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Hosted Service Agreement

iCS



HOSTED SERVICE AGREEMENT

1. DEFINITIONS AND INTERPRETATION

1.1 This Service Agreement is to be read in conjunction with the Conditions for Communications Services (the "**Conditions**") to which this Service Agreement is attached. All definitions contained within this Service Agreement shall have the same meaning as those set out in the Conditions unless specified below:

3G Break Out Video Call: a Break Out Call which is video that is conveyed from the Customer IP Network via the Carrier IP Exchange to a third-generation mobile telecommunications network;

3G Break In Video Call: a Break In Call which is video that is conveyed via the Carrier IP Exchange from a third-generation mobile telecommunications network to the Customer IP Network;

Access: access from the Customer IP Network to the Carrier IP Exchange in accordance with one of the methods set out in paragraph 1.4 of Part 1 of Schedule 2 to this Agreement;

Agreement: this Service Agreement;

Break In Call: a Call that is conveyed via the Carrier IP Exchange to terminate on the Customer IP Network originating from:

- (a) the Carrier PSTN Network or a Third Party PSTN Network;
- (b) a mobile telecommunications network;
- (c) an International Destination Network; or
- (d) a third-party Communication Provider IP Network;

Break Out Call: a Call that is conveyed via the Carrier IP Exchange to terminate on:

- (a) the Carrier PSTN Network or a Third Party PSTN Network;
- (b) a mobile telecommunications network;
- (c) an International Destination Network; or
- (d) a third-party Communication Provider IP Network;

Call: a signal, message or communication which can be silent, visual or spoken, excluding text messages;

Cancellation Charge: a charge applied to your account (a) when we terminate the Agreement for breach of the Agreement by you; or (b) when you terminate the Agreement prior to the end of the Minimum Term in certain circumstances;

Carrier: the telecommunications network and services provider the Company selects as the Company's sub-contractor in respect of the IP Exchange Service from time to time;

Carrier Emergency Centre: the premises where the Carrier operators answer Emergency Calls;

Carrier IP Exchange: the interface between the Customer IP Network and the Carrier IP Network or the Carrier PSTN Network which facilitates the IP Exchange Service;



Carrier IP Network: the Carrier's IP Network;

Carrier Net Access: a bandwidth product which provides access to the internet via points of presence in the UK;

Carrier PSTN Network: the Carrier's PSTN;

Company or we or us: ICS 1989 LTD, trading as ICS Communications;

Company Equipment: any equipment used by the Company to provide any of the Services to the Customer other than the Customer Equipment;

Compatible: able to interoperate with the Carrier IP Exchange and any other relevant equipment, networks and/or systems;

Complex Routing Plan: where the Carrier is required to develop a customised programme to undertake the necessary data changes to cease IP Exchange Services;

Connect To Number: the contact number used to connect to the relevant Emergency Services Organisation;

Customer or you: the customer whose details are set out on the Order Form;

Customer Equipment: any hardware and/or software owned, controlled, licensed or provided by the Customer for the purposes of receiving or using the Services;

Customer IP Network: the Customer's IP network including all related information technology and telecommunications network cabling and connections owned or leased by the Customer. The Customer's IP Network shall begin at the network termination point of the Carrier IP Network;

Customer Premises: the Customer's office(s) or designated location(s) as specified in the Order Form;

Customer Requirements Form: a Customer requirements form in the form stipulated by the Company for the relevant Services, as amended and updated from time to time by the mutual consent of the parties;

Database: the Carrier Wholesale Directory Services Operator Services Information System database (including any replacement system) containing information (including without limitation, names, address and telephone numbers) relating to legal persons who are provided with publicly available telephone services, as maintained by Carrier pursuant to applicable law and made available to third parties (amongst other things) for the purposes of the provision of products and services;

Designated Contact: the Customer's nominated contact who is authorised by the Customer to request administration and / or technical changes to the Services;

Emergency Call: a Call to 999 or 112;

Emergency Calls Access: the service conveying Emergency Calls as described in Part 2 of Schedule 2 to this Agreement;

Emergency Services Database or ESDB: the 999 or 112 call routing and address database;



Emergency Services Organisation: the relevant local public police, fire, ambulance and coastguard services and other similar organisation providing assistance to the public in emergencies;

Hosted IP Telephony Service: the hosted IP telephony service more particularly set out in Schedule 1 to this Agreement;

Initial Port: a Port ordered as part of the Order placed in respect of the Customer;

International Destination Network: a network operated in an overseas country;

Internet: the global data network comprising interconnected networks using the TCP/IP protocol suite;

Interoperability Testing: testing of the Customer Equipment to determine whether the Customer Equipment is Compatible;

Interoperability Testing Slot: a period agreed between the Carrier and the Customer to carry out Interoperability Testing of the Customer Equipment;

IP: internet protocol;

IP Exchange Service: the internet protocol telecommunications interconnect and exchange services set out in Parts 1 and 2 of Schedule 2 to this Agreement;

IP Network: a telecommunications network operated on IP;

National Telephone Numbering Plan: has the meaning in section 56 of the Communications Act 2003;

Neutral Access Point or **NAP:** a point of connection for the handover of IP Call traffic;

Order Form: the Company's order form to which this Agreement is attached, and which contains details of the Customer's application for the Services;

Port: a logical connection to the Carrier IP Exchange which conveys a Call;

Port Capacity: the capacity of a Port to convey concurrent Calls;

PSTN: a public switched telephone network;

Scheduled Maintenance: maintenance in respect of the Hosted IP Telephony Service which the Company or the Company's sub-contractors expect to have to make;

Service: the Hosted IP Telephony Service and the IP Exchange Service, or either one of them;

Service Start Date: the date when an Initial Port commences being able to convey Calls;

Third Party PSTN Network: the PSTN of a third party other than the Carrier;

Video Gateway: a facility (or component) of the IP Exchange Service which facilitates video Calls (including audio video Calls);

VOIP: voice over internet protocol;

VOIP Gateway: a facility (or component) of the IP Exchange Service which facilitates audio (including voice) Calls;



VOIP to VOIP Call: a Call which is conveyed from or to the Customer IP Network from or to the IP Network of another third-party end user as an end to end IP Call via the Carrier IP Exchange.

2. COMPANY OBLIGATIONS AND MINIMUM TERM

- 2.1 The Company will provide the Hosted IP Telephony Service and the IP Exchange Service more particularly detailed in the Order Form to the Customer. Subject to the Contract, this Agreement and any Customer Requirement Form(s) prepared in accordance with this Agreement, those Services shall be provided in accordance with the Company's relevant agent or sub-contractor's standard specifications and policies and those of their suppliers (as amended from time to time).
- 2.2 Subject to the other provisions of this Agreement, the Contract will come into force on the Commencement Date and the Service will be available for use from the Service Start Date. The Minimum Spend will be as specified on the Order Form. The Minimum Term will run for a period of 12 months from the Service Start Date.
- 2.3 If you fail to reach the annualised Minimum Spend commitment in respect of any Service over the Minimum Term for such Service then we reserve the right to bill you in the month following expiry of the Minimum Term (or immediately on early termination) the difference between the actual amount you spent and the amount you committed to spend pursuant to the Minimum Spend over the Minimum Term.
- 2.4 Subject to the provisions of clause 2.7, if this Agreement or any Service is terminated during the Minimum Term or any agreed term for the relevant Service and you received any contribution towards the costs of any Service or Equipment, as part of the Tariff or otherwise, then we reserve the right to impose a termination charge equal to the original cost divided by the number of the months in the relevant term, multiplied by the number of months remaining in the relevant term.
- 2.5 Unless you terminate the Agreement in accordance with clause 2.6 or you are a consumer or a Small Business Customer (in which case see clause 2.7) then, upon the expiry date of the Minimum Term, or any anniversary of that date thereafter, the Agreement will renew automatically for further periods of 12 months. Unless otherwise agreed in writing, the same Minimum Spend will apply during any such further period of 12 months as applied during the Minimum Term.
- 2.6 Unless you are a consumer or a Small Business Customer (in which case see clause 2.7), you may terminate the Agreement by giving 30 days' notice in writing to us, such notice to become effective no earlier than the expiry date of the Minimum Term, or upon each anniversary of such date thereafter (as applicable) where the Agreement has renewed automatically pursuant to clause 2.5.
- 2.7 If you are a consumer or a Small Business Customer:



- (a) the Agreement will expire automatically upon the expiry date of the Minimum Term, unless you give us written notice of your wish to renew the Agreement at least 30 days prior to the expiry date of the Minimum Term; and
- (b) if notice is duly given by you in accordance with the requirements of sub-clause (a) above, the Agreement will be renewed for a further period of 12 months; and
- (c) the renewal of the Agreement for any additional periods of 12 months must be affected by your providing appropriate written notification to us at least 30 days prior to each anniversary of the expiry date of the Minimum Term; and
- (d) unless otherwise agreed in writing, the same Minimum Spend will apply during any further period of 12 months referred to in sub-clauses (b) and (c) as applied during the Minimum Term; and
- (e) the provisions of clause 5 shall be subject to the provisions of this clause 2.7.

2.8 The Company shall be entitled to terminate the Contract without liability to the Customer where the Company is advised by its relevant agent or sub-contractor that Hosted IP Telephony Service and/or IP Exchange Service cannot be provided for any reason.

2.9 It is a condition precedent to the Contract that Interoperability Testing is carried out prior to any relevant Service Start Date. During the Interoperability Testing Slot, the Carrier will conduct Interoperability Testing on the Customer Equipment and Customer IP Network to establish whether it is Compatible. If the Carrier considers this not to be the case, either the Customer or the Company may terminate the Contract with immediate effect by giving written notice to the other party. In the event of any such termination, the Customer shall pay any charges the Company incurs to the Carrier in respect of services they have performed to such date, including any applicable charge for Interoperability Testing.

2.10 Notwithstanding the conducting of Interoperability Testing as described in clause 2.9 above, the Customer acknowledges and agrees that it is the Customer's responsibility to ensure that the Customer provides, manages and maintains the Customer Equipment and the Customer IP Network that will interface with the Company Equipment, any third party (including Carrier) equipment, and the Carrier IP Exchange and Carrier IP Network, and ensure they are Compatible.

2.11 If the Customer Equipment or the Customer IP Network is modified or changed in a manner that may have a detrimental impact on the Company Equipment, any Carrier equipment, the Carrier telecommunications network, the equipment or network of another Customer or otherwise, the Customer must provide the Company with 28 days prior written notice and the Company reserves the right to immediately suspend or terminate the Hosted IP Telephony Service and/or IP Exchange Service by notice in this event.



- 2.12 Our liability to you shall be governed by the provisions of Condition 13 of the Conditions and any relevant provision of this Agreement.
- 2.13 Without limiting the generality of clause 2.12 above, Condition 13.2 of the Conditions sets out our aggregate monetary liability to you, whether arising under this Agreement or otherwise.

3. CUSTOMER OBLIGATIONS

3.1 The Customer shall:

- (a) co-operate in full with the Company in drawing up a fully completed Customer Requirements Form, including specifying in full the Customer's requirements in respect of the relevant Hosted IP Telephony Service and IP Exchange Service;
- (b) permit the Company and the Company's third party contractors and agents to make any site visits to the Customer Premises during Working Hours as reasonably required in order to perform the Hosted IP Telephony Service and IP Exchange Service and to install and activate any relevant equipment and cabling, and afford complete and unencumbered access to the Customer Premises, the Customer Equipment and the Customer IP Network in order for them to do so; and
- (c) comply with the provisions of the Schedules.

3.2 The Customer acknowledges and agrees that:

- (a) the Customer will comply with the terms of Part 2 of Schedule 2 (Emergency Calls Access), and the Customer acknowledges and agrees to the limits of the emergency call support provided; and
- (b) all information the Customer provides to the Company shall be materially accurate and the Customer shall update the Company promptly in the event that any such information changes so as to ensure the accuracy of the Carrier Emergency Services Database. The Customer acknowledges that the Company may not be able to convey Calls where accurate information is not provided in accordance with this clause;

3.3 The Customer further acknowledges and agrees that:

- (a) the Customer Equipment requires mains power to make Emergency Calls;
- (b) the Customer's end users are required to confirm/provide their location when making an Emergency Call to enable the correct Emergency Services Organisation to respond; and
- (c) an Emergency Call made by VOIP may not receive the same network priority as an Emergency Call made on a mobile network or on a circuit-switched fixed line.

3.4 If the Customer uses the Hosted IP Telephony Service and/or IP Exchange Service in any way restricted or otherwise prohibited by the Contract and/or this Agreement, or the Company has reasonable grounds to suspect such use, the Company may take reasonable steps to stop such use, including to suspend the Hosted IP Telephony Service and/or IP Exchange Service or any element of it and/or attenuate Port Capacity immediately by notice to the Customer. If



the Company does so, the Customer shall continue to be liable for all Charges which apply to the Hosted IP Telephony Service and IP Exchange Service unless and until the Contract is terminated.

- 3.5 The Company may pass all information in the Company's possession relating to the Customer on to the Company's relevant agent or sub-contractor to the extent that the Company is required to do so by applicable law and/or by contract for inclusion in the Database and such information may remain in the Database following termination of the Contract.
- 3.6 The provisions of Conditions 8 of the Conditions shall govern your payment obligations under this Agreement.

4. THE CUSTOMER'S DESIGNATED CONTACT AND TRAINING

The Customer shall ensure that the Customer's Designated Contact attends all training sessions notified to the Customer by the Company. Any successor Designated Contact may be required to attend further training sessions in respect of the Hosted IP Telephony Service and IP Exchange Service, which will be furnished by the Company at an additional cost to the Customer.

5. TERMINATION

- 5.1 In addition to our termination rights under this Agreement, we may terminate the Agreement or any Service immediately in accordance with Condition 16 of the Conditions.
- 5.2 If this Agreement or any Service is terminated by us in accordance with sub-clauses 16.4.2.1, 16.4.2.2, 16.4.2.3 16.4.2.4 or 16.4.2.5 of the Conditions during the Minimum Term or any agreed term applicable to any Service, we will levy a Cancellation Charge in relation to each relevant Service calculated in accordance with the following: -
- (a) each Service for which Periodic Charges are payable – the number of months remaining of the Minimum Term for that Service multiplied by the monthly Periodic Charges; and/or
 - (b) all Charges other than Periodic Charges – the number of months remaining of the Minimum Term multiplied by the monthly Minimum Spend; and/or
 - (c) repayment to us of any subsidised charges or any other contribution made by us towards any other costs.
- 5.3 If this Agreement or any Service is terminated by us in accordance with sub-clauses 16.4.2.6, 16.4.2.7 or 16.4.2.8 of the Conditions during the Minimum Term or any agreed term applicable to any Service, we will not levy a Cancellation Charge, but you will be responsible for the payment of any and all outstanding Charges.
- 5.4 Either party may terminate this Agreement in respect of a Service by giving the other party not less than thirty (30) days' notice in writing to take effect at the end of the Minimum Term for the relevant Service.
- 5.5 In the event that notice of termination pursuant to clause 5.4 is duly given by either party, you must pay:



- (a) the Periodic Charges up to the end of the notice period;
- (b) all Charges other than the Periodic Charges up to the end of the notice period, including but not limited to any such Charges which may be incurred during the notice period; and
- (c) any cease charges which are detailed in the Tariff as being chargeable on termination.

5.6 If you want to terminate this Agreement in respect of a Service prior to the end of the Minimum Term for the relevant Service (other than because we have materially altered the terms of this Agreement under Condition 17.1) you must give us at least thirty (30) days' notice in writing and we will levy a Cancellation Charge calculated in accordance with the following:-

- (a) each Service for which Periodic Charges are payable – the number of months remaining of the Minimum Term for that Service multiplied by the monthly Periodic Charges; and/or
- (b) all Charges other than Periodic Charges – the number of months remaining of the Minimum Term multiplied by the monthly Minimum Spend; and/or
- (c) pro-rata repayment to us of any contribution to upfront or ongoing costs paid by us, and/or
- (d) the appropriate notice period charge for each Service, and/or
- (e) any applicable cease charges as may be detailed in the Tariff.

5.7 If you want to terminate this Agreement in respect of a Service prior to the end of the Minimum Term for the relevant Service because we have materially altered the terms of this Agreement under Condition 17.1, you must either give us written notice of termination, or contact our customer services department specifying your reason for termination, in each case before the change becomes effective. We will not levy a Cancellation Charge, but you must pay the Periodic Charges and all Charges other than the Periodic Charges up to and including the date of termination.

5.8 In the event that either party gives notice to terminate the Contract, notwithstanding any term to the contrary, the Company shall determine (acting in accordance with the Company's reasonable discretion) as to whether a Complex Routing Plan is required in order to cease the Hosted IP Telephony Service and/or IP Exchange Service. In the event that such a Complex Routing Plan is required, the Contract shall terminate in accordance with Condition 5.6.

5.9 Without prejudice to the foregoing provisions of this clause 5, termination of this Agreement pursuant to the provisions of clause 5.4 or 5.6 may trigger one-off cease administration fees where any equivalent charges have been levied by our own suppliers.

6. GENERAL

The provisions of Condition 17 of the Conditions (namely 17.1, 17.2, 17.3, 17.4, 17.5, 17.6, 17.7 and 17.8, covering changes to the Conditions, Force Majeure, Notice, Waiver, Entire Agreement, Third Party Rights, Severability and Dispute Resolution/Governing Law respectively), shall apply to this Agreement.

SCHEDULE 1

HOSTED IP TELEPHONY SERVICE

Internet protocol telephony services comprising the following:

1. Hosted voice-over-internet protocol (VoIP) service

The provision of a hosted VoIP private branch exchange (PBX) telecommunications service to which the Customer connects via the world-wide-web, facilitating internal telecommunications connections (i.e. between the Customer's end users and the Customer Premises).

2. Hosted session initiation protocol (SIP) trunking service

The facility to use the hosted voice-over internet protocol service (as described above) to make external telecommunications connections to the local public switched telephone network via the world-wide-web by means of SIP.

Notwithstanding the foregoing provisions of this Schedule 1, and for the avoidance of doubt, the Hosted IP Telephony Service do not include:

- (a) IP Exchange Service;
- (b) the provision of telecommunications line(s) and/or related connectivity services to allow the Customer to actually connect the Customer IP Network to that of any relevant third party (including that of the Company's agents or sub-contractors); or
- (c) the provision, maintenance or any other services concerning the Customer IP Network or the Customer Equipment.

All such line(s) and services must be procured separately.

SCHEDULE 2

IP EXCHANGE SERVICE

PART 1 – GENERAL IP EXCHANGE SERVICES

1. SERVICE DESCRIPTION

1.1 The IP Exchange Service conveys VOIP Calls from and to the Customer IP Network via the Carrier IP Exchange to and from:

- (a) the Carrier PSTN Network;
- (b) Third Party PSTN Networks;
- (c) mobile telecommunications networks;
- (d) International Destination Networks; and
- (e) the IP Network of other third-party end users.

1.2 The IP Exchange Service has the following components:

- (a) the Carrier IP Exchange VOIP Gateway, which facilitates:
 - (i) Break Out Calls;
 - (ii) Break In Calls; and
 - (iii) VOIP to VOIP Calls.
- (b) the Carrier IP Exchange Video Gateway, which facilitates:
 - (i) 3G Break Out Video Calls; and
 - (ii) 3G Break In Video Calls.
- (c) Emergency Calls Access.

1.3 The IP Exchange Service does not include Access. Products providing Access must be purchased separately and do not form part of the IP Exchange Service.

1.4 Access to the IP Exchange Service may be by the following methods:

- (a) via the Internet;
- (b) via a Carrier Net Access product;
- (c) via direct access through an agreed NAP (Neutral Access Point);
- (d) via direct connectivity to an IP Exchange POP site.

1.5 The Customer must operate an IP Network to receive the IP Exchange Service.



2. CALLS NOT CONVEYED

2.1 The Customer must select one of the call barring profiles as shall be notified by the Company to the Customer. Calls will not be conveyed by the IP Exchange Service to the barred number range selected, unless otherwise agreed in writing by the parties.

3. NUMBER PORTING

The Customer acknowledges and agrees that there may be some restrictions and limitations to geographic number portability.

4. SERVICE ASSURANCE AND PROBLEM MANAGEMENT

4.1 In the event of any fault being found in the IP Exchange Service, the Customer must report such fault direct to the Company and not to the Carrier.

4.2 The Company is only responsible for faults affecting The Company Equipment and/or the Carrier Network. If the Company does work to investigate or correct a reported fault and finds there is no fault in the Company Equipment and/or the Carrier's telecommunications network, the Customer will be liable to pay the Carrier's and the Company's reasonable costs for the work carried out.

4.3 The Company will advise the Customer as soon as reasonably practicable when reported faults have been closed.

5. SERVICE CONSTRAINTS

5.1 The Customer acknowledges that some technical limitations with the IP Exchange Service may not become apparent until after the IP Exchange Service has been installed and working for some time. In such circumstances, the Carrier may withdraw the IP Exchange Service or components of the IP Exchange Service, in which case the Carrier may (at the Company's discretion) credit any relevant Charges paid in advance by the Customer.

5.2 If Call traffic conveyed via the Carrier IP Exchange or the Carrier PSTN Network for onward termination on an International Destination Network is abnormally high then the Carrier or the Carrier's overseas partner may instigate network management control measures.



PART 2 – EMERGENCY CALL ACCESS

1. EMERGENCY CALL ACCESS

1.1 Emergency Calls Access shall only be supplied, and the terms of this Part 2 shall only apply, where Emergency Call Access forms part of the Order Form. The Company shall use reasonable endeavours to convey Emergency Calls in accordance with this Part 2.

1.2 Subject to the provisions of this Part 2, the Carrier shall convey Emergency Calls to one of the relevant Carrier Emergency Centres and, if the geographic location of the Emergency Call can be sufficiently identified, hand over such Calls to an Emergency Services Organisation. This service shall only be available for access where the Emergency call originates from a calling party located in the UK having a telephone number conforming to the National Telephone Numbering Plan and being either from a geographic number range or from non-geographic number ranges 055,056, 03 or 08.

1.3 For the avoidance of doubt, the Customer may not acquire the Emergency Calls Access component only of the IP Exchange Service.

2. THE COMPANY'S AND THE CARRIER'S OBLIGATIONS

2.1 Subject to the provisions of this Part 2, where Emergency Calls are conveyed to the Carrier IP Exchange, the Carrier shall:

(a) if the geographic location of the Emergency Call can be sufficiently identified, provide an onwards connect service to the relevant Emergency Services Organisation via a Carrier Emergency Centre telephone operator by means of two-way voice telephony; and

(b) liaise and co-operate with the Customer in attempting to resolve problems that may arise and assist the Emergency Services Organisations with requests for call-trace in an attempt to identify the geographic location of the Emergency Call and the Customer's telephone number if not automatically provided.

2.2 The Carrier shall, based upon the geographic location information available, connect an Emergency Call to the Connect To Number on the Carrier Emergency Centres' Emergency Services Database shown for the Emergency Services Organisation requested by the Customer.

2.3 If the Carrier receives an Emergency Call for which it is not possible to clearly confirm the geographic location and appropriate Connect To Number, or the information is incorrect or corrupted, the Carrier shall use reasonable endeavours to convey the Call to a Connect To Number for the appropriate Emergency Services Organisation.

2.4 The Carrier shall correct faults which occur in the Carrier PSTN Network or the Carrier IP Exchange Service which affect Emergency Calls in accordance with the Carrier's normal engineering practices. For the avoidance of doubt, neither the



Company nor the Carrier warrants that the Carrier PSTN Network or the Carrier IP Exchange Service is, or will be, free from faults.

2.5 Without prejudice to the foregoing provisions of this Part 2, although the Carrier IP Exchange Service supports 999 public emergency call services and such calls will be routed to the national emergency call handling agents, these services do not operate in the same way as PSTN fixed line 999 public emergency call services and connection to such services may not be possible in the event of a service outage caused by loss of connectivity to the internet for whatever reason. In such circumstances, the Customer is advised to operate a separate line to make the emergency call. In addition, it may sometimes not be possible for emergency services' personnel to identify the Customer's geographic location and telephone number, so this information should be clearly and promptly stated when making such a call.

3. THE CUSTOMER'S OBLIGATIONS

3.1 The Customer shall ensure that they provide to the Company, for the use of Carrier operators and Emergency Services Organisations, a mobile telephone number, a non-mobile telephone contact number, (which must both be manned 24/7), and a site address for the tracing of the originated Emergency Call in order to identify the caller's location (where such tracing is technically possible).