



Network Services Terms and Conditions

DEFINITIONS

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 Communications (NI) Ltd 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 Communications (NI) Ltd

“Registration Form” means the relevant Customer Registration form for the Service or Services, issued by Atlas Communications (NI) Ltd

“Service” means the Service listed on the relevant Order Form(s), as described within Atlas’ current sales brochure and Atlas’ website, www.atlas-comms.com, at the Commencement Date of Service to the customer.

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

1. SUPPLY

- 1.1 The specific Service configuration may, at Atlas’s 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 by annual on receipt of an invoice in accordance with Atlas’s Order Form subject to any mutually agreed variation. Payment is within 30 days of date of invoice.
- 2.2 Atlas reserve the right to vary the pricing on an annual basis. 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).

3. TERM AND TERMINATION

- 3.1 The Initial Term of this Agreement is for **a period of three (3) years 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 three months’ 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 may only use the Service for lawful purposes.
- 4.2 The Customer shall 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) or in breach of any trade secrets. 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’s 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 the 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 world-wide and the Customer agrees to conform to the acceptable use policies of such networks.

5. ASSIGNMENT, RESELLING AND SUB-LETTING

- 5.1 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. 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.

6. EXCLUSION OF WARRANTIES

- 6.1 Atlas do not exclude or restrict liability for death or personal injury resulting from Atlas's negligence; and the customer shall not be liable for any claim arising solely out of the act of omission by Atlas
- 6.2 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 economic, indirect or consequential loss.
- 6.3 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.
- 6.4 Atlas specifically exclude any warranty as to the quality or accuracy of information received through the Service.
- 6.5 In any event, save in respect of claims pursuant to clause 6.1 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 to any schedule previously notified to the customer
- 6.6 Each provision of this clause 6 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.

7. DATA PROTECTION

- 7.1 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.
- 7.2 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.
- 7.3 The Customer shall inform Atlas forthwith of any changes of address, telephone number or any other material details, which were originally provided to Atlas.

8. MODIFICATIONS

- 8.1 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.
- 8.2 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.

9. GENERAL

- 9.1 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.
- 9.1 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.