Customer accepts that Atlas relied upon the value and volume of calls when determining the Fees for the Services.
- 4.9 The Services are provided solely for the Customer's use and the Customer's cannot resell or attempt to resell the Services (or any part of them) to any third party. In addition, if the Customer has a mail server, the Customer must not allow relay emails from outside its domain from the Customer's mail server.
- 4.10 Atlas does not warrant or guarantee the accuracy or completeness of any of the information, sound, software and/or any other materials (in whatever form) which may be accessible by the Customer from any other person once it has the Service or any further information or results which may be derived from it. The Customer acknowledges that the Content is outside the control of Atlas and the Customer will not rely on any Content in making any business or other decision and that the Customer uses of the Content is at its sole risk.
- 4.11 Both parties agree to fully co-operate with the police and any other relevant authorities (including but not limited to HMRC, Trading Standards, the Information Commissioner and/or OFCOM and their successors from time to time) in connection with any misuse or suspected misuse of the Service, and the Customer consents to Atlas co-operating with any such authority and with any other telecommunications operators in connection with any misuse or suspected misuse or suspected fraudulent activity related to or connected with the Service and agrees, without prejudice to the generality of the foregoing, that Atlas will be entitled to divulge the name and address and account information relating to the Customer to such third parties.
- 4.12 The Customer acknowledges that the network connectivity element (if any) of the Services may potentially be provided to other users and Atlas owes a duty to these users as a whole to preserve its network integrity and avoid network degradation. If, in Atlas's reasonable opinion, Atlas believes that the Customer's use of the Services has or may adversely affect such network integrity or may cause network degradation, Atlas may change the Customer's chosen access rate or manage the Customer's Services as Atlas sees fit in the circumstances.
- 4.13 To prevent spam from entering and affecting the operation of the Atlas' System and the Services, Atlas 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 and/or part of a bulk e-mail transmission. Atlas may also use virus-screening technology that may result in the

deletion or alteration of e-mail and or e-mail attachments. Atlas gives no warranties whatsoever that such technology will be effective in any way, including (without limitation) against unsolicited emails or against any viruses, worms, Trojan horses or other programs or devices that are apparently intended to access and modify, delete or damage data file(s) or computer program(s).

4.14 Where the Customer utilises Atlas provided connectivity to connect to the Service the customer shall comply with the network Acceptable Use Policy. Atlas may change the Acceptable Use Policy at any time by publishing the changes on its website or at such other URL as is notified to the Customer by Atlas from time to time) thirty days before the change is to take effect.

4.11 In circumstances where the Customer uses a third party connection to the Service, the Customer remains responsible for the suitability of this connection and all rental charges made by the third party supplier.

5. SUPPLIER'S OBLIGATIONS

5.1 Atlas warrants that the Services will be performed with all reasonable skill and care and that they will be provided substantially in accordance with the Order Form and the terms and conditions of this agreement.

5.2 The warranty in clause 5.1 shall not apply to the extent of any non-conformance that is caused by use of the Services contrary to Atlas's instructions.

5.3 If the Services do not conform to the warranty in clause 5.1, Atlas will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the warranty in clause 5.1.

5.4 Notwithstanding the foregoing, Atlas does not warrant that the Customer's use of the Services will be uninterrupted or error-free and the Customer acknowledges the same.

5.5 This agreement shall not prevent Atlas from entering into similar agreements with third parties, or from independently developing, using, selling or licensing materials, products or services that are similar to those provided under this agreement.

6. SECURITY

6.1 Atlas shall ensure that appropriate safety and security systems and procedures are maintained and enforced to prevent unauthorised access or damage to any and all Services, Atlas's System and related networks or resources and the Customer Data.

6.2 Atlas shall make reasonable attempts ensure that Atlas's System is designed, maintained and upgraded at all times so as to minimise the risk of attack by Viruses.

6.3 The Customer shall promptly inform Atlas if it suspects or uncovers any breach of security, and shall use commercially reasonable endeavours to promptly remedy such breach.

7. CUSTOMER'S OBLIGATIONS

7.1 The Customer shall:

- (a) provide Atlas (and Atlas's employees and subcontractors) with:
 - (i) all necessary co-operation in relation to this agreement (including, without limitation, ensuring that the Computing Infrastructure and all Customer Sites conform to Atlas's reasonable requirements); and
 - (ii) all necessary access to such information and such Customer Sites as may be required by Atlas, in order to render the Services to the Customer;
- (b) appoint the Customer's Project Manager, who shall have the authority to contractually bind the Customer on all matters relating to this agreement. The Customer shall use reasonable endeavours to ensure continuity of the Customer's Project Manager;
- (c) comply with all applicable laws and regulations with respect to its activities under this agreement
- (d) keep confidential any user access passwords and PINS, which the Customer has chosen in connection with its account. Atlas cannot disclose information about the Customer's account to the Customer's nominated third party until Atlas is satisfied as to such third party's identity, and such third party has correctly quoted the password or PIN to Atlas;
- (e) not carry out any Unauthorised Changes on the service; and
- (f) carry out all other Customer responsibilities set out in this agreement or in any of the schedules in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, Atlas may adjust any timetable or delivery schedule set out in this agreement as reasonably necessary.

7.2 Without prejudice to any other rights or remedies available to it, Atlas may suspend provision of any elements of Services that are, or continue to be, materially affected by any failure by the Customer to comply with its obligations under this agreement.

8. SOFTWARE

- 8.1 Where the Company provides software to the Customer to enable the Customer to use the Services ("Software"), the Company will grant the Customer a non-exclusive, non-transferable licence to use the Software solely for the term and purposes of the Contract (and to the extent necessary to use the relevant Services). If required by the Company, the Customer shall sign such end user licence agreement as may be reasonably required by the owner of the copyright in the Software to protect the owner's interest in that Software and for the Customer to be able to use the Software.
- 8.2 Except as permitted by applicable law or as expressly permitted under the Contract the Customer shall not de-compile, reverse-engineer, or modify the Software, or copy the relevant manuals or documentation.
- 8.3 The Customer shall, and shall procure that all end users shall, comply with all Software licence terms and conditions which

9. ASSIGNMENT, RESELLING AND SUB-LETTING

- 9.1 The Customer in entering into this contract undertakes that it will not assign, or in any other way transfer the Atlas Service (or element thereof), or its rights or obligations under the terms of this contract with prior notice and express agreement of Atlas. Contravention of this in any way will result in the entire Service being terminated forthwith by Atlas, in which event the Customer will be liable for a termination fee calculated in accordance with clause 3 above.

10. EXCLUSION OF WARRANTIES

- 10.1 Atlas do not exclude or restrict liability for death or personal injury resulting from Atlas' negligence; and the customer shall not be liable for any claim arising solely out of the act of omission by Atlas
- 10.2 Save as expressly set out herein, all conditions or warranties which may be implied or incorporated into this contract by law or otherwise are hereby expressly excluded to the extent permitted by law. In no circumstances whatsoever will Atlas be liable for (whether innocent or negligent), restitution or otherwise for any economic loss including loss of profits, loss of business, depletion of goodwill or similar losses, or for any indirect or consequential loss, costs, damages, charges or expenses however arising
- 10.3 While Atlas will use all reasonable endeavours to provide a prompt and continuing service it will not be liable for any loss of data resulting from delays, non-deliveries, missed deliveries, or service interruptions caused by events beyond the control of Atlas, or by errors or omissions of the Customer.
- 10.4 Atlas specifically exclude any warranty as to the quality or accuracy of information received through the Service.
- 10.5 In any event, save in respect of claims pursuant to clause 10.1 & 10.2 above, the liability of Atlas to the Customer in respect of an event or series of connected events arising out of or in connection with the Agreement, whether in contract, tort (including negligence) or otherwise, shall be limited shall be limited to the lowest of:
- (ii) the price paid for the Services during the 12 months preceding the date on which the claim arose; or
 - (iii) an amount equal to the level of professional indemnity cover held by Atlas.
- 10.6 Each provision of this clause excluding or limiting liability shall be construed separately, applying and surviving even if for any reason one or other of those provisions is held inapplicable or unenforceable in any circumstances and shall remain in force notwithstanding the termination or expiry of this Agreement.

11. DATA PROTECTION

- 11.1 The Customer acknowledges that in the course of performance of this Agreement it may provide certain personal data (as defined in the Data Protection Act 1998 / General Data Protection Regulation (GDPR) (EU) 2016 or any replacement thereof) to Atlas Communications (NI) Ltd regarding its employees, sub- contractors and other third parties, in particular names and addresses of such persons. The Customer further acknowledges that Atlas Communications (NI) Ltd may wish to disclose such data to its suppliers for various purposes connected to this Agreement, including without limitation so that suppliers can assist Atlas Communications (NI) Ltd to carry out its obligations hereunder or so that suppliers have details of contacts for the purposes of software licences. The Customer directs Atlas Communications (NI) Ltd to disclose such data (and warrants that it has all necessary consents and permissions required for the giving of such direction) to its suppliers in accordance with this clause as Atlas Communications (NI) Ltd may require to disclose in order to perform its obligations under this Agreement, whether those suppliers are in the United Kingdom or elsewhere in the world.
- 11.2 In accepting these Terms you give consent that we can process your personal data, receive and hold confidential and/or sensitive personal data in relation to you and that, where appropriate, we can disclose this to others, such as suppliers, delivery companies. If you have a concern about disclosure of any particular sensitive personal or commercial data, you can raise this with us at any time.
- 11.3 The Customer shall inform Atlas forthwith of any changes of address, telephone number or any other material details, which were originally provided to Atlas.

12. MODIFICATIONS

- 12.1 Atlas may, at reasonable intervals, send a revised version of reasonable modifications of these terms under this Agreement together with a notice stating when such terms will come into force. If the Customer continues to use the service after such date, then the customer shall be deemed to have accepted these revised terms with effect from the specified date.
- 12.2 Atlas shall have the right by notice in writing to the customer to modify the Agreement at any time so as to comply with any law or regulation or other requirement applicable to or imposed upon Atlas by any competent authority.

13. GENERAL

- 13.1 Neither party shall be liable in respect of any breach of this Contract due to any cause beyond its reasonable control including but not limited to: Act of God, inclement weather, flood, lightning or fire; industrial action, act or omission of Government, or other competent authority, riot, war or act or omission of any other party for whom that party is not responsible.
- 13.2 These Terms and Conditions are governed by and shall be construed in accordance with the Laws of Northern Ireland and the Customer hereby submits to the exclusive jurisdiction of the Northern Irish Courts. Subject to clauses 1.3 and 3.1 this Agreement represents the entire agreement between the parties. No variations to these Terms and Conditions shall be valid unless in writing and signed by both the parties hereto.