

MASTER TERMS & CONDITIONS

1. INTERPRETATION

1.1 Definitions

"Vale" means Vale Communications Limited of 101 Deepcut Bridge Road, Deepcut, Camberley, Surrey, GU16 6SD

"Customer" means the person who places the Order and uses the Services.

"Agreement" means these Terms, together with the order form and associated schedule.

"Installation date" means the date when service is installed in the Site.

"Order Form" means the Vale application form, written customer order or e-mailed Customer order.

"Vale Equipment" means any apparatus or equipment provided by Vale 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 a telecommunications circuit capable of supporting services at the Site and the provision of telecommunication services over such circuit.

"Telephone Line" means the telecommunications circuit the Customer uses to obtain telecommunications services over the public switched telephone network at the Site as notified to Vale.

1.2 Any reference in this Agreement to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in this Agreement are for convenience only and shall not affect its interpretation.

2. COMMENCEMENT AND TERMINATION

2.1 This Agreement commences on the date of this agreement and continues until terminated in accordance with this Agreement.

2.2 VALE may terminate this Agreement or a Service provided pursuant to this Agreement:

(a) Immediately on notice if VALE is directed by Ofcom or

any competent authority to suspend or cease the provision of the Service or any part of it; (b) Immediately on notice if the Customer is directed by Ofcom or any competent authority to suspend or cease the provision of the Customer Service or any part of it;

(c) Immediately on notice if the Service is being used in a way that breaches clauses 6 and 7, even if the Customer is not aware that the Service is being used in that way; (d) On not less than 30 working Days notice for any other reason.

2.3 Either party may terminate this Agreement immediately by notice if the other:

(a) Commits a material breach of this Agreement, which is capable of remedy, and fails to remedy the breach within the following periods from the date of the notice from the other party: (i) 7 days where there is a failure to pay a sum due under this Agreement; (ii) 14 days; (iii) a shorter time, reasonably specified in the notice, in the case of emergency; (b) Commits a material breach of this Agreement which cannot be remedied; (c) Is repeatedly in breach of this Agreement (including without limitation repeatedly late in paying sums due under this Agreement); (d) has bankruptcy or insolvency proceedings brought against it; or if it does not make any payment under a judgment of a court on time, or it makes an arrangement with its creditors; or a receiver, an administrative receiver or an administrator is appointed over any of its assets; or it goes into liquidation; or there is a corresponding event under the law of any other country; or (e) Ceases to carry on business.

2.4 The Customer may terminate this agreement after the initial term agreed in schedules by giving 30 days written notice to Vale.

2.5 Where VALE suspends the provision of a Service or attenuates service pursuant to this clause 2, the Customer will continue to be liable for all Charges which apply to the Service until this Agreement is terminated.

2.6 A failure or delay by either party to exercise any right or act upon a breach of this Agreement

shall not be a waiver of that right or breach. If either party waives the exercise of a right or a breach of this Agreement that waiver is limited to the particular right or breach.

2.7 Termination of this Agreement shall not be deemed a waiver of a breach of any term or condition of this Agreement and shall be without prejudice to a party's rights, liabilities or obligations that have accrued prior to such termination.

2.8 Each of the parties' rights to terminate or suspend performance is without prejudice to any other rights or remedies available to either party.

3 SERVICE PROVISION

3.1 VALE will:

(a) Provide the Customer with the Service on the terms of this Agreement; (b) Exercise the reasonable skill and care of a competent telecommunications service provider in providing the Service and if required in determining how best to provide the Service; and (c) Use its reasonable endeavours to provide the Service in accordance with the timeframes set out in Schedule order forms,, however the Customer agrees that all timeframes are estimates only and VALE has no liability for any failure to meet any timeframe.

3.2 It is technically impracticable to provide a fault free Service and VALE does not undertake to do so.

3.3 VALE will provide the Service in the United Kingdom defined as England Wales and Scotland while offering remote Service globally

3.4 Warranty Period. Products will be governed by the manufacturers warranty periods

3.5 Product Defect Resolution. If Vale determines that a Product is Defective during the warranty period, Vale will: (i) repair or replace Defective Products; (ii) provide a suitable fix or workaround for Defective software Products; and, (iii) re-perform Defective Services. If Vale is unable to resolve a Defective Product through these steps, then Vale will refund or credit the depreciated value of the relevant Product based on a

five-year straight-line depreciation. This is Customer's exclusive remedy for failure to correct a Product Defect.

3.6 Warranty Returns. Customer must obtain a Return Materials Authorization (RMA) before returning any Products. RMA instructions are available upon request. All Product returns must be shipped by Customer to the facility specified by Vale, freight prepaid, in the original carton or equivalent and in a manner that protects the Product from damage during shipment. Vale will use commercially reasonable efforts to assess, and then repair or replace and return the Product within 30 days of receipt. If the Product returned is determined by Vale not to be defective, Customer will be responsible for related handling, testing and shipping costs. In repairing or replacing any Product or part of a Product Vale may use remanufactured, refurbished or functionally equivalent Products or parts.

3.7 Advance Replacements. Vale may determine, at its discretion, that Advanced Replacements are appropriate and will ship Customer a replacement Product at no charge. Customer will return the Defective Product to Vale as soon as possible. If the Defective Product is not returned by Customer within 30 days of the ship date of the Advance Replacement, Customer will pay Vale for the replacement Product at Vale's then-current list price.

3.8 Disclaimers. Vale's warranties do not apply to failures caused by: (i) Customer's acts or omissions, (ii) modifications, alterations, or combinations with other products, unless authorized in writing by Vale; (iii) misuse, neglect, abuse, or relocation (unless such relocation is authorized in writing by Vale), or if parts or labels are removed or altered; (iv) force majeure, accidental damage, or other factors beyond Vale's reasonable control; (v) Products that are not installed, used or maintained properly or otherwise in accordance with Vale's Specifications or Documentation.

3.9 Vale does not warrant that the Products will operate uninterrupted or error free. Vale does not warrant that the Products will interoperate with Customer's software, hardware

or networks, unless and only to the extent such interoperability is expressly set forth in the relevant Specifications. Vale is not responsible for any obligation Customer may have to its customers or other third parties.

THESE WARRANTIES ARE CUSTOMER'S EXCLUSIVE WARRANTIES AND VALE DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT.

4. SERVICE MANAGEMENT

4.1 VALE will use reasonable endeavours to provide an uninterrupted Service, however VALE may:

(a) for operational reasons, introduce or withdraw Service features, introduce process changes to improve the quality of the Service, change the technical specification of the Service (including Service upgrades) upon giving not less than 28 calendar days notice, provided that any such changes do not have a materially adverse effect on the performance or provision of the Service; (b) give the Customer instructions which it believes are necessary for reasons of health, safety or the quality of the Service or the quality of any other telecommunications services provided by VALE to the Customer or any other customer of VALE and the Customer must ensure these are adhered to; or (c) interrupt the Service for operational reasons (including planned maintenance) or because of an emergency. VALE agrees to restore the interrupted Service as quickly as possible and, where practicable, VALE will give the Customer as much notice as possible.

4.2 VALE and the Customer shall comply with their respective obligations under the Data Protection Law and obtain and maintain all relevant registrations and notifications. The Customer shall obtain and maintain all consents that are required

4.3 The Customer will indemnify VALE against all direct and indirect (i) loss; (ii) damages; (iii) costs (including without

limitation, legal costs, on an indemnity cost basis) and (iv) expenses (including without limitation professional advisers fees) arising or incurred by VALE and in respect of any actions, claims or legal proceedings which are brought or threatened against VALE by a third party in relation to any processing of data by VALE (except where VALE is in breach of Data Protection Law).

5. CONNECTION OF EQUIPMENT TO THE SERVICE

5. Any equipment connected (directly or indirectly) to or used with the Service:

(a) must be connected and used in accordance with any relevant instructions, standards or laws; (b) must be technically compatible with the Service and approved for that purpose under any relevant legislation or telecommunications industry standards; and (c) must not harm the VALE telecommunications network or any VALE equipment or another customer's network or equipment.

6. CUSTOMER OBLIGATIONS

6.1 To allow the installation and use of Vale's 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 Vale or Openreach advises are necessary, and carry out afterwards any making good or decorator's work required; and provide any electricity and connection points required by Vale or Openreach.
- The criteria above must be completed in advance of any installation work.

6.2 To enable Vale to carry out its obligations under this Agreement, the Customer will at all reasonable times provide Vale employees, and anyone acting on Vale's behalf, who produces a valid identity card, with access to any Site and any other premises outside of Vale's

control. Vale will normally only require access during its usual working hours but may, on reasonable notice, require the Customer to provide access at other times. Vale may agree to work outside its usual working hours, but the Customer must pay Vale's additional charges for doing so.

6.3 If through no fault of Vale, Vale is unable to carry out an installation at, or gain access to, the Site or the installation is aborted, Vale will notify the Customer and may raise an abortive visit charge.

6.3 The Customer undertakes:

- to comply with all instructions Vale may notify to the Customer for use of Vale equipment;
- not to allow Vale's equipment to be repaired or maintained other than by an authorised representative of Vale;
- not to damage Vale equipment and not to add modify or in any way interfere with the performance of Vale equipment;
- not to attempt to sell Vale equipment;
- not to remove any identification mark affixed to Vale equipment showing that it is the property of Vale or other third party supplier of such equipment.

6.4 The Customer must not misuse the Service and must take reasonable steps to ensure that the Customer Service is not misused:

- (a) to make Nuisance Calls;
- (b) to send, knowingly receive, upload, download, use or re-use material which is offensive, indecent, defamatory, obscene or menacing;
- (c) contrary to any instructions given by VALE under clause 4 headed "Service Management";
- (d) in a way that does not comply with the terms of any legislation or any licence applicable to the Customer or End User;
- (e) in a manner that is in any way unlawful, fraudulent or in bad faith (including Artificial Inflation of Traffic) or, to the knowledge of the Customer, has any unlawful, fraudulent or bad faith purpose or effect (including Artificial Inflation of Traffic); or

(f) in a manner that in Vale's reasonable opinion could materially affect the quality of any telecommunications service, including the Service, provided by Vale.

(g) Route outbound calls over any other third party network, with or without knowledge, other than during service failure or otherwise agreed.

6.5 If an End User uses the Customer Service in any way prohibited by this clause 6 then the Customer agrees to take reasonable steps to stop such use. If the End User continues to use the Customer Service in such manner or VALE has reasonable grounds to suspect such use, VALE may suspend a Service and/or attenuate Port Capacity immediately by notice.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 Except as expressly provided in this clause, nothing in this Agreement shall have the effect of assigning or otherwise granting the Customer any rights or licences in VALE's Intellectual Property Rights.

7.2 If software, documentation or manuals are provided to enable the Customer to receive and use the Service, VALE grants the Customer, for the duration of this Agreement, a non-exclusive, non-transferable licence to use such software, documentation or manuals for the Customer's own internal use for that purpose.

7.3 Except as permitted by applicable law or as expressly permitted under this Agreement the Customer must not, without VALE's prior written consent, copy, de-compile or modify any software, nor copy the manuals or documentation relating to that software, nor knowingly allow or permit anyone else to do so.

8. CONFIDENTIALITY

8.1 The parties agree to keep in confidence any information (whether written or oral) of a confidential nature obtained under or in connection with this Agreement. The parties shall not without the written consent of the other party (such consent not to be unreasonably withheld or delayed) disclose that information to any person other than:

(a) their employees or professional advisers;

(b) in the case of VALE, the employees of a VALE Group Company or its or their suppliers; and
(c) in the case of the Customer, the employees of a Customer Group Company or its or their subcontractors or resellers.

8.1.1 Any disclosure under sub-clauses 8.1 (a), (b) or (c) can only be made in order for the party to fulfil its obligations under this Agreement.

8.2 Clause 8.1 shall not apply to:

(a) any information which has been published other than through a breach of this Agreement;

(b) information lawfully in the possession of the recipient before the disclosure under this Agreement took place;
(c) information obtained from a third party who is free to disclose it;
(d) information which a party is requested to disclose and, if it did not, would be required by law to do so;

(e) any information which has been replicated independently by someone without access or knowledge of the information; and

(f) any disclosure by VALE of:
(i) the fact that VALE provides the Customer with the Service; and
(ii) the numbers that are allocated to a Customer and such other information as is reasonably required to provide the Service,

including facilitating the repair of faults or responding to an emergency situation.

8.3 Certain information given to the Customer in connection with this Agreement will be marked "In Confidence". Such information is communicated in confidence, and disclosure of it to any person other than with VALE's consent will be a breach of confidence actionable on the part of VALE. The disclosure of VALE's confidential commercial information would also, or would also be likely to, prejudice VALE's commercial interests. For these reasons, VALE believes that such information will be exempt from the duty to confirm or deny, and from disclosure, under the Freedom of Information Act 2000. If the Customer receives a request under the Freedom of Information Act 2000 which encompasses any information

held by the Customer which was provided to them by VALE in connection with this Agreement, the Customer shall notify VALE of the request and allow VALE not less than 10 Working Days in which to make representations.

8.4 This clause 8 shall remain in effect for 2 years after the termination or expiry of this Agreement.

9. CHARGES AND DEPOSITS

9.1 The Customer agrees to pay the Charges for the Service as set out in Vale's order form.

9.2 The Charges for the Service will be calculated in accordance with Vale's Price List. Charging will begin on the Commencement Date for the Service. Charges will be calculated in accordance with details recorded by, or on behalf of, Vale.

9.3 The Customer will pay the charges within 14 days of the date of Vale's invoice. Vale may charge daily interest on late payments at a rate equal to 5% per annum above the base-lending rate of Barclays Bank Plc and/or a £15 administration fee is applicable to late payments.

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

9.5 Vale may also make an additional charge (on the basis of additional charges detailed in Vale's Price List), on its own behalf or on behalf of Openreach in the following circumstances:

- an abortive visit Charge may be incurred where incorrect information supplied by the Customer means it is technically impractical to provide the Service over the Customers Access Connection;
- where it is necessary to relocate the existing telephone master socket to provide the Service;
- where Vale or Openreach 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 Vale or Openreach 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.
- Where a customer has misused the services to the detriment of Vale's network.

9.6 Charges payable by the Customer will be calculated using the details recorded by VALE.

9.7 The Customer agrees to pay the Charges by direct debit, unless otherwise agreed in accordance with VALE's applicable Policy for Credit Vetting.

9.8 The Customer is subject at all times to VALE's applicable Policy for Credit Vetting.

9.9 If the Customer does not provide security requested by VALE in the applicable timeframes, VALE may refuse to accept any new Customer requirement.

10 LIMITATION OF LIABILITY

10.1 Regardless of any other provision of this Agreement, neither party excludes or restricts its liability under this Agreement for death or personal injury caused by its own negligence or negligence of its employees or agents acting in the course of their employment or agency or to any extent not permitted by law.

10.2 Subject to any express terms and conditions of this Agreement to the contrary neither party shall be liable to the other in contract, tort (including negligence), for breach of statutory duty or otherwise for any direct loss of (i) profit; (ii) revenue; (iii) time; (iv) anticipated savings; (v) anticipated profits; (vi) anticipated revenue; (vii) opportunity; (viii) data; (ix) use of anything; (x) business; (xi) from wasted expenditure; (xii) from business interruption; or (xiii) incurred as a result of having the Service completed to a similar standard by a third party or for any other direct loss which may arise out of or in relation to this Agreement.

10.3 Each part of each provision excluding or limiting liability operates separately. If any provision (or part thereof) is held by a court to be unreasonable or inapplicable, the other parts shall continue to apply.

10.4 This clause 10 shall continue in force after the termination or expiry of this Agreement.

11. MATTERS BEYOND THE REASONABLE CONTROL OF EITHER PARTY

11.1 If either party is unable to do or is delayed in doing what it has agreed under this Agreement because of Force Majeure then the party affected shall have no liability to the other for that delay or failure to perform.

11.2 If as a result of Force Majeure, the affected party is unable to do or delayed in doing what it has agreed under this Agreement, it shall continue performing those obligations under this Agreement that are not affected by Force Majeure and in performing those obligations shall use reasonable efforts to deploy its resources so that (when taken with obligations to third parties) there is no undue discrimination against the other party.

12. ESCALATION AND DISPUTE RESOLUTION

12.1 Each party agrees to use its reasonable efforts to resolve issues connected to the Service and disputes, with the other. An issue or dispute connected with the Service will be escalated to the Nominated Contact.

12.2 If the dispute is not resolved with 14 days of the matter being raised then the parties may pursue any other dispute resolution option which the parties agree is appropriate, which may include without limitation mediation or early neutral evaluation.

12.3 If the parties agree to refer the dispute to a mediator:

(a) the mediator will be appointed by the Telecoms Ombudsman (OTELLO);

(b) all negotiations connected with the dispute will be conducted in confidence and without prejudice to the rights of the parties in any further or other proceedings;

(c) all parties agree to abide by OTELLO's dispute resolution process and assessment and once put in writing and signed by the parties will be binding on them. Any such agreement will constitute confidential information for the purposes of clause 8.1.

12.4 Nothing in this clause 12 shall prevent either party exercising any rights and remedies that may be available in respect of any breach of the provisions of this Agreement.

13. CHANGES TO THIS AGREEMENT

13.1 The parties may change this Agreement at any time by written agreement.

13.2 VALE may change this Agreement at any time by giving at least 28 calendar days notice before the change takes effect for purposes including in order to:

- (a) comply with any legal or regulatory obligation (save where VALE's compliance with that legal or regulatory obligation requires a shorter period of notice);
- (b) protect the use of the VALE Corporate Marks;
- (c) introduce new or improved service levels;
- (d) introduce new Service features;
- (e) withdraw Service features;
- (f) introduce process changes, provided that they are not the Customer's material detriment;

(i) maintain the integrity or security of the Service or VALE Network; or

(j) improve clarity, or make corrections to typographical errors providing that the changes in sub-clauses (e) to (j) inclusive, shall not unreasonably affect the Service.

13.3 Where:

(a) VALE notifies the Customer that it wishes to change the Charges and/or Termination Settlement Payments in accordance with clause 9; and

(b) the Customer provides a termination notice pursuant to

clause 2.3 before the changes to the Charges and/or Termination Settlement Payments come into effect the Charges and/or Termination Settlement Payments in force prior to VALE's notice to amend the Charges and/or Termination Settlement Payments will apply until the Agreement is terminated.

14. TRANSFER OF RIGHTS AND OBLIGATIONS

14.1 Neither party may transfer any of its rights or obligations under this Agreement, without the written consent of the other, except that:

(a) VALE may transfer its rights or obligations (or both) to a VALE Group Company without consent provided that it notifies the Customer that it has done so; and

(b) The Customer may transfer its rights and obligations by way of a novation to an eligible Customer Group Company subject to VALE's applicable Credit Vetting Policy and the signing of a novation agreement in such format as VALE shall reasonably require.

15. ENTIRE AGREEMENT

15.1 This Agreement contains the whole agreement between the parties and supersedes all previous written or oral agreements relating to its subject matter.

15.2 The parties acknowledge and agree that:

(a) the parties have not been induced to enter into this Agreement by or have relied on any statement, representation, warranty or other assurance not expressly incorporated into it; and

(b) in connection with this Agreement the only rights and remedies of the parties in relation to any statement, representation, warranty or other assurance are for breach of this Agreement and that all other rights and remedies are excluded.

16. RIGHTS OF THIRD PARTIES

16.1 A person who is not party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to

enforce any term of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

17. NOTICES

17.1 Notices given under this Agreement must be in writing and delivered:

(a) to the appropriate Nominated Contact as advised by a party,
(b) for all other matters, including all legal proceedings arising out of in connection with this Agreement:

(i) in the case of notices from VALE, to the address to which the Customer asks VALE to send invoices or, if the Customer is a limited company, to its registered office; or
(ii) in the case of notices from the Customer, to VALE at its Registered Office or such other addresses as notified by the Parties.

17.2 Where legal proceedings are served;

17.2.1 Such service will be deemed to be made pursuant to the time periods set out in Part 6.7 of the Civil Procedure Rules 1999.

17.2.2 Subject to clause 17.1, notices may be delivered by hand, fax, e-mail or first class post and shall be duly served:

- (a) if delivered by hand, at the time of delivery;
- (b) if sent by first class post, three working days after the date of posting;
- (c) if sent by fax, at the time of transmission; and
- (d) if sent by email to the email address of the Nominated Contact at the time of transmission.

17.5 Notices pursuant to clause 2 (breach, suspension or termination) and any document concerning legal proceedings may not be delivered by email.

18. SEVERABILITY

18.1 If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of its provisions will continue in full force and effect as if this Agreement had been executed with the invalid, illegal or unenforceable provision omitted.

19. DATA PROTECTION

19.1 Vale 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 Vale to process personal data in connection with the performance by Vale of its obligations under this Contract.

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

19.3 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.

20. LAW AND JURISDICTION

20.1 This Agreement is governed by the law of England and Wales and the parties submit to the exclusive jurisdiction of the English Courts.

SCHEDULE 1 FIXED LINE & BROADBAND

1. Precedence

If there is a conflict between documents that comprise this Agreement, the conflicting provisions shall be interpreted so as to make them consistent. If such interpretation is not possible, then the Schedule will take preference over the General Terms & Conditions.

2. Provisions of the Service

2.1 Vale shall provide or procure the provision of the installation connection and supply of a telecommunications circuit capable of supporting ADSL services at the Site and the provision of telecommunication services over such circuit "the Service" to the Customer in accordance with the terms of this Schedule. The Customer acknowledges that it is technically impracticable to provide a fault free Service and Vale does not undertake to do so.

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

2.3 The Customer acknowledges that during the installation of the Vale equipment for the provision of the Service the Customer access connection may suffer a temporary loss of telephone service, and /or interference to any other access connection services, which shall be reinstated following installation. Vale will not be liable for any loss, interruption or interference during installation. The Customer also acknowledges that any telephone socket extensions that are incorrectly wired may be disconnected during installation, without liability to Vale.

2.4 Occasionally Vale and/or Openreach 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 Vale will give notice to the Customer of any such interruption however, the Customer shall have no claim against Vale for any such interruption.

2.5 Except as otherwise expressly permitted under this Agreement, the Customer may not:
· modify the Service without Vale's 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 Vale's prior written consent;
· use the Service except in conjunction with Vale's recommended operating guidelines;

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

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

2.8 Installation of the Service may be subject to a survey carried out by Vale or Openreach and the Service may become subject to revised pricing at which point the Customer may terminate this agreement.

2.9 The Customer accepts that the Service is rate adaptive and will run at the most reliable speed available up to 8Mbit/s. Speed can be affected by external conditions.

2.10 The Customer accepts that peak and sustained throughput rates may be reduced by contention within

the network

3. Use of the Service

3.1 The Customer must not use the Service:
· in a way that does not comply with any instructions Vale or Openreach has given; or in a way that in Vale's reasonable opinion could materially affect the quality of any service, including the Service, provided by Vale or Openreach.
· in a way that in Vale's reasonable opinion could affect the experience of other users on the network; including but not limited to; persistent heavy users of the Service, who in Vale's reasonable opinion could be seen to be over-using their contended Service, may at Vale's discretion have their contention ratio increased without notice.

3.2 Vale will be entitled to suspend the Service or terminate the Agreement where Vale, in its absolute discretion, believes the Customer is in breach of any provisions of Clause 3.1.

3.3 The Customer acknowledges and accepts the following technical limits relating to the Service:

· transmission performance of some metallic local loops will mean it is technically impracticable to provide Service to all Customers within the Service availability area;
· until such time as Vale advises otherwise, the Service cannot be provided over the same Access Connection as certain other telecommunications services.
· the Service is not available to Sites where all or part of the Access Connection is provided over fibre optic cable or radio systems.
· that the Service may also affect the performance of some PSTN customer premises equipment.
· that some technical limitations may not become apparent until after the Service has been installed and working for some time. In such circumstances the Service for some individual may need to be withdrawn.
· that in the case of any rate-adaptive product, including Homeworker and Office 500, 1000, 2000 and MAX ADSL services, upload speeds (and download speeds for MAX services) are dependant on distance from the exchange, atmospheric conditions and

quality of the metallic path and may vary without notice to the Customer.

-Rate adaptation can occur several times a day and may cause the link to the DSLAM to reset.
-that in the case of any rate adaptive product, such as ADSL MAX services, throughput guarantees will relate only to the actual rated speed of an individual connection, not any implied speed of Service.

3.4 In the circumstances referred to in Clause 3.3 Vale will have no liability to the Customer relating to the provision of the Service (or Vale's inability to provide the Service), the performance of the Service, its effect on other services or equipment or the withdrawal of the Service.

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

4. Warranties

The Service will be provided without warranty or representation of any kind, whether express or implied. Vale 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.

SCHEDULE 2 HOSTED VOICE SERVICES

1. Precedence

If there is a conflict between documents that comprise this Agreement, the conflicting provisions shall be interpreted so as to make them consistent. If such interpretation is not possible, then the schedule will take preference over the General Term & Conditions.

2. Title; Risk of Loss

Title or Responsibility (not excluding Licensed Materials) will pass to Customer upon payment in full. Risk will pass to the Customer on Vales presentation of the Products and Services at the agreed

delivery address and upon satisfactory testing. Licensed Materials are rented (not sold) and no title or right of ownership to Licenced Materials is transferred to Customer under this Agreement.

3. Acceptance/Completion

Products are deemed accepted by the Customer on the sooner of:
Vale's presentation of the Product to the common carrier for delivery to the Customer for orders where Vale's obligation is simply to deliver Products; use of the Product by the Customer (e.g., commercial use, redundant systems); or, if postponed due to delays or deficiencies attributable to Customer, its agents, subcontractors or its suppliers, or caused by a third party (other than Vales' agents) for longer than 30 days of the agreed delivery date.

4. Grant of Licence

Vale grants Customer a nontransferable, nonexclusive licence, for the sole purpose of the Customer's internal operations unless otherwise specified by Vale in the Exceptions in the order form.

5. Proprietary Rights

Vale and/or its suppliers (to the extent its suppliers hold such rights) retain all rights, title and interest to the Licenced Materials, including all intellectual property rights. No rights are granted by implication, estoppel, or otherwise, to the Licenced Materials other than those expressly granted in this Agreement. Customer will not assert its own intellectual property rights against Vale Products during or after the Term of this Agreement. Customer will not obscure notices on or in the Products, and Customer will reproduce all such notices on any authorised copy thereof.

6. Prohibited Uses

Customer will not modify any Licenced Materials without Vale's prior written consent. Customer will not copy Licenced Materials except as expressly permitted by Vale in writing or by law. Customer will not copy, reverse engineer, decompile, disassemble or otherwise recreate Licenced Materials for any purpose.

Customer will not loan, publish, transfer, sub-licence, lease, share, use for service bureau activities, permit access via the Internet, or otherwise disseminate the Licenced Materials, in whole or in part, to any third party., Customer will not use Licenced Materials: (i) unless all applicable licence fees have been paid to Vale; (ii) if the applicable licence has expired; or (iii) which Customer is not entitled to use based upon feature activation requirements.

7. Services

7.1 ValeCare Service Offerings

Vale offers a portfolio of Chargeable Services referred to as ValeCare. Customer may purchase ValeCare support for an annual fee. Vale may provide a ValeCare Quote to the Customer any time a Product is ordered, upon expiration of Product warranty or existing ValeCare Services, upon request from Customer, or any other time. Such Quotes will typically identify: (a) the relevant ValeCare program offering; (b) the covered Products and Systems; (c) the Period of Coverage.

7.2 ValeCare Service Program Upgrades

Customer may upgrade to a more comprehensive ValeCare program at anytime during service period.

7.3 Past Due Payment and Performance Relief

If Customer payments become more than 30 days past due, Vale may discontinue all Services in line with Ofcom's not guidelines and procedure without liability to Customer until such time as payment is made in full; nor is Customer relieved of its commitment to pay the full amount due, plus accrued interest.

8. Problem Categories, response Time, Restoration Objectives and Problem Resolution Objectives

8.1 Definition of Problem Categories

(a) Critical

Critical problems are conditions that are severely affecting current service, capacity/traffic, billing and maintenance

capabilities, as determined by Vale following discussion with the Customer

(b) Major

Major problems are conditions that are seriously affecting normal operations, maintenance, administration, as determined by Vale following discussion with the Customer. However, the urgency is less than Critical problems because the effect on service performance and the impact on Customer operations is not currently as severe as Critical conditions.

(c) Minor

Minor problems are conditions that are not classified as Critical or Major. They are problems that do not significantly impair the functioning of the System. These problems are not traffic affecting.

8.2 Program Descriptions

(a) Standard program (inclusive of Licence fee)

Monday to Friday 9 to 5 Customer Care Centre
Monday to Friday 9 to 5 Technical Support
Repair & Replacement of warranty Products only
Updates to Vale software Products

Response Time, Restoration Objective, and Problem Resolution Objectives for the ValeCare Standard Program are for the ValeCare Standard program for Critical, Major or Minor problems is a commercially reasonable efforts basis between the hours of 9 to 5 Monday to Friday, with applicable time related charges for out of hour response or continued presence, **agreed with the Customer at the time.**

PAYMENTS

If Customer payments become more than 30 days past due, Vale may discontinue all Services in line with Ofcom's guidelines and procedures without liability to Customer until such time as payment is made in full; nor is Customer relieved of its commitment to pay the full amount due, plus accrued interest at 5% at Vales discretion in accordance with procedures laid out in the master terms & conditions.