

Terms and Condition for SCS Leased Line and Ethernet Services

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1. Definitions

"We, us or SCS" means Sprint Ltd T/As SCS whose registered office is at 73 Church Road Hove BN3 2BB. Registered in the UK. "Customer" means the person who places the Order and uses the Services. "Telephone Line" means the telecommunications circuit that the Customer uses to obtain telecommunications services over the public switched telephone network at the Site as notified by the Customer. "Agreement" means these Terms, together with the order form. "Installation date" means the date when the service is installed in the site. "Consumer" or "Customer" means a person who enters into a contract other than in the course of a business. "Customer Equipment" means apparatus belonging to the Customer. "Order Form" means the SCS application form, written customer order or e-mailed customer order. SCS Equipment" means any apparatus or equipment provided by SCS or any third party to the Customer at the Site to enable provision of the Service under this Agreement. "Site" means the Customer Site where the Service is to be received. "Service" means the installation, connection and supply of the Ethernet or Leased Line Circuit.

2. Commencement and Duration

The term of each service contract shall start from the date on which, either the individual circuit (for single circuits and/or those with ADSL backup), or the final circuit (for a solution with leased line or Ethernet backup) is installed and made available for service (the activation date). The contract will then continue for the term stipulated within the customer order form. For the avoidance of doubt, the minimum term of contract for leased line/Ethernet services is 36 months. At the end of the term, the contract will automatically renew to a further period of one (1) month, on a rolling monthly basis, unless SCS receive prior notice from the customer under the termination conditions stated below.

3. Provisions of the Service.

3.1 We shall provide or procure the provision of the Service to the Customer in accordance with the terms of this Agreement. The Customer acknowledges that it is technically impracticable to provide a fault free Service and SCS does not undertake to do so.

3.2 The provision of the Service to the Customer will be subject to the characteristics of the Customers Access Connection and the Carrier may determine that it is not possible to supply the Service over the Customers Access Connection. Where this is the case, we will immediately terminate this Agreement, and will not be liable to the Customer for such termination.

3.3 SCS reserves the right to make any changes to these terms or to the service contract, including changes to the service and the SLA as is required from time to time, to reflect: Technical and operational changes to the core network or that of one of our third party providers provided such changes do not materially affect the applicable service provided to the customer or changes enforced by law, regulation or codes of conduct which may be altered or issued from time to time

3.4 Occasionally SCS and/or our suppliers may have to interrupt the Service or change the technical specification of the Service for operational reasons (such as maintenance or Service upgrades) or because of an emergency. In these circumstances where possible SCS will give notice to the Customer of any such interruption however, the Customer shall have no claim against SCS for any such interruption.

3.5 Except as otherwise expressly permitted under this Agreement, the Customer may not: - modify the Service without our prior written consent; - redistribute copy or use the Service, or transfer rights to the use of the Service to any third party; - disclose details of the Service, to any third party without our prior written consent; - Use the Service except in conjunction with our recommended operating guidelines;

3.6 SCS shall use its reasonable endeavours to comply with the Customer's reasonable requests in respect of installation but SCS or our supplier's decision on the routing of cables and wires and the positioning of outlets and other apparatus constituting the SCS Equipment shall be final and binding.

3.7 SCS shall use all reasonable endeavours to provide and install or procure the provision and installation of the SCS Equipment at the Site so that the Service can be provided on or before any installation date specified or agreed to by SCS. Any installation date is an estimate only and we shall not be liable for any failure to meet such installation date.

3.8 Throughout the provisioning process, SCS will need to communicate with the nominated site contact to arrange access to the premises, for SCS and/or their third party suppliers. Any delays to these requests either by the site contact, their representatives or the Landlord of the termination premises will delay SCS from meeting the target date and issuing a Committed Delivery Date (CDD). The CDD is the date by which SCS agree to have service ready for use (the activation date).

3.9 Typically within 10 working days of acceptance of an order, SCS or their third party representative will perform a premises survey at the termination location, also known as a 'site survey'. It is typical that within a further 10 working days of the site survey, that SCS will be able to issue a CDD.

3.10 During this time, SCS will notify you of any Excess Construction Charges (ECCs) raised by the supplier. The issuing of a CDD will be delayed where a decision regarding ECCs is outstanding. When SCS or their third party decree that the installation costs originally quoted (or which were included over the term if these costs are amortised) are not enough to cover the actual cost of the installation works. Such costs are known as excess construction charges (ECCs), and these fees (where applicable) will be notified to the customer post site survey. At this point, the order will be placed on automatic 'hold' until the customer agrees (or not) to pay the excess construction fees. The customer has 5 working days to decide, and to notify SCS in writing to the relevant member of staff of their decision. Please note that each elapsed day during this 5 day period will be automatically added to the CDD. If the customer agrees to pay, the provisioning service will resume and a CDD issued in due course. Should the customer decline they have the right to cancel their order with no further charges. Should the customer fail to notify SCS of their decision within 5 working days we may consider the order cancelled and the standard cancellation fees will apply.

3.11 Should the customer choose to cancel the order at any point, other than that described above cancellation fees will apply. Cancellation fees are available on request.

3.12 In the event that a customer takes an ADSL backup service, the ADSL backup service is subject to the ADSL terms and conditions separately to this agreement. The customer must ensure that a valid PSTN line is in the correct location (should be within 3 metres of the planned leased line termination point), otherwise SCS will not be able to provide ADSL back up.

3.13 For all services, when an installation fee is levied (as per the customer order form) SCS reserve the right to invoice this fee, which must be paid before we hand over the service to the customer or end user.

4. Use of the Service

4.1 The Customer must not use the Service: - in a way that does not comply with the terms of any legislation or any license applicable to the Customer or that is in any way unlawful or fraudulent or has any unlawful or fraudulent purpose or effect; - in connection with the carrying out of a fraud or criminal offence against SCS, or any other public telecommunications operator; - to send, knowingly receive, upload, download, use or re-use any material which is abusive, indecent, defamatory, obscene or menacing, or in breach of any copyright, confidence, privacy or any other rights; - to send or procure the sending of any unsolicited advertising or promotional material other than in the case of the Customer to its own customers; in a way that does not comply with any instructions SCS or our supplier has given.

4.2 SCS will be entitled to suspend the Service or terminate the Agreement where SCS, in its absolute discretion, believes the Customer is in breach of any provisions of Clause 4.1.

4.3 The Customer will co-operate with SCS's reasonable requests for information regarding the Customer use of the Service and supply such information without delay.

5. Charges

5.1 The Customer will pay the charges within 14 days of the date of the SCS invoice.

5.2 All charges exclude Value Added Tax (VAT) at the applicable rate, unless stated otherwise.

5.3 SCS may also make an additional charge (on the basis of additional charges detailed in the SCS Price List), which will be borne by the Customer in the following circumstances: - an abortive visit charge may be incurred where incorrect information supplied by the Customer means it is technically impracticable to provide the Service over the Customers Access Connection; - where SCS or our supplier are unable to gain access to the Site to carry out installation of the Service or the installation is aborted an abortive visit charge may be payable; - where certain order information provided by the Customer is illegible, inaccurate or incomplete an administration fee will be charged; - where SCS or a supplier or carrier provide the support to the Customer outside its normal support times in supply of the Service; - where a fault relates to equipment other than the supplied Equipment. Ancillary charges will be sent to the customer on a separate bill following receipt from our supplier (in turn from their supplier). SCS accepts no responsibility for the accuracy of the suppliers data.

6. Customer Obligations

CUSTOMER'S RESPONSIBILITY: It is the responsibility of the customer at all times to ensure the following; - 3 pin standard UK plug socket is available for each piece of required electronic equipment supporting the service(s) provided. Typically this will be one socket for each carrier NTE, and one for each router (or CPE) supplied by SCS to support the service. In addition, additional power sockets may be required as directed following initial site survey depending upon the solution(s) purchased. For all ADSL services as a backup, the customer must ensure that a non service bearing standard analogue PSTN line is available for SCS to enable the ADSL service. This PSTN line must terminate within 3 metres of the location of the SCS CPE; - That enough rack space, where the customer expects the carrier NTE and SCS CPE to be positioned within a data rack (standard UK 19inch width), and that there is at least 3U of available space per single leased line or Ethernet circuit. As much as 10U may be required in certain circumstances but this is the exception rather than the rule and should be identified at survey.

6.1 To allow the installation and use of the SCS Equipment at the Site, the Customer will at the Customer's own expense: - obtain all necessary consents, including consents for any necessary alterations to buildings; take up or remove, any fitted or fixed floor coverings, ceiling tiles, suspended ceiling and partition covers; as SCS or supplier advises are necessary, and carry out afterwards any making good or decorator's work required; and - provide any electricity and connection points required by SCS or supplier. The criteria above must be completed in advance of any installation work.

6.2 The SCS Equipment shall remain the property of SCS or the supplier of such equipment (including our suppliers) and the Customer shall at all times make clear to third parties that the same is the property of SCS or a third party supplier of such equipment. SCS may modify, substitute, renew or add to the SCS Equipment from time to time at its absolute discretion.

6.4 A secure electricity supply is required at the Premises for the installation, operation and maintenance of the SCS Equipment at such points and with such connections as specified by SCS. Unless otherwise agreed, this power supply is to be provided by the Customer. SCS shall not be responsible for interruption or failure of the Services caused by a failure of such power supply.

6.5 The Customer is responsible for the SCS Equipment and must not add, modify or in any way interfere with it nor allow anyone else (other than someone authorised by SCS) to do so. The Customer will be liable to SCS for any loss of or damage to the SCS Equipment, except where such loss or damage is due to fair wear and tear or is caused by SCS, or anyone acting on SCS's behalf.

6.6 Any Customer Equipment connected to or used with the Service must be connected and used in accordance with any instructions, safety and security procedures applicable to the use of that equipment. Any equipment which is attached (directly or indirectly) to the Service must be technically compatible with the Service and approved for that purpose under any relevant legislation or telecommunications industry standards.

6.6 If through no fault of SCS, we are unable to carry out an installation at, or gain access to, the Site or the installation is aborted, we will notify the Customer Nominated Contact and may raise an abortive visit charge.

6.7 The Customer hereby irrevocably gives permission to SCS or our suppliers and carriers and its employees, agents or contractors to: - execute any works on the Premises for, or in connection with, the installation, maintenance, or removal of the SCS Equipment; - keep and operate telecommunication apparatus installed on, under or over the Premises; - enter the Premises to inspect any telecommunication apparatus kept on, the Site or elsewhere for the purposes of providing the Service. Where this Agreement or the Service is terminated for any reason SCS or our suppliers and carriers will be entitled to enter the site to remove the SCS equipment installed there.

7.0 Technical Support

7.1 Technical Support for the Service is available by telephoning SCS on 01273 874200, 24/7.

8.0 Repairing Faults

8.1 SCS Response time is 1 hour with a 5 hour target fix time for logical faults (faults relating to any equipment supplied by SCS on the managed service), during office hours.

8.2 Where there is a physical fault, which relates to fibre or copper wire faults, then the target time to resolve is within 24-48 hours, unless it is beyond SCS control such as a Force Majeure, see paragraph 12.1.

8.3 SLAs do not apply to newly installed services or to service reconfigurations requested by customer, until five business days after the service activation date or completion of the service reconfiguration, as applicable.

9.0 Intellectual Property Rights

9.1 The Customer acknowledges that the Customer shall have no rights to any intellectual property rights arising as a result of any use of the Service.

9.2 Any and all intellectual property rights used or embodied in or in connection with the Service shall be and remain the sole property of SCS or SCS licensors. No title or intellectual property rights therein or in any modification or extension thereof shall pass to the Customer unless specifically stated under the Agreement.

9.3 The Customer acknowledges such title, interest and rights and the Customer shall not take any action to jeopardise, limit or interfere in any manner with SCS's (or any third party suppliers') title, interests or rights with respect to the Service, including but not limited to, using SCS or our suppliers and carriers trademarks or trade name.

10 Warranties

10.1 The service will be provided without warranty or representation of any kind, whether express or implied SCS disclaims and excludes all such warranties and representations including without limitation any warranty or representation that the Service is free of defects, of satisfactory quality, fit for a particular purpose or non-infringing of third party rights. The Customer accepts all risks and liabilities associated with the use of the Service.

11. Limitation of Liability

11.1 Nothing in this Agreement shall exclude or limit liability for death or personal injury resulting from the negligence of party or their servants, agents or employees.

11.2 Neither party shall be liable in contract, tort, pre-contract or other representations (other than fraudulent or negligent misrepresentations) arising out of or in connection with this Agreement for: - any economic losses (including, without limitation, loss of revenues, profits, contracts, or business); or - any special, indirect or consequential losses or any destruction of data, arising out of or in connection with the provisions of this Agreement.

11.3 Subject to clauses 11.1 and 11.2 SCS's liability to the Customer in contract, tort, negligence, pre-contract or other representations arising out of or in connection with this Agreement or the performance or observation of its obligations under this Agreement shall be limited in aggregate to the charges paid, by the Customer under this Agreement.

11.4 Each provision of this Agreement, excluding or limiting liability, operates separately. If any part is held by a court to be unreasonable or inapplicable, the other parts shall continue to apply.

11.5 The Customer indemnifies SCS and its suppliers including any carriers against any claims or damages arising from the Customers access to or use of the Service and any information, data or material produced, transmitted or downloaded on the Service.

12. Force Majeure

12.1 If either party is unable to perform any obligation under this Agreement because of a matter beyond that party's reasonable control such as lightning, flood, exceptionally severe weather, fire, explosion, war, terrorist attack, malicious damage and or theft of the network, civil disorder, industrial disputes (whether or not involving that party's employees), or acts of local or central Government or other Competent authorities or events beyond the reasonable control of that party's suppliers, the party will have no liability to the other for that failure to perform.

12.2 If any of the events detailed in paragraph 12.1 continue for more than 3 months either party may serve notice on the other terminating this Contract.

13. Termination

13.1 Either party may terminate this Agreement or the Service provided under it immediately, on notice, if the other: - commits a material breach of this Contract, which is capable of remedy, and fails to remedy the breach within 15 days of a written notice to do so; - commits a material breach of this Contract which cannot be remedied; is repeatedly in breach of this Contract; or with or assignment for the benefit of their creditors, or goes into voluntary (otherwise than for reconstruction or amalgamation), or compulsory liquidation or a receiver or administrator is appointed over their assets.

13.2 SCS may terminate this Agreement immediately upon written notice to the Customer if: - SCS is informed by our suppliers or carriers supporting the Service that our suppliers and carriers is required to cease the Service by a competent regulatory authority; or - Our suppliers and carriers supporting the Service ceases to do so for whatever reason or changes the terms of its provision of services to SCS for the Service beyond the reasonable control of SCS; - the Customer fails to comply with any of the material terms or conditions of the Agreement and the Customer does not remedy such failure within 15 days of a request to do so.

13.3 Upon termination of this Agreement the Customer shall immediately stop using the Service and the Customer right to use the Service shall immediately terminate.

13.4 If either party delays in acting upon a breach of this Agreement that delay will not be regarded as a waiver of that breach. If either party waives a breach of this Agreement that waiver is limited to that particular breach.

13.5 Either party may terminate such service contract by giving ninety (90) days written notice to the other, such notice to expire no earlier than the end of the 36 month initial term, or as stated on the customer order form.

14. Confidentiality

14.1 The parties will keep in confidence any information (whether written or oral) of a confidential nature (including software and manuals) obtained under or in connection with this Agreement or the Service and will not without the written consent of the other party disclose that information to any person (other than their employees or professional advisers, or in the case of SCS the employees or their suppliers, who need to know the information).

14.2 This Clause 14.1 will not apply to: - any information, which has been, published other than through a breach of the Agreement; - information lawfully in the possession of the recipient before the disclosure under this Agreement took place; - information obtained from a third party who is free to disclose it; and - information, which a party is, requested to disclose and, if it did not, would be required by law to do so.

14.3 This Clause 14.1 will remain in effect for 5 years after the termination of this Agreement.

15. Data Protection

15.1 SCS and the Customer each agree to comply with their respective obligations under applicable data protection legislation and maintain all relevant registrations, including (in relation to the Customer) such registrations and consents as the Customer should obtain and maintain to enable SCS to process personal data in connection with the performance by SCS of its obligations under this Contract.

15.2 The Customer agrees that SCS may put their name and other details obtained from the Order Form into a computerized directory for internal use and to enable SCS to provide the Service.

15.3 Rights of subject access will be in accordance with the Data Protection Act 1998 and upon request in writing and payment of the appropriate fee.

15.4 Any and all data supplied by Customers is held in accordance with our current Privacy Policy.

16. Notices

16.1 Notices given under this Agreement must be in writing and may be delivered by hand, or by courier or first class post to Europa House, Southwick Square, Southwick, Brighton BN42 4FJ

17. General Provisions

17.1 The Agreement will constitute the entire agreement between the parties and will supersede all prior and contemporaneous agreements, communications and representations (except for fraudulent or negligent misrepresentations) whether oral or written, between the parties.

17.2 A person who is not party to this Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

17.3 In the event of a dispute between the parties, the parties will attempt in good faith to resolve the dispute or claim arising out of or relating to the Agreement promptly through negotiations between the respective representatives of the parties who have authority to settle the same.

17.4 If any provision of the Agreement (whether in part or in whole) is held by a court of competent jurisdiction to be illegal, invalid or unenforceable the remaining provisions of the Agreement shall remain in full force and effect.

17.5 Any waiver of any breach of any provision of the Agreement will not constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions of the Agreement.

17.6 The Customer may not assign or otherwise transfer, by operation of law or otherwise, the Agreement or any rights or obligations therein without the prior express written consent of SCS.

18. Law

The Agreement shall be governed by the laws of England and the parties submit to the non-exclusive jurisdiction of the Courts of England.