

CHESSE CONSUMER TERMS AND CONDITIONS

1 DEFINITIONS AND INTERPRETATION

- 1.1 These terms and conditions apply to residential services the Supplier offers to Consumer Customers. There are terms and conditions that apply when our Customers take a particular service from us, which are set out below.
- 1.2 Please take some time to read these terms and conditions. They provide important information about the services we are providing including how we may change the service, agreement, and the charges.
- 1.3 These terms and conditions replace all previous versions and were updated on 15 December 2021.
- 1.4 Some words and phrases with capital letters used in this Agreement have a defined meaning and where not otherwise defined the meaning is set out in **Schedule 1 (Definitions)**, unless the context requires otherwise.
- 1.5 The Agreement between you and the Supplier is made up of the following which are listed in order of precedence in the case of conflict or ambiguity:
- 1.5.1 the Order or Voice Recording (as applicable);
 - 1.5.2 any Service specific terms and conditions contained in the Schedules and Appendices;
 - 1.5.3 the Supplier's Policies;
 - 1.5.4 these Terms and Conditions;
 - 1.5.5 the relevant Tariffs for the Service; and
 - 1.5.6 any further conditions relating to specific services (where referenced in the applicable Schedule)

together, these documents set forth the agreement between the Customer and the Supplier. All terms and conditions are available at <https://chessict.co.uk/legal/>.

2 COMMENCEMENT AND DURATION

- 2.1 This Agreement shall commence on the date of this Agreement and shall continue in force for a minimum period of one (1) year from the Commencement Date or as otherwise specified in the applicable Order or Schedule ("**Minimum Term**") and continue thereafter unless terminated by the Customer giving the Supplier not more than ninety (90) days and no less than thirty (30) days written notice, before the end of the Minimum Term or in accordance with clause 8. Use of the Services following expiry of the Minimum Term will be subject to the Supplier's standard published Tariffs.
- 2.2 Any Services used by the Customer during any notice period in accordance with clause 2.1 above will be chargeable, and any Third-Party Supplier costs (including termination fees) incurred by the Supplier within this notice period in accordance with clause 8.7. Termination Charges may apply if the Service is terminated prior to the expiry of the Minimum Term.
- 2.3 Where the Customer cancels part only of a Service, the Supplier reserves the right to charge the Customer for the Services so cancelled in accordance with clause 8.6 and to amend the Charges to the Customer for the remaining Services to the Supplier's standard published Tariffs.

3 CHANGING YOUR MIND

- 3.1 The Customer may change their mind and cancel the Agreement and/or Services within the Cooling Off Period.
- 3.2 If the Supplier has started providing the Service, the Customer will have to pay the Supplier the full costs of the Charges for the Service, anything used which isn't covered by the Charges and any connection or activation fees.

- 3.3 If the Customer cancels the Agreement or Services within the Cooling Off Period and the Supplier has provided Equipment for that service, the Agreement will not end until the Customer has returned the Equipment.
- 3.4 The Customer must return the Equipment to the Supplier within 14 days of their notice of cancellation. The Supplier will provide pre-paid packaging for this. If the Customer doesn't return the Equipment within 14 days, the Customer will be charged in full for the Equipment.
- 3.5 Once we have confirmed receipt of the Equipment, the Supplier reserves the right to charge the Customer if it reasonably believes that it is worth less than its original value due to it being used or damaged.

SERVICES

- 3.6 If the Customer transfers services from or to another service provider, they may experience a temporary loss of service.
- 3.7 If the Customer requests porting of a telephone number from or to another provider, we'll try and do this wherever possible. If we can't we'll tell you your options.
- 3.8 The Supplier shall with effect from the Commencement Date provide to the Customer the Services set out in the Order as further detailed in **Schedule 3 (Services)** and **Schedule 4 (Support Services)** for the duration of the Minimum Term. For the avoidance of doubt, the use of the Services or payment of the Services is deemed as acceptance of this Agreement and the terms and conditions contained herein.
- 3.9 If any element of the Services is provided over MyPortal or any Third-Party Supplier portal or contact platform the following terms shall apply:
- 3.9.1 the Customer acknowledges that neither the internet nor the server through which the Supplier and/or Third-Party Suppliers provide the internet enables elements of the Services are secure;
 - 3.9.2 the Supplier shall use reasonable endeavours to keep the internet enabled elements of the Services secure, however the Supplier cannot guarantee the security or privacy of the information available through such elements;
 - 3.9.3 any Software or Documentation provided by the Supplier in connection with the provision of the Services shall be subject to the provisions under clauses 3.23 to 3.26 and clause 11;
 - 3.9.4 the Supplier and/or a Third-Party Supplier shall be entitled to modify MyPortal or any other portal or contact platform element of the Services from time to time if the Supplier considers such modification and/or replacement is reasonably necessary for the continued provision of the Services.

SUPPLIER OBLIGATIONS

- 3.10 The Supplier shall provide the Services in accordance with the terms of this Agreement and the Services will be performed:
- 3.10.1 with all due skill, care and diligence;
 - 3.10.2 in compliance with the Service Levels and Good Industry Practice; and
 - 3.10.3 so as to conform with all Applicable Law relating to the provision of the Services.
- 3.11 The Supplier will not be liable under this clause 3 or be required to remedy any problem arising from or caused by the Customer's use of the Services in a manner other than in accordance with this Agreement or as directed by the Supplier.

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- 3.12 The Supplier does not warrant, guarantee or represent that the Services will be continuously available or free from errors and interruptions and the Supplier may be dependent upon Third-Party Suppliers when providing the Services.
- 3.13 The Supplier shall be entitled to restrict access to Services, if required, at the sole discretion and opinion of the Supplier, for the safety of the Customer Network, to maintain integrity of the Service, in particular to prevent serious malfunction of the Services, Equipment, Software and any stored information or data. Any restrictions shall be kept to a minimum and the Supplier shall use commercially reasonable endeavours to notify the Customer in advance of such restrictions.
- 3.14 Notwithstanding any other provisions of this Agreement but subject to clause 9.2, the Supplier shall not be liable to the Customer in contract, tort (including negligence) or otherwise for the actions of any Third-Party Supplier that affect or otherwise impact upon the provision of the Services.

CUSTOMER OBLIGATIONS

- 3.15 The Customer shall be responsible for the safe keeping and proper use of the Services and Equipment and the Customer undertakes in particular:
- 3.15.1 to use the Services for yourself and your household for personal use only and should not be used for any trade, business or profession;
- 3.15.2 to notify the Supplier of any changes to your contact or payment information or anything else we might need to know about;
- 3.15.3 to use the Services in accordance with the terms of this Agreement, manufacturers recommendations and any reasonable operating instructions as may be notified to the Customer by the Supplier from time to time;
- 3.15.4 to use the Services in accordance with the Supplier's Fair Use Policy and Acceptable Use Policy;
- 3.15.5 to comply with Applicable Law and Good Industry Practice;
- 3.15.6 not to allow any unauthorised connection, gateway or access to the Services and/or Equipment for any purpose other than that for which the Services and/or Equipment is provided;
- 3.15.7 not to use the Services and to procure that none of its employees use the Services to transmit or receive any material which is defamatory, offensive or of an abusive or menacing character or otherwise is in breach of this Agreement;
- 3.15.8 not to use the Services fraudulently or in connection with a criminal offence or in any way that is unlawful;
- 3.15.9 provide such reasonable assistance to and not to impede the Supplier in the performance of its obligations under this Agreement; and
- 3.15.10 at its own expense, obtain all relevant licences, permissions, authorisations, registrations and approvals required in connection with or necessary for the use of the Services from the appropriate legislative, regulatory or advisory body and shall provide copies of the same upon reasonable request.
- 3.17.2 on inspection: (i) the property or equipment is unsafe; (ii) the Supplier determines that no fault exists; (iii) the Supplier reasonably believes the fault was caused by the Customer, Customer Equipment or the property; or
- 3.17.3 the Supplier has undertaken work over and above what it would ordinarily carry out (e.g. we have to move your telephone master socket, or you don't consent to this work and we cannot provide the relevant service).
- 3.18 If the Customer ask to upgrade but then does not consent to the engineering work, the Customer will remain on the current service.
- 3.19 The Customer may re-schedule an engineer appointment once without incurring a fee if the Supplier is notified within the time stipulated. If the Customer cancels an installation, the Supplier may charge a fee which it will notify the Customer of when the request to cancel the appointment is made.
- 3.20 If we need to cancel or change the time of an engineer visit, we will give you as much notice as possible.
- 3.21 If the Suppler performs work at your property, it will not reverse this work when your services end.
- 3.22 The Customer shall at its own expense, obtain all permissions, licences, waivers, consents, registrations and approvals reasonably required and comply with all Applicable Law necessary for the provision of the Services and installation of the Equipment.

THIRD-PARTY SOFTWARE

- 3.23 Where the Supplier makes available Third-Party Software for the Customer to use with the Services, the Customer shall be required to enter into an End User licence agreement in the form set out at any web-link or other location that the Supplier or the supplier of the Third-Party Software may notify the Customer, as amended or supplemented from time to time ("EULA").
- 3.24 By accepting the terms of the EULA, the Customer agrees to observe and comply with it for any and all use of the Services. If the Customer does not comply with the EULA, the Supplier and/or the supplier of the Third-Party Software may restrict or suspend the Services upon reasonable notice.
- 3.25 Where a EULA has not, for any reason, been entered into for any Third-Party Software made available to the Customer by the Supplier, the Customer acknowledges and agrees that they shall comply with the obligations set out in clause 11.6 to 11.9 inclusive in respect of any Third-Party Software.
- 3.26 All EULA and rights to use the Third-Party Software shall automatically terminate on termination of this Agreement in accordance with clause 11.6.2.

CUSTOMER NETWORK

- 3.27 If the Supplier is unable to configure the Services due to the Customer Network not being ready to connect to the Services or the Supplier discovers that the pre-defined infrastructure and/or configuration agreed with the Customer is not accurate or is incorrect and additional works are required, then the Customer shall be liable to the Supplier for any and all costs and expenses (including Third-Party Supplier costs and expenses) incurred by the Supplier as a result of any Professional Services undertaken to reconfigure the Customer Network and/or any cancelled or rescheduled engineer visit.
- 3.28 The provision of Services may be subject to a survey of the Site and/or engineering visit by the Supplier to ensure that the Site

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and/or the Customer Network is in accordance with the Supplier's technical specifications, the Customer shall:

- 3.28.1 allow the Supplier, its subcontractors and/or Third-Party Supplier to carry out a survey of the Site to assess suitability of the Customer Network for the provision of Services in accordance with **Schedule 3 (Services)**;
- 3.28.2 be responsible for the Supplier's reasonable additional charges where a survey of the Site is carried out, including the costs of the survey, provisioning, engineering and all other costs and expenses associated with any Professional Services, including but not limited to Third-Party Supplier costs and expenses associated with ensuring that the Site is suitable for the provision of the Services; and
- 3.28.3 at its own discretion, request the Supplier, its subcontractors and/or Third-Party Supplier to submit a proposal to reprogram and/or remove existing Customer Equipment, upgrade or reconfigure the Customer Network to ensure technical compatibility which is necessary for the provision of the Services.

For the avoidance of doubt, any additional works agreed between the Parties under this clause 3.28 shall be subject to a further charge.

SERVICE LIMITATIONS

- 3.29 The Customer acknowledges and agrees that there may be technical or geographical limitations which restrict or prevent installation and/or provision of the Services, some of which may not be identified until the Services have been installed, and the Supplier shall notify the Customer as soon as reasonably practicable of any limitations affecting the provision of the Services or inability to provide the Service, the performance of the Services and its effect on other services or Equipment.
- 3.30 The Customer acknowledges and accepts that:
 - 3.30.1 the Supplier cannot guarantee and does not warrant that the Services will be free from interruptions or will be free from service faults;
 - 3.30.2 there may be degradations of the quality of the Service due to matters beyond the reasonable control of the Supplier; and
 - 3.30.3 the Supplier may change the technical specification of the Services or interrupt the Services to maintain the quality of the Services, for operational or health and safety reasons, or where there is an emergency.
- 3.31 The Supplier shall use reasonable endeavours to keep such restrictions and/or limitations to a minimum and shall use commercially reasonable endeavours to notify the Customer in advance of such restrictions and/or limitations, however the Supplier shall not be liable for any loss or damage incurred by the Customer should the Services be interrupted or restricted from time to time.

MOVING HOME

- 3.32 If you're moving home, you must notify the Supplier no less than 14 days beforehand. The Customer may request that the Services are transferred to a new address in the UK and the Supplier will endeavour to provision Services at the new address where it is possible to do so.
- 3.33 The Customer may be required to enter into a new agreement for services being transferred to a new address for a minimum term. The Supplier will notify the Customer at the time of any Charges applicable and if a new agreement is required.
- 3.34 The Supplier will use reasonable endeavours to transfer Services to a new address where requested by the Customer.

If the Supplier is unable to transfer some or all of the Services and any are within the Minimum Term, the Customer may be liable to pay Termination Charges.

4 EQUIPMENT

CUSTOMER EQUIPMENT

- 4.1 The Customer shall be responsible for the provision, installation, configuration, monitoring, support and management of any Customer Equipment connected to or used in the provision of Services and the Customer hereby agrees that:
 - 4.1.1 all Customer Equipment shall be connected at the applicable points and adequately protected against viruses and other breaches of security;
 - 4.1.2 any Customer Equipment connected to or used for the Services shall at all times be connected, used and maintained in accordance with manufacturers recommendations, is technically compatible with the Service, and shall conform to Quality Standards and/or Applicable Law; and
 - 4.1.3 the Supplier shall not be under any obligation to connect or keep connected the Customer Equipment if it does not comply with clause 4.1.1 or if in the reasonable opinion of the Supplier such connection is likely to cause death, personal injury, damage or to impair the quality of the Services.

HARDWARE

- 4.2 The quantity, quality and description of and any specification for the Hardware shall be those as further described in the Order or Third-Party Suppliers and/or manufacturers technical and operational instructions as may be amended from time to time.
- 4.3 The Supplier shall use commercially reasonable endeavours to deliver the Hardware to the Customer on the date and to the address specified in the Order, if no date is specified, within a reasonable period from the date of this Agreement. However, time shall not be of essence in respect of any delivery of Hardware.
- 4.4 Risk in and liability for the Hardware shall pass to the Customer on delivery of each item thereof, however title to the Hardware shall not pass to the Customer until the Customer has paid the Supplier in full for the Hardware.
- 4.5 The Supplier shall warrant that upon delivery and for a period of twelve (12) months from the date of delivery "**Warranty Period**" the Hardware shall:
 - 4.5.1 conform in all material respects with the description
 - 4.5.2 be free from material defects in design, material and workmanship; and
 - 4.5.3 be of satisfactory qualitywhere additional warranties are provided by Third-Party Suppliers and/or manufacturers of the Hardware, the Supplier shall use reasonable endeavours to notify the Customer as soon as reasonably practicable.
- 4.6 The Customer shall be responsible for installing and supporting the Hardware, unless otherwise specified in the Order or where installation and support is provided by way of Professional Services or Support Services being provided by the Supplier and the Supplier shall not be liable for any loss or damage caused by or repairs required as a result of, installation or misuse of, or damage to any Hardware.
- 4.7 The Customer hereby agrees:
 - RENTAL EQUIPMENT**

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- 4.7.1 the Rental Equipment shall at all times remain the property of the Supplier, its subcontractors and/or Third-Party Supplier and the Customer shall (if applicable) enter into a separate lease agreement with the Supplier or a Third-Party Supplier for the provision of Rental Equipment;
- 4.7.2 only to use the Rental Equipment for the provision of the Services and at all times comply with the terms and conditions of the applicable rental agreement, together with the manufacturer's recommendations and all reasonable instructions from the Supplier in relation to its connection, use, monitoring and support; and
- 4.7.3 on expiry or termination of this Agreement, the Customer, where expressly stated within the separate lease agreement, shall return at its own cost, all Rental Equipment, in accordance with the terms and conditions of the separate lease agreement and in good operating condition, subject to reasonable wear and tear to the Supplier, its subcontractors and/or Third-Party Supplier.

ANCILLARY EQUIPMENT

- 4.8 Where the Supplier has provided the Customer with the Ancillary Equipment necessary for the provision of the Service without charge, the Customer hereby agrees that:
 - 4.8.1 the property in and ownership of Ancillary Equipment at all times remain the property of the Supplier, its subcontractors and/or Third-Party Supplier;
 - 4.8.2 risk in and liability of Ancillary Equipment passes to the Customer on delivery and during the Minimum Term and the Customer must insure Ancillary Equipment in respect of all relevant risks from delivery;
 - 4.8.3 it shall maintain the Ancillary Equipment in good operating condition, subject to normal wear and tear and shall undertake repairs and preventative maintenance on the Ancillary Equipment in accordance with the manufacturer's instructions, including warranty terms and conditions, to maintain the Ancillary Equipment to its published specifications,;
 - 4.8.4 the Supplier has the right to assign or transfer any rights (including but not limited to security interest and/or encumbrance) to Ancillary Equipment without the Customer's consent;
 - 4.8.5 the Supplier reserves the right to modify, upgrade, replace or introduce new technologies and/or Ancillary Equipment during the term of this Agreement;
 - 4.8.6 it must not, nor permit any other person, to sell, let, transfer, dispose of, mortgage, charge, move, add to, modify, repair, service, tamper with or in any way interfere with Ancillary Equipment;
 - 4.8.7 it shall be liable to the Supplier for any loss or damage to Ancillary Equipment, except where the loss or damage is caused by Supplier's negligence, and shall indemnify the Supplier for costs in repairing or replacing Ancillary Equipment;
 - 4.8.8 the Supplier does not provide any warranty in respect of the Ancillary Equipment but, where possible, will provide the Customer with the benefit of any manufacturer's warranty;
 - 4.8.9 upon expiry or termination, the Supplier shall be entitled to:

- (a) require the Customer (at Customer's cost and risk) immediately return Ancillary Equipment to the Supplier, its subcontractors or and/or Third-Party Supplier; or
- (b) enter the Site to recover the Ancillary Equipment.

4.8.10 Notwithstanding the expiry or earlier termination of this Agreement for any reason whatsoever, the Supplier shall have no obligation to remove the Ancillary Equipment from the Site.

4.8.11 Where the Customer fails to (i) return Ancillary Equipment and/or (ii) facilitate collection of the Ancillary Equipment by the Supplier within [30] days of the request by the Supplier, the Customer will be in breach of the Agreement. In this case the Supplier shall be entitled to charge the Customer a sum equal to the value of the Ancillary Equipment at the date it should have been returned assuming it was kept in good condition and used properly as required by this Agreement ("**Non-Return Charge**"). The Supplier shall be entitled to charge the Customer the Non-Return Charge and will provide reasonable notice of the charge.

5 SECURITY AND PASSWORDS

- 5.1 The Customer acknowledges and agrees that it is the sole responsibility of the Customer to set up and maintain appropriate security measures for use of the Services and/or Equipment, including but not limited to:
 - 5.1.1 protecting all passwords and mitigating exposure to any suspected or known security breach by resetting passwords, requesting that accounts are disabled and reporting incidents to the Supplier;
 - 5.1.2 maintaining security and confidentiality of authentication details for online service portals and other services;
 - 5.1.3 employing security devices, including virus checking software;
 - 5.1.4 adequate resilience to protect against loss or connectivity of Services, such as backing up all data, disaster recovery procedures and appropriate power supply; and
 - 5.1.5 secure implementation and management of the Customer's systems including any Customer Equipment to identify and mitigate exposure to theft, fraud and/or deception.
- 5.2 Where the Customer is or becomes aware of any matters which it knows or ought reasonably to be expected to know constitutes a threat or breach of security, theft, fraud and/or deception (whether actual or attempted) in relation to the use of the Services and/or Equipment, the Customer will immediately advise the Supplier of such matters and where necessary shall report such incidents to the Police.
- 5.3 The Customer agrees to indemnify and keep the Supplier indemnified for any costs, losses or damages suffered or incurred by the Supplier arising out of or in connection with any claim made or threatened against the Supplier by a third party arising from any Fraudulent Activity due to the Customer's breach of this clause 5, including any costs or expenses reasonably incurred by the Supplier in investigating any such Fraudulent Activity.

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6 CHARGES AND PAYMENT

- 6.1 Unless otherwise stated in **Schedule 3 (Services), Schedule 4 (Support Services)** or the Order, Charges for the Services and/or Equipment will be charged in accordance with applicable Tariffs and the Supplier shall invoice the Customer electronically for the Charges payable under this Agreement, unless otherwise specified in writing by the Supplier.
- 6.2 The Customer acknowledges and agrees that where the Services (or any part thereof, including each Site) are being upgraded or replaced with a different Service, the Supplier shall reserve the right to Charge the Customer for both the existing Services, where they remain Connected and the new Services from the Commencement Date.
- 6.3 The Customer shall pay all Charges in accordance with the payment terms stated on the invoice, if not stated then, within thirty (30) days of the Commencement Date.
- 6.4 Unless otherwise stated all amounts due from the Customer to the Supplier under this Agreement shall be paid within seven (7) days of receipt of the Supplier's invoice.
- 6.5 Subject to clause 6.18, the Customer agrees to pay the Supplier in full, without any set-off, counterclaim or deduction, all sums due to the Supplier under this Agreement.
- 6.6 All amounts payable by the Customer under this Agreement are exclusive of value added tax, which the Customer shall be additionally liable to pay the Supplier.
- 6.7 The Customer shall be responsible for all Charges, unless otherwise stated in **Schedule 3 (Services)**, for the use of the Services, by either the Customer or any third party who has gained access to the Services, with or without the Customer's knowledge and consent or other Fraudulent Activity in connection with the use of the Services provided under this Agreement.
- 6.8 The Customer may request a paper invoice or an alternative payment method to direct debit, subject to payment of a reasonable administration fee. Invoices paid by credit card shall incur an additional charge of 1.8% of the payment value.
- 6.9 The Customer acknowledges and agrees that the Supplier can vary the amount, frequency and time of any direct debit to such level as the Supplier deems reasonably appropriate to:
- 6.9.1 take account of either an increase or decrease in the provision of the Services;
 - 6.9.2 to reduce such indebtedness of the Customer to the Supplier, and/or;
 - 6.9.3 such other operational matter effecting the Service as the Supplier shall in its discretion deem reasonable.
- The Supplier shall notify the Customer of such variation by giving not less than five (5) Working Days written notice, such notice to be given either on the invoice or on <https://chessict.co.uk> and continued use of the Service is deemed acceptance of the variation.
- 6.10 Each calendar year a price increase will be applied to the Charges except where the Supplier has agreed otherwise with the Customer in writing. The Supplier will notify the Customer when the price increase applies for each Service by email, on the Customer's invoice, on the Chess Customer Portal or on its website www.chessict.co.uk. The increase will be rounded down to the nearest whole pence and calculated by multiplying the existing Charges by a percentage comprised of i) the Consumer Price Index ("CPI") rate figure published by the Office of National Statistics in January of that year (ignoring any negative figures), plus ii) 3.9%. If the CPI figure is negative in the year the Supplier will only increase charges by 3.9%.

- 6.11 The Supplier may vary the Charges at any other time by notifying the Customer by email, on the Customer's invoice or on www.chessict.co.uk and the revised Charges will apply to all Services provided thirty (30) days after the effective date of the notice.
- 6.12 The Supplier may invoice the Customer for any Services used under this Agreement at any time following the date on which the Services were used.
- 6.13 The Charges payable shall be calculated by reference to data recorded by Chess or its Third-Party Supplier and not by reference to any data recorded by the Customer. Chess shall be entitled to estimate the Charges where relevant data is not available to Chess in a timely manner and such estimated Charges will be reconciled on a subsequent invoice.

CREDIT LIMIT/SECURITY

- 6.14 The Supplier may carry out a credit check on the Customer at any time, prior to the Customer and Supplier entering into this Agreement, and throughout the term of this Agreement where there is:
- 6.14.1 a material adverse change in the financial position of the Customer; or
 - 6.14.2 recent or subsequent non-payment or partial non-payment.
- 6.15 The Supplier may impose a Credit Limit on a Customer's account proportionate to the amount of Charges payable under this Agreement and/or require the Customer to pay a deposit or other form of security as a condition in providing the Services and/or Equipment.
- 6.16 The Supplier may amend any Credit Limit imposed without prior notice to the Customer and if the Customer exceeds such Credit Limit the Supplier may demand immediate payment of all unpaid Charges, whether invoiced or not. The Customer shall remain responsible for all Charges incurred including those exceeding the Credit Limit.
- 6.17 The Customer acknowledges and accepts that the Supplier may share payment history information with third party credit agencies and by entering into this Agreement hereby provides the authorisation necessary for the Supplier to use payment history information for this purpose.

DISPUTES

- 6.18 If the Customer in good faith disputes the Charges, the Customer shall give written notice to the Supplier of the amount in dispute and the reason for the dispute within seven (7) days from receipt of the invoice, prior to the Customer not paying any amount to the Supplier. Notwithstanding any dispute raised, the Customer must make payment of the undisputed part of the invoice in accordance with clause 6.3 and 6.4.
- 6.19 Any rectification or amendment of such disputed Charges already paid are limited to six (6) months prior to the written notice being received and remains at Supplier's sole discretion not to be unreasonably withheld.
- 6.20 Notice under clause 6.18 must be received prior to the Customer not paying any amounts due to the Supplier, failure of which shall be deemed a material breach of this Agreement and clause 8.1.1 shall apply, together with clause 6.21 in respect of the entire balance.

REMEDY FOR NON-PAYMENT

- 6.21 Without limiting any other right or remedy of the Supplier:
- 6.21.1 if the Customer fails to make any payment due to the Supplier by the due date, the Supplier has the right to charge the Customer (i) an administration fee and/or

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a late payment fee and (ii) interest (both before and after judgement) on the overdue amount at the rate of 8% per annum above Barclays Bank base rate from time to time, until payment in full is made;

6.21.2 if a direct debit is dishonoured or cancelled, the Supplier has the right to charge the Customer a reasonable administration fee; and

6.21.3 Supplier may set off any amount owing to it or its Affiliates by the Customer against any amount payable by the Supplier to the Customer.

6.22 Time for payment is of the essence of this Agreement and a failure to pay on time, a returned or cancelled direct debit, and failure to pay all amounts not in dispute in accordance with clause 6.18 shall be a material breach and the Supplier may terminate this Agreement immediately.

7 SUSPENSION OF SERVICES

7.1 The Supplier may at its sole discretion, without prejudice to any other right under this Agreement and upon giving the Customer written notice electronically, suspend the provision of one or more of the Services under this Agreement, without compensation, until further notice in the following circumstances:

7.1.1 the Customer is in material breach of this Agreement;

7.1.2 the Supplier, its subcontractors and/or Third-Party Supplier in providing the Services to the Customer is obliged to comply with any Applicable Legislation, including but not limited to an order, instruction or request of government, regulatory authority, emergency services organisation or other competent authority;

7.1.3 the Customer exceeds the Credit Limit, fails to give any deposit or other form of security under clause 6.11, or in the reasonable opinion of the Supplier is deemed a debt risk; or

7.1.4 the Supplier has reasonable grounds to believe that the Customer is in breach of its obligations under clause 3 and clause 5.

7.2 Where the Supplier exercises its rights under clause 7.1 as a consequence of the breach, fault, act or omission of the Customer, the Charges will continue to be payable to the Supplier and the Customer shall pay to the Supplier all reasonable costs and expenses (including any Third-Party Supplier costs and expenses) incurred by the implementation of such suspension and recommencement of the provision of Services.

7.3 The Supplier reserves the right to suspend or withdraw the Services or any part thereof at any time for business, operational or technical reasons, where the Supplier is no longer able to provide the Service, including but not limited to:

7.3.1 the suspension, termination or expiry of the agreement in place with its Third-Party Supplier, which the Supplier requires to provide the Services under this Agreement to the Customer;

7.3.2 the withdrawal or significant changes to the technology used to provide the Services;

7.3.3 as the Charges to the Customer are not, in the reasonable opinion of the Supplier, sufficient to ensure that the provision of Services continue to be commercially viable for the Supplier;

and for which the Supplier is unable to find a replacement Third-Party Supplier having used its reasonable commercial

endeavours, the Supplier may terminate this Agreement in accordance with clause 8.3.

8 TERMINATION

8.1 Either party shall be entitled to terminate this Agreement immediately by giving written notice to the other party if:

8.1.1 the other party commits a continuing or material breach of this Agreement and, if the breach is capable of remedy, fails to remedy such breach within fourteen (14) days after written notice giving full particulars of the breach and requiring it to be remedied; or

8.1.2 an administrator takes possession, or a receiver is appointed over any of the property or assets of the other party, the other party makes a voluntary arrangement with its creditors or becomes subject to an administration order, the other party becomes bankrupt or goes into liquidation (except for the purposes of a solvent amalgamation, reconstruction or other reorganisation and where the company resulting from the reorganisation effectively agrees to be bound by or to assume the obligations of the other party under this Agreement).

8.2 For the purposes of clause 8.1, a breach shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects other than as to the time of performance (provided that time of performance is not of the essence).

8.3 The Supplier may terminate this Agreement immediately by giving notice in writing to the Customer if:

8.3.1 any licence, approval, agreement or any approval under which the Supplier has the right to provide the Services under this Agreement is revoked, amended or otherwise ceases to be valid;

8.3.2 where the Supplier has exercised its rights in accordance with clause 7.3 and has not been able to appoint a replacement Third-Party Supplier;

8.3.3 where the Supplier is instructed by any competent legal or regulatory authority to cease provision of the Services to the Supplier;

8.3.4 in the reasonable opinion of the Supplier, the Customer is suspected of involvement with fraud or attempted fraud in connection with the use of the Services and/or Equipment or this Agreement;

8.3.5 if the Customer is in breach of this Agreement in such a way that the Supplier may be in breach of any Applicable Law and/or in breach of any agreements with its third-party providers required to provide the Services;

8.3.6 where the Customer commits persistent non-material breaches (which in aggregate amount to a material breach); and

8.3.7 the Customer fails to pay the Supplier, or the Supplier reasonably suspects that the Customer is unable to pay or is refusing to pay the Charges in accordance with this Agreement.

8.4 A waiver by either party of a breach of a provision of this Agreement shall not be considered as a waiver of a subsequent breach of the same or another provision.

8.5 The Customer may terminate this Agreement by giving the Supplier not more than sixty (60) days and not less than one (1) months written notice, unless otherwise stated in the applicable Order or Schedule for convenience before the end of the Minimum Term.

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- 8.6 Where the Customer moves the Services or part thereof away from the Supplier, the Supplier reserves the right (in addition to its rights under clause 8.7) to charge the Customer for the Services or part thereof in accordance with clause 8.7 and to amend Charges to the Customer for the remaining Services to its standard published Tariffs.
- 8.7 If this Agreement is terminated within the Minimum Term other than where the Customer terminates under clause 8.1 or clause 15.2, and where the Supplier terminates under clauses 8.3.1 to 8.3.3, the Supplier may invoice the Customer the Termination Charges as further defined in **Schedule 3 (Service)**. The Customer agrees that the Termination Charges are a fair assessment of the losses and damage that the Supplier will suffer as a result of the termination.
- CONSEQUENCES OF TERMINATION**
- 8.8 In the event of termination by either party for any reason, the Supplier shall be entitled to recover from the Customer:
- 8.8.1 any outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;
- 8.8.2 the Ancillary Equipment and the cost incurred effecting the return or collection in accordance with clause 4.8.9 and where the Customer fails to cooperate with the return or collection of the Ancillary Equipment invoice the Customer the Non-Return Charge as defined within clause 4.8.11;
- 8.8.3 all liabilities, claims, costs, losses and expenses incurred and/or accrued by the Supplier;
- 8.8.4 any committed costs or losses payable to a Third-Party Supplier incurred as a result of such termination, which the Supplier cannot reasonably mitigate;
- continued use of the Service following termination will result in the Supplier levying its standard published Tariffs for all Services used, which shall be payable immediately upon demand by the Supplier.
- 8.9 Termination of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.
- 8.10 Termination of this Agreement for whatever reason shall not operate to affect any provisions that expressly or by implication survive termination.
- 8.11 Until such time as the Customer has transferred to a new supplier, the Supplier shall be entitled to amend the Charges to its standard published Tariffs upon giving the Customer one (1) months written notice of any such change and shall be effective for the provision of Services after the date of termination or expiry.
- 9 LIABILITY**
- 9.1 Except as expressly stated in this Agreement, all warranties and conditions whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.
- 9.2 Nothing in this Agreement shall exclude or restrict in any way the liability of either party arising from or in connection with:
- 9.2.1 death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable); or
- 9.2.2 fraud, Fraudulent Activity or fraudulent misrepresentation by it or its employees, agents or sub-contractors (as applicable); or
- 9.2.3 any other liability which cannot be excluded or limited by Applicable Law.
- 9.3 Subject to clause 9.2, neither party shall be liable to the other party in contract, tort or otherwise for any:
- 9.3.1 loss of business;
- 9.3.2 loss of revenue;
- 9.3.3 loss of profit;
- 9.3.4 loss of use or corruption of software, data or information;
- 9.3.5 loss of contracts;
- 9.3.6 loss of anticipated savings;
- 9.3.7 indirect, consequential or special loss or damage; or
- 9.3.8 loss arising from the loss or degradation of data
- 9.4 Each Party's liability in tort, contract or otherwise arising out of or in connection with the performance of its obligations under this Agreement shall be limited in aggregate to a sum equal to the Charges payable under this Agreement during the calendar year which the relevant claim arises or one hundred thousand pounds (£100,000) whichever is the lower.
- 9.5 The Supplier's liability to pay or credit any Service Credits to the Customer will be counted and calculated for the purpose of the Supplier's maximum liability under clause 9.4 and shall be the Customer's sole remedy for the Supplier's failure to meet the Service Levels.
- 9.6 The Supplier shall not be liable for any failure or delay in performance of this Agreement which is caused by circumstances beyond the reasonable control of a party, including without limitation, any act of God, lightning, flood, exceptionally severe weather, subsidence, fire, explosion, war, civil disorder, acts of terrorism, nuclear, biological or chemical incident, national or local emergency, statutory obligation, failure or shortage of power supplies, trade dispute, any act or omission of any competent legal or regulatory authority, or supply of services by third parties.
- 10 DATA PROTECTION**
- COMPLIANCE WITH DATA PROTECTION LEGISLATION**
- 10.1 The parties acknowledge and agree that the Customer is the Controller, the Supplier is the Processor for the purposes of Processing Personal Data pursuant to this Agreement.
- 10.2 The Customer shall at all times comply with all Data Protection Legislation in connection with the Processing of Personal Data and shall ensure that all instructions given to by the Supplier in respect of Personal Data (including the terms of this Agreement) shall at all times be in accordance with Data Protection Legislation.
- 10.3 The Supplier shall process Personal Data in compliance with the obligations placed on it under Data Protection Legislation and the terms of this Agreement.
- INSTRUCTIONS**
- 10.4 The Supplier shall:
- 10.4.1 use Personal Data where needed for the purposes, duration and in accordance with the terms, of this Agreement, or where the Processing is in the Supplier's legitimate interest as further detailed within its Privacy Policy;
- 10.4.2 only process (and shall ensure Supplier personnel only process) the Personal Data as a Processor for the

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purposes described in this Agreement, in accordance with the Supplier's Privacy Policy or as otherwise provided by the Data Protection Legislation, in which case the Supplier will inform the Customer of that legal requirement before Processing (unless Applicable Law prohibits the Supplier from doing so on important grounds of public interest);

- 10.4.3 ensure that all Supplier personnel Processing Personal Data are bound by duties of confidentiality, and shall only Process the same as is necessary for the purposes of this Agreement;

TECHNICAL AND ORGANISATIONAL MEASURES

- 10.5 The Supplier shall, taking into account the state of technical development and the nature of Processing, implement and maintain appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful Processing, destruction or accidental loss, alteration, or unauthorised disclosure of the Personal Data.

SUB - PROCESSING

- 10.6 The Supplier shall:
- 10.6.1 not permit, except where necessary by a Third-Party Supplier for the provision of Services, any Processing of Personal Data by any agent, sub-contractor or other third party (except its Sub-Processors' own employees in the course of their employment that are subject to an enforceable obligation of confidence with regards to the Personal Data) except as stated in the Privacy Policy;
- 10.6.2 where the Supplier uses Sub-Processors, prior to the relevant Sub-Processor carrying out any Processing activities in respect of the Personal Data, appoint each Sub-Processor under a written contract containing materially the same obligations as under this clause 10 that is enforceable by the Supplier and use reasonable endeavours to ensure that each Sub-Processor complies with all such obligations;
- 10.6.3 ensure that all persons authorised by the Supplier or any Sub-Processor to process Personal Data are subject to a binding written contractual obligation to keep the Personal Data confidential.

NOTIFICATION OF BREACHES

- 10.7 The Supplier shall where required by law:
- 10.7.1 notify the Customer without undue delay and in writing on becoming aware of any Personal Data Breach in respect of any Personal Data; and
- 10.7.2 co-operate with the Customer and provide assistance as may be reasonably required in the investigation, remediation and mitigation of the Personal Data Breach.

CONSEQUENCES OF TERMINATION

- 10.8 Upon termination or expiry of this Agreement, at the Customers' cost and the Customers' option, the Supplier shall either return all the Protected Data to the Customer or securely dispose of the Protected Data (and thereafter promptly delete all existing copies of it) except to the extent that any Applicable Law requires the Supplier to store such Protected Data. This clause 10.8 shall survive termination and expiry of the Agreement.

INTERNATIONAL TRANSFERS

- 10.9 The Supplier shall not transfer or otherwise process Personal Data outside the UK or EEA unless:

10.9.1 the Supplier is processing Personal Data in a territory which is subject to a current finding by the UK under Data Protection Legislation that the territory provides adequate protection for the privacy of individuals; or

10.9.2 the Supplier transfers Personal Data under the UK's Standard Contractual Clauses or the ICO International Data Transfer Agreement approved for the transfer of Personal Data outside the EEA and the UK; or

10.9.3 the transfer otherwise complies with Data Protection Legislation.

11 INTELLECTUAL PROPERTY

- 11.1 All Intellectual Property Rights in the Services and/or Documentation will be owned by the Supplier and its Affiliates, save to the extent that any of the same contain Intellectual Property Rights owned by a Third-Party Supplier, where the Supplier shall use all reasonable endeavours to procure the grant of a similar licence.
- 11.2 The Supplier hereby grants to the Customer a non-exclusive, non-transferable royalty free licence to use the Supplier's Intellectual Property Rights within the United Kingdom, subject to the Customers compliance with the terms of this Agreement, solely as necessary for the use of the Services and/or Documentation.
- 11.3 The Customer shall not at any time have the right under this Agreement to sub-license, assign or otherwise transfer the rights granted in clause 11.2.
- 11.4 If this Agreement is terminated for whatever reason, this licence will automatically terminate.
- 11.5 Nothing in this Agreement shall entitle the Customer to any rights in the Intellectual Property Rights of the Supplier, its Affiliates or third-party licensors, nor to any goodwill attached thereto and the Customer further acknowledges that it shall not acquire any rights in respect of the same.

SOFTWARE

- 11.6 Where the Supplier has provided Software and/or Documentation necessary for the Customer to make reasonable use of the Services and/or Equipment, the Customer acknowledges and agrees that:
- 11.6.1 the ownership of and all Intellectual Property Rights in the Software and Documentation remains with the Supplier or its licensors;
- 11.6.2 the Supplier grants a non-exclusive, non-transferable limited right to use the Software and/or Documentation to the Customer, solely as necessary for the provision of the Service in accordance with the terms of this Agreement. The Customer hereby agrees to comply with the provisions of any Third-Party Software licence as provided for in clauses 3.23 to 3.26 inclusive, which will automatically terminate on expiry or termination of this Agreement;
- 11.6.3 it will not make any modifications to the Software or Documentation;
- 11.6.4 it will not (and shall not permit any third party to) copy, adapt, reverse engineer, decompile, disassemble, modify or make error corrections to the Software in whole or part except as permitted by law;
- 11.6.5 it will not rent, lease, lend, make available or distribute the Software or Documentation, assign the benefit or subcontract the burden of this Agreement

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- in whole or part or allow the Software to become the subject of any charge, lien or encumbrance;
- 11.6.6 it shall not (and shall not permit any third party to) export the Software, Documentation or any hardware upon which the Software is embedded, out of the UK without the prior written consent of the Supplier or any licensor;
- 11.6.7 it will not modify, obscure or remove any copyright or proprietary notices on the Software or Documentation;
- 11.6.8 it permits the Supplier or the Software licensor, upon reasonable notice to enter during Normal Working Hours any premises owned or controlled by the Customer in order to review the Customer's use of the Software and/or the Documentation and ensure that the Customer is using the same in accordance with this Agreement;
- 11.6.9 it shall not resell the Services or sub-licence any Software to any third party, without the Supplier's express consent. Such consent shall be at the Supplier's sole discretion and subject to the Customer entering into a separate licence;
- 11.6.10 the Supplier does not warrant that the Software or Documentation is error free and the Customer hereby agrees to make proper back-ups of all data, and;
- 11.6.11 it shall be responsible, unless otherwise included in **Schedule 4 (Support Services)** for applying patches, fixes or other temporary repairs and preventative maintenance to the Software to maintain the Software to the licensor's published specifications or as otherwise applicable to the provision of the Services.
- 11.7 The Customer will not, and will procure that none of its employees, subcontractors, agents or any third party authorised to use the Service and/or Software, infringe any Intellectual Property Rights owned by the Supplier, its Affiliates or third-party licensors.
- 11.8 The Customer shall, at all times during and after termination or expiry of this Agreement, indemnify and keep indemnified the Supplier, its Affiliates or third-party licensors against all losses, damages, costs or expenses and other liabilities (including legal fees) incurred by, awarded against or agreed to be paid by the Supplier, its Affiliate or third-party licensors arising from any claim made against the Supplier, its Affiliate or third-party licensors due to:
- 11.8.1 the Customer amending or in any way altering the Software or Documentation;
- 11.8.2 using it for a purpose not permitted by this Agreement, and;
- 11.8.3 for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the use of the Services.
- 11.9 If the Customer becomes aware of any breach of third party rights, as a consequence of the Customer's use or possession of the Software and/or the Documentation in accordance with the terms of the Agreement, the Customer agrees that it shall:
- 11.9.1 give the Supplier notice of any such claim within fourteen (14) days of the date on which the Customer is first given notice that the claim has been made;
- 11.9.2 allow the Supplier or its Software licensors to have sole conduct of the defence or settlement of any such claim, and;
- 11.9.3 provide the Supplier with all reasonable assistance in conducting the defence or settlement of any such claim and shall make no prejudicial statement or admission of liability.
- 11.10 For the avoidance of doubt, the Supplier shall have the right at our sole option and expense where there has been a breach as referred to in clause 11.9, to:
- 11.10.1 procure the right for the Customer to continue using the Software and/or the Documentation so that it such use is no longer infringing;
- 11.10.2 modify the Services, Software and/or the Documentation so that they become non-infringing without material diminution in their performance or specification so that the provision of the Services is not materially adversely affected.
- 11.11 Upon termination of this Agreement, the Customer's right to use the Software and/or Documentation shall cease and the Customer shall, at the Supplier's absolute discretion, promptly return, or if requested, destroy all copies of the Software and/or Documentation held by the Customer that is in a tangible form, including Software and/or Documentation stored on electronic or optical devices, whether in digital format or otherwise.
- ## 12 COMPLAINTS
- 12.1 The parties shall use all reasonable endeavours to resolve any dispute or claim in accordance with the Customer Complaints Code and in good faith.
- 12.2 Where a dispute or claim arises between the parties that cannot be resolved between the parties as set forth in the Customer Complaints Code, either party may;
- 12.2.1 escalate the dispute to the Director's Office; and
- 12.2.2 if the dispute is not resolved under clause 12.2.1, either party may refer the dispute to an alternative dispute resolution method, which is agreed as appropriate.
- 12.3 The Customer shall have the right to take unresolved complaints to an approved alternative dispute resolution agency eight (8) weeks after the complaint was made. CISAS is an independent approved alternative dispute resolution agency which provides this service free of charge.
- ## 13 NOTICES
- 13.1 Unless provided for elsewhere in this Agreement, all formal written notices or instructions given under this Agreement shall be in writing and shall be sent by:
- 13.1.1 the Supplier to the Customer by post or email to the address(es) as may at the relevant time have been notified to the Supplier, on the Customer's invoice, on the Chess Customer Portal or on its website www.chessict.co.uk and shall be deemed as served on the second day after the same has been posted or sent; or
- 13.1.2 the Customer to the Supplier by recorded delivery to its principal place of business or such other address as may at the relevant time have been notified pursuant to this clause 13 to the Customer and shall be deemed as served at the time of delivery.
- ## 14 ASSIGNMENT AND SUBCONTRACTING
- 14.1 The Customer shall not assign, subcontract or encumber any right or obligation under this Agreement, in whole or in part, without the Supplier's prior written consent (such consent not to be unreasonably withheld or delayed).

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- 14.2 The Supplier may at any time:
- 14.2.1 assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under this Agreement, and/or
- 14.2.2 provide the Services to the Customer directly and/or through its Affiliates, suppliers, subcontractors and agents,
- without prior written notice of such dealing to the Customer, provided that the Supplier remains primarily liable for the acts and omissions of its Affiliates, suppliers, subcontractors and agents.

15 AMENDMENTS

- 15.1 Notwithstanding clause 6.10 and 6.11, the Supplier reserves the right at its sole discretion to change the Service, any features of the Service, Ancillary Equipment, Charges and terms and conditions of this Agreement by giving the Customer not less than 30 days' notice, by email, publishing a notice on the Customer's invoice and/or on its website at <https://chessict.co.uk/legal/>
- 15.2 Except for price increases applied pursuant to clause 6.10, if the Supplier makes a change pursuant to clause 15.1 above in a way which significantly disadvantages the Customer, the Supplier will tell the Customer at least 30 days before the change. If the Customer objects to the change, the Customer may provide written notice to cancel the Services within the 30 day period of the notice given regarding the change. Where the Customer provides notice within the 30 day period it shall be permitted to end the Services without having to pay Termination Charges.
- 15.3 Where the Customer does not provide notice of cancellation within the 30 day period detailed at clause 15.2 and the Customer continues to use the Services, the Customer will be deemed to have accepted the change to the Services and/or the Agreement.

16 THIRD PARTIES

- 16.1 Except as expressly provided for in this Agreement, a person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of this Agreement.

17 WAIVER

- 17.1 A waiver by either Party of a breach of a provision of this Agreement shall not be considered as a waiver of a subsequent breach of the same or another provision of this Agreement.
- 17.2 No failure, delay or omission by either party in exercising any right, power or remedy provided under this Agreement or by law shall operate as a waiver of that or any other right or remedy, nor shall it preclude or restrict any future exercise of that or any other right or remedy.
- 17.3 The Customer must bring any legal proceedings against the Supplier in connection with this Agreement within twelve (12) months from the date which the Customer first became aware or ought reasonably to have become aware of the facts giving rise to the liability or potential liability of the Supplier or within the statutory limitation period, whichever is the earlier.

18 SEVERANCE

- 18.1 If any provision of this Agreement (or part of any provision) is held by a court or other competent authority to be invalid or unenforceable in whole or in part, the validity and enforceability of any other provision of this Agreement and the remainder of the provision shall not be affected.

19 ENTIRE AGREEMENT

- 19.1 The terms and conditions of this Agreement, together with any terms set out in the Order and/or Schedules constitute the entire agreement between the parties, supersede any previous agreement or understanding and, subject to clause 6.10 and 6.11 and clause 15, may not be varied except in writing and signed by the Supplier.
- 19.2 All other terms, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.
- 19.3 In entering into this Agreement, the Customer acknowledges and agrees that it does not rely on any representations which are not confirmed in the terms and conditions of this Agreement, but nothing in this Agreement affects the liability of either party for fraudulent representation.

20 GOVERNING LAW AND JURISDICTION

- 22.1 This Agreement shall be governed by and construed in accordance with the laws of England and Wales, and the Customer agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

Acceptable Use Policy shall mean the Supplier's acceptable use policy available at <https://chessict.co.uk/legal/> as may be amended by the Supplier from time to time;

Affiliate means, in relation to either Party, a company which is a subsidiary or holding company of it, or any company which, is a subsidiary of any such holding company, "holding company" and "subsidiary" having the meanings ascribed to them in section 1159 Companies Act 2006;

Agreement means the agreement between the Customer and Supplier, which includes the terms and conditions of this Agreement, the Schedules (including any annex thereto), the Tariffs and the Order;

Ancillary Equipment means the equipment (including any Software) owned and licensed by the Supplier, its subcontractors or Third-Party Supplier and placed on the Customer's premises, which is required to access the Service;

Applicable Law means any legislation, authorisations, permissions, rules, regulations, codes of practice, orders and guidelines relating to the provision and/or use of the Services, including any directives or other requirements issued by any regulator from time to time;

Change of Control means in relation to the Customer where there is a material change in the exercise, control or holding of the voting shares (unless this is due to an internal group reorganisation);

Consumer means any natural person who uses or procures services for the purposes which are outside his or her trade, business or profession;

Cooling Off Period means the period 14 days from the later of (i) delivery of any equipment; (ii) the date the Agreement is made; and (iii) the date you receive an Order confirmation and/or a copy of the Agreement

Charges means the fees payable for the Services, Support Services and/or Equipment as set out in the Order, the applicable **Schedule 3 (Services)** and/or **Schedule 4 (Support Services)**, or as published on the Supplier's website at <https://chessict.co.uk/legal/>;

Confidential Information means any information of a confidential nature whether disclosed in writing or orally, is expressly stated to be confidential or can reasonably be expected to have been considered confidential, including without limitation, information in relation to a Party's affairs or business or method of carrying on business and the terms of this Agreement;

Commencement Date means either;

- (a) the date the Customer is notified by the Supplier that the Service (or any part of the Service, including each Site) will be ready to use, or;
- (b) where Service comprises of multiple Connections, a Connection will be Connected to the Network, or;
- (c) if earlier, the date upon which the Customer first uses the Service (or any part of the Service, including each Site) or Connection;

Connection means the connection of the Services (or any part thereof, including each Site) to the Network and "Connected" shall be construed accordingly;

Controller, Data Subject, Personal Data, Processor and Processing shall have the respective meanings given to them in applicable Data Protection Legislation from time to time (and related expressions, including process, processed, processing and processes shall be construed accordingly) and international organisation and Personal

Data Breach shall have the respective meanings given to them in the GDPR;

Customer Complaints Code shall mean the Supplier's complaints code available at <https://chessict.co.uk/complaintscode.pdf> as may be amended from time to time;

Customer Equipment means the existing Customer premises equipment and any purchased Hardware (including Software) used by the Customer in connection with the Service, other than the Ancillary Equipment and Rental Equipment;

Customer Network means the Customer's physical telecommunications and/or data network infrastructure, systems and Equipment located at the Site to which the Services will be connected;

Data Protection Legislation means, as binding on either party or the Services:

- (i) the UK General Data Protection Regulation ("GDPR"), the Data Protection Act 2018, and the Privacy and Electronic Communications (EC Directive) Regulations 2003;
- (ii) any laws which implement such laws; and
- (iii) any laws or regulations which replace, extend, re-enact, consolidate or amend any of the foregoing.

Documentation means the documentation made available to the Customer by the Supplier or by its suppliers or licensors via MyPortal or such other website address notified to the Customer by the Supplier from time to time, which sets out a technical description of the Services together with manufacturers recommendations and instructions for use of the Services;

Equipment means the Customer Equipment, Hardware and the Ancillary Equipment and as listed in the Order, or where applicable further detailed in **Schedule 2 (Equipment)**;

Fair Use Policy shall mean the Supplier's fair use policy available at <https://chessict.co.uk/legal/> as may be amended by the Supplier from time to time;

Fraudulent Activity means any activity which constitutes a threat or breach of security, theft, fraud and/or deception (whether actual or attempted), including but not limited to use of the Services:

- (a) without the Customer's knowledge;
- (b) utilizing the Customer's authentication details; or
- (c) from an authenticated IP address.

Good Industry Practice means in relation to any undertaking and any circumstances, the exercise of that degree of skill and care which could be reasonably expected of a highly skilled and experienced professional;

Hardware means physical equipment purchased by the Customer from the Supplier;

Industry Regulations means rules and regulations set by relevant industry governing bodies which control and/or govern specific business activities (e.g. The Office of Communications "Ofcom");

Intellectual Property Rights means any copyright, patent, registered design, design rights, utility models, trademarks, trade secrets, know how, database rights, Confidential Information or any other registered or unregistered intellectual property rights of whatever nature subsisting anywhere in the world;

Minimum Term means the initial period of this Agreement as specified in the Order and if not specified shall be the period calculated in accordance with clause 2.1;

MACD Services means the provision of "moves, additions, changes and deletions" being engineering services within the scope of this Agreement which the Supplier is requested to carry out by the Customer in accordance with sub-clauses 3.17 to 3.19 inclusive;

MyPortal means the Customer's online access to the provision of the Services available through the Supplier's website at <https://chessict.co.uk>;

Network means a Third-Party Supplier telecommunications and/or data network providing connectivity to the Service;

Normal Working Hours means 09:00hrs to 17:30hrs on a Working Day;

Order means an order issued by the Supplier for the provision of Services, Hardware, Software and/or Ancillary Equipment under this Agreement;

Privacy Policy shall mean the Supplier's privacy policy available at <https://chessict.co.uk/legal/> as may be amended by the Supplier from time to time;

Professional Services means technical engineer support, including but not limited to project management, planning and design, network assessments, business requirement deliverables, configurations of user interfaces, number porting, phone deployment and training, as specified in the Order and further detailed in **Schedule 4.2 (Professional Services)**;

Quality Standards shall mean a series of documents that provide requirements, specifications, guidelines or characteristics that are used consistently to ensure that materials, products, processes and services meet good quality, such as ISO 9001 Quality Management Systems;

Rental Equipment means the equipment (including any Software) identified in the Order or the applicable Schedule, which is leased to the Customer under a separate lease agreement for use by the Customer in connection with the Service, other than the Ancillary Equipment and Customer Equipment;

Schedule 3 (Services) means a series of sub-schedules (including any annex thereto) describing the relevant Services provided under this Agreement;

Schedule 4 (Support Services) means as series of sub-schedules (including any annex thereto) describing the relevant Support Services provided under this Agreement;

Service Credits means the amount payable (if any) by the Supplier to the Customer in accordance with the applicable Services as set forth in **Schedule 3 (Services)**;

Service Levels mean the standard of performance (if any) in relation to the Service in accordance with the applicable Services as set forth in **Schedule 3 (Services)**;

Services means the provision of services, together with any Ancillary Equipment, provided by Supplier to the Customer and as set forth in **Schedule 3 (Services)** and/or **Schedule 4 (Support Services)**;

Site(s) means (where applicable) a physical location as specified in the Order and where the Equipment shall be located and/or to which the Service will be provided;

Software means the software to be licensed to the Customer as specified in an Order or Schedule together with any imbedded software, which is necessary for the provision of Services and/or use of the Equipment and may also include Third-Party Software;

Supplier means Chess ICT Limited, whose registered office is at Bridgford House, Heyes Lane, Alderley Edge, Cheshire SK9 7JP, company registration number 04512773, unless otherwise specified on the Order as an Affiliate of Chess ICT Limited.

Supplier's Policies shall mean the Supplier's Acceptable Use Policy, Fair Use Policy, Privacy Policy and any other relevant policy applicable to the provision of the Services, which are available at

<https://chessict.co.uk/legal/> as may be amended by the Supplier from time to time;

Support Services means the provision of support services, provided by Supplier to the Customer as specified in the Order and further detailed in **Schedule 4 (Support Services)**;

Tariffs means the applicable tariffs as referred to in this Agreement and the Order for the provision of the Services available on the Supplier's website <https://chessict.co.uk/media/3711/consumer-rates-2021.pdf> and as periodically updated from time to time or amended under clause 6.10 above;

Termination Charges means any compensatory charges which become due and payable by the Customer to the Supplier on termination of this Agreement before the end of the Minimum Term, in whole or in part, in accordance with clause 8.7 and **Schedule 3 (Services)**;

Third-Party Supplier means a third-party supplier, provider or supplier of services over which the Supplier may utilise for provision of the Services under this Agreement;

Third-Party Software means any Software, the licence terms of which are governed by a separate agreement with the licensor of such software, typically by means of a 'click wrap' or 'shrink wrap' licence agreement;

Working Day means Normal Working Hours any day other than Saturdays, Sundays, public or bank holidays in the United Kingdom.

SCHEDULE 3.1 VOICE SERVICES

1. APPLICATION

- 1.1 This schedule, which contains a description of the Voice Services form part of the Agreement entered into between the Parties for the provision of Services.
- 1.2 Definitions and interpretations that are specific to this schedule are set out in **Annex 1** and apply in addition to the definitions and interpretations set out in **Schedule 1 (Definitions)** of the General Conditions and Schedules 3 and 4.

2. SERVICE DESCRIPTION

LINE RENTAL

- 2.1 The Supplier will provide the Customer with a fixed telephone line by traditional copper wiring (analogue) or fibre optic cabling (digital) or a combination of both (depending on geographical area) and as set out on the Order hereinafter defined as **"Line"**.

CALLS

- 2.1 The Supplier will provide the following standard call service components, based upon standard Tariffs and in accordance with the details as set forth in the Order:
- 2.1.1 the facility to make or receive phone calls including the ability to send or receive information from computers using a Line; and
- 2.1.2 one telephone number for each Line. hereinafter defined as **"Call Service"**.
- 2.2 The Supplier may, subject to eligibility, provide the Customer with a Tariffs charged are fixed price and are inclusive of minutes as set forth in the Order **"Call Bundle"**.
- 2.3 The Customer may purchase a package of services, which includes Lines, Call Service and Ancillary Services and the Tariffs charged are fixed price as set forth in the Order **"Call Package"**.
- 2.4 The services detailed in paragraphs 2.1 to 2.3 inclusive are hereinafter defined as **"Voice Services"**.
- 2.5 The Supplier will provide and manage the Voice Services as set out in paragraph 4 of this schedule and as set out in the Order, up to the Network Terminating Unit **"Voice Support Boundary"**.
- 2.6 The Supplier has no responsibility for the Voice Service outside of the Voice Support Boundary.
- 2.7 The Supplier makes no representations, whether express or implied, about whether the Voice Services will operate in combination with any Customer Equipment or other equipment and software.

3. CUSTOMER OBLIGATIONS

- 3.1 On and from the Commencement Date the Customer shall:
- 3.1.1 ensure that there is adequate resilience in place to protect against the loss of data, service or connectivity, including appropriate power supply;
- 3.1.2 connect Equipment to the Voice Service only by using the Network Terminating Unit at the Site(s);
- 3.1.3 not attempt to circumvent any security measures in the Voice Service;
- 3.1.4 not publicise any number in any way or commit to any advertising or publicity until the Customer has received written confirmation by the Supplier that the number is tested and live;

- 3.1.5 pay for Ancillary Services which may exist on the Line, where such Line is transferred to the Supplier on a like for like basis;
- 3.1.6 where the Customer instructs the Supplier to cease or port the provision of a number, pay the Supplier a disconnection fee for each number at the rate applicable at the date of disconnection;
- 3.1.7 provide thirty (30) days written notice in the event that above average use of the Voice Services is likely to occur; and
- 3.1.8 not use, not permit use of the Voice Services in any way in connection with any message or communication which is in the reasonable opinion of the Supplier considered to be a Nuisance Call or brings the Supplier's name into disrepute or in any way which intentionally causes damage or disruption to the Voice Services.

- 3.2 The Customer shall remain liable for all Charges where the Customer or a third party has used the Voice Service, whether used with the knowledge and consent or otherwise of the Customer or other Fraudulent Activity in connection with the use of the Services provided under this Agreement, including but not limited to fraudulent Calls made by a rogue caller and Calls made by any third party who has gained unauthorised access to the Voice Service.
- 3.3 The Customer hereby acknowledges and agrees that it shall first contact the Supplier concerning Nuisance Calls and will fully cooperate with the Police and any other relevant authorities (including but not limited to the Inland Revenue, Trading Standards and/or Ofcom) in connection with any misuse or suspected misuse of the Voice Services and the Customer hereby consents to the Supplier cooperating and providing any evidence reasonably requested in accordance with Applicable Law.

4. SERVICE CONDITIONS

LINE RENTAL

- 4.1 The Supplier shall:
- 4.1.1 use reasonable endeavours to provide the Customer with the Voice Service by the dates agreed and to continue to provide the Voice Service for the Term of this Agreement;
- 4.1.2 not be liable for any loss or damage should the Voice Service not commence or restart of the agreed date; and
- 4.1.3 have the right to withdraw or change CLI or dialling codes but will only do so where required under any changes in Applicable Law.
- 4.2 Nothing in this Agreement gives the Customer any legal, equitable or other rights in any CLI or dialling codes provided as part of the Voice Service.
- 4.3 The Voice Service shall terminate upon reaching the Network Terminating Unit.
- #### CALLS
- 4.4 The Supplier may deliver all Calls using the most appropriate Network and any Calls that are routed by any means beyond the reasonable control of the Supplier shall remain the responsibility of the Customer, and the Supplier reserves the right to charge the Customer at the applicable rates at the time.
- 4.5 Charges shall be calculated by reference to any data recorded or logged by the Supplier and/or its Third-Party Supplier and

SCHEDULE 3.1 VOICE SERVICES

not by any data recorded or logged by the Customer. The Supplier shall be entitled to estimate Charges in circumstances where the relevant data is not available to the Supplier in a timely manner and any estimated Charges shall be reconciled on a subsequent invoice.

- 4.6 The Supplier may occasionally monitor, and record Calls made to or by the Supplier relating to customer services and telemarketing calls made by the Supplier for the purposes of training and improving customer care services, including complaint handling. The Supplier, Third Party Supplier and/or other suppliers may also record Calls to Emergency Services.
- 4.7 The Customer specifically authorises the Supplier to send/resend CPS throughout the Term of this Agreement and hereby waives the Supplier's obligation to notify the Customer of the same.
- 4.8 Where the Customer opts for certain Call Features on the Voice Service, the Customer acknowledges and agrees that such Call Features shall be chargeable at the Tariffs applicable at the time.
- 4.9 If in the reasonable opinion of the Supplier, the Customer's call profile is indicative of Fraudulent Activity, the Supplier shall reserve the right to suspend the Voice Services immediately, without notice to the Customer in accordance with clause 7.1.4 of the General Conditions.

CALL FEATURES

- 4.10 The Customer may opt for additional call features relating to any Line that the Customer has, which include but are not limited to the following options:
- 4.10.1 Call Diversion (diverts Calls to any number)
 - 4.10.2 Call Waiting (alerts to another Call when already on a Call);
 - 4.10.3 Ring Back (Call to notify when an engaged number is free);
 - 4.10.4 Call Baring (control over what type of Calls can be made);
- further options are set forth in the Tariffs and such additional call features will be chargeable in accordance with the same ("Call Features").

NUMBER PORTING

- 4.11 The Customer may:
- 4.11.1 prior to the Commencement Date port number(s) to the Supplier; and
 - 4.11.2 upon expiry or termination port number(s) from the Supplier to another supplier with whom the Supplier has a relevant porting agreement
- hereinafter defined as "**Number Porting**".
- 4.12 Where the Customer wishes to port number(s) to the Supplier, the Customer shall:
- 4.12.1 provide full and accurate details of the number(s) to be ported; and
 - 4.12.2 be responsibility for reaching any commercial agreement with the suppliers of the services to which those number(s) apply, including terminating those services and the payment of any associated Termination Charges
- 4.13 the Customer will be provided a Port Date by the Supplier once the Supplier has all the details in paragraph 4.12.
- 4.14 The Customer accepts all charges and fees associated with Number Porting including submissions, rejections, re-

submissions and export. Charges are as per the Supplier's current Tariffs.

ANCILLARY SERVICES

- 4.15 The Supplier, through its Third Party Supplier, shall provide the Customer's details for directory enquiries and basic directory listings for phone book entries without charge to the Customer "**Directory Listing**". Additional or enhanced entries requested by the Customer shall be chargeable.
- 4.16 The Customer is responsible for verification that such details are and remain correct and other than where the Supplier is negligent, the Supplier shall not be liable for any errors or omissions in such phone book entries.
- 4.17 Where the Customer requests cancellation of a Directory Listing, the Customer shall remain liable for the relevant charges until the next publication of the phone book, when the Directory Listing will be deemed to be removed.
- 4.18 The Customer shall provide the Supplier with details of all Ancillary Services that it wishes to receive relating to any telephone number that the Customer wishes to use, such Ancillary Services shall be subject to additional charges as per the Supplier's current Tariffs.
- 4.19 Where Call Recording is provided as part of the Voice Services, the Customer shall comply with all legal requirements when using Call Recording and agrees that the Supplier shall have no liability for any costs or claims which may be incurred where the Customer is not compliant, whether or not the Customer is aware of the legal requirements.

FRAUD MONITOR

- 4.20 Where Fraud Monitor is provided, paragraphs 4.20 to 4.29 shall apply. The provision of Fraud Monitor is dependent upon the Supplier providing the Customer with both the Line and Call Service to which it relates. If for any reason the Supplier ceases to provide such Line and/or Call Service the Fraud Monitor service shall terminate with immediate effect and the Supplier shall have no liability to the Customer in respect of such termination and no longer providing Fraud Monitor. Where Fraud Monitor is terminated in this way, the Customer shall not be entitled to any refund of any monthly Charges paid.
- 4.21 Fraud Monitor shall only apply to the Lines specified as benefiting from the Fraud Monitor as stated in the Order or as otherwise agreed in writing by the Supplier.
- 4.22 Fraud Monitor is provided solely for the Customer's use and the Customer may not resell or attempt to re-sell Fraud Monitor.
- 4.23 Unless otherwise stated in the Order, the monthly Charges for Fraud Monitor are as per the Supplier's applicable Tariffs.
- 4.24 For one (1) Fraud Incident in any Calendar Year, the Customer shall not be liable to pay the first £200 of call Charges where such call Charges arise from a proven Fraud Incident and provided such call Charges did not arise due to an act or omission of the Customer or breach of the terms of this Schedule 3.1 or the General Conditions by the Customer.
- 4.25 Except as stated in paragraph 4.24 above, in all other circumstances the Customer shall be liable for all Charges arising from Fraudulent Activity pursuant to paragraph 3.2 of this Schedule 3.1 and the Charges shall be payable in accordance with this Schedule 3.1 and the General Conditions.
- 4.26 The Supplier has the right to suspend provision of the Line and Calls Service in accordance with paragraph 4.9 of this Schedule 3.1 whether or not the Fraud Monitor is provided in relation to the Line and Calls Service. Unless expressly stated in

SCHEDULE 3.1 VOICE SERVICES

paragraphs 4.20 to 4.29, the rights and obligations of the Supplier and Customer as detailed in this Schedule 3.1 and the General Conditions remain applicable to Services which have the benefit of Fraud Monitor.

- 4.27 The Customer shall provide the Supplier with an up-to-date point of contact with 24x7 availability who the Supplier shall notify by email of suspected Fraudulent Activity or of any suspension of the Line and Calls Service. In the event, the Customer has not provided an email address for notification as anticipated by this paragraph, the Supplier will endeavour to notify the Customer using any other contact information which it has on record. The Customer shall immediately reply to any notification of suspected Fraudulent Activity.
- 4.28 The Supplier will only reactivate any suspended Services when the Customer has satisfied the Supplier (at its sole discretion) that the reason for suspension has been resolved and the services are unlikely to be a material immediate risk of Fraudulent Activity.
- 4.29 The provision of Fraud Monitor is not a fraud prevention system and does not prevent unauthorised access to the Service(s) or the Equipment and the Customer shall be responsible for obtaining professional security advice with regards to the Service(s) and/or the Equipment. The Supplier makes no representation that Fraud Monitor will be error-free or will detect, limit, or prevent fraudulent usage of the Services. The Supplier disclaims any warranty of any kind, expressed or implied, including, but not limited to, warranties of fitness for a particular purpose, merchantability, or satisfactory quality, with regard to the nature, quality and accuracy or validity of Fraud Monitor. In particular (without limitation), the Supplier accepts no liability for any delays in suspending or reactivating any Service which are beyond its reasonable control (including, without limitation, delays by third party suppliers or carriers in activating or removing barring orders).

SERVICE FAULTS

- 4.30 The Supplier shall provide and manage the Voice Services in accordance with **Schedule 4.1 (Fault Management Connectivity)**, which sets out the Supplier's notification procedure for Service Faults together with its Service Fault Targets.
- 4.31 Service Levels specific to the Voice Services and in addition to those set forth in paragraph 4.30 above (if any) shall be set forth in paragraph 7 below and where there is a conflict between **Schedule 4.1 (Fault Management Connectivity)** and paragraph 7, the latter shall prevail.

5. CHARGES AND PAYMENT

- 5.1 The Supplier shall invoice the Customer for the Charges for the Voice Services as set out in paragraph 5.2 in the amounts specified in any Order.
- 5.2 Unless stated otherwise in an applicable Order, the Supplier shall invoice the Customer monthly (depending on billing frequency) for:
- 5.2.1 Installation Charges, on or after the Commencement Date for any work carried out;
 - 5.2.2 Recurring Charges, except Usage Charges;
 - 5.2.3 Usage Charges calculated at the then current Tariffs;
 - 5.2.4 any Charges for Hardware, which shall apply from the date of delivery of such Hardware;
 - 5.2.5 any Termination Charges upon termination of the Voice Service

For any period where the Voice Service is provided for less than a month, the Recurring Charges will be calculated on a daily basis.

- 5.3 For the avoidance of doubt, Usage Charges shall be invoiced to the nearest pence per second, unless otherwise stated in the Order. All Calls are subject to a pence per minute Tariff, Committed Spend and a connection fee and Calls shall be invoiced to 2 decimal places, unless otherwise stated in the Order or applicable Tariff.

6. TERMINATION

- 6.1 This paragraph 6 is supplemental to clause 8 of the General Conditions and in the event this paragraph 6 conflicts with clause 8 of the General Conditions, this paragraph shall take precedence.
- 6.2 The Customer shall be liable to pay Termination Charges to the Supplier in accordance with clause 8.7 of the General Conditions, where the Agreement is terminated prior to the expiry of the Minimum Term.

7. SERVICE CARE LEVELS

- 7.1 This paragraph 7 shall only be applicable when a Customer has purchased one of the Service Care Levels as specified in the Order and further detailed in paragraph 7.3 below. If purchased, the Service Fault Targets set forth in **Schedule 4.1 (Fault Management Connectivity)** shall be superseded by this paragraph 7.1.
- 7.2 The Supplier shall use reasonable endeavours to ensure that response time to the Customer's notification of a Service Fault as defined in **Schedule 4.1 (Fault Management Connectivity)** shall be no more than one (1) hour, during Normal Working Hours and calculated from receipt of notification of a Service Fault by the Supplier.
- 7.3 The Supplier shall use reasonable endeavours to Resolve a Service Fault in accordance with the Service Care Level the Customer has purchased from the following options:

| BT | Resolution Target ¹ |
|--------------|--|
| Care Level 1 | Clear by end of next Working Day + 1 |
| Care Level 2 | Clear by end of next Working Day |
| Care Level 3 | Logged by 13:00 hours, same day resolution, after 13:00 hours next Working Day |
| Care Level 4 | 6 hour Resolution |

| TTB | Resolution Target ¹ |
|---------------|--------------------------------|
| Standard Care | 48 (clock hours) |
| Enhanced Care | 24 (clock hours) |

1. calculated from the first response by the Supplier

- 7.4 The Customer may upgrade its Service Care Level at an additional charge as set out in the Supplier's current Tariffs.
- 7.5 Where the Supplier fails to meet the applicable Service Care Level, the Customer may, subject to **Schedule 4.1 (Fault Management Connectivity)**, make a one-off claim for a Service Credit.
- 7.6 The Supplier's liability under this paragraph to pay Service Credits to the Customer shall be the maximum liability of the Supplier and the Customer's sole financial remedy for failure to meet Service Care Levels.

8. LINE ASSURANCE

SCHEDULE 3.1 VOICE SERVICES

- 8.1 Where specified in the Order, the Supplier shall provide the Customer with Line Assurance as detailed in this paragraph 8. Line Assurance shall only apply to the Lines as stated in the Order or as otherwise agreed by the Supplier.
- 8.2 Unless otherwise stated in the Order, the monthly Charges for Line Assurance are as stated in the Supplier's applicable Tariffs.
- FAULT MANAGEMENT**
- 8.3 Chess will provide for Fault Management for one (1) Service Fault per calendar year which falls outside the Voice Support Boundary and in such circumstances the Customer shall not be liable for any charges imposed on to the Supplier by BT Openreach where no fault is found by Openreach or on any Openreach equipment.
- 8.4 Fault Management will be provided in accordance with Schedule 4.1 (**Fault Management Connectivity**).
- 8.5 The Customer must provide timely site access for engineers procured or engaged by the Supplier or BT Openreach in relation to the Service Fault.
- 8.6 The Customer must carry out the Supplier's prescribed Initial Checks when requested to do so and accepts that failure to do so will delay resolution of the Service Fault, and that the Service Fault Target shall not apply where the Supplier Initial Checks have not been completed as requested.
- CHES DIVERT**
- 8.7 Where a Line is experiencing a P1 Service Fault, as described in **Schedule 4.1 (Fault Management)**, the Supplier will, where requested by the Customer, provide and configure a single call divert instance ("**Chess Divert**") free of charge during a Service Fault and for a maximum of a 1-month period.
- 8.8 The Customer must request Chess Divert as part of the Service Fault Notification it sends to the Supplier in accordance with **Schedule 4.1 (Fault Management)** and provide the information requested by the Supplier to configure the single call divert instance.
- 8.9 The Customer must carry out the Supplier's prescribed Initial Checks when requested to do so and accepts that failure to do so will delay resolution of the Service Fault, and that the Service Fault Target shall not apply where the Supplier Initial Checks have not been completed as requested.
- 8.10 Chess Divert will be set up within 8 Working Hours of receipt of the information required by the Supplier to configure it.
- 8.11 Whilst the Chess Divert is provided free of charge for a 1-month period, the Customer is liable to pay all Charges relating to calls associated with Chess Divert. The Customer is liable to pay Charges relating to the forwarding of calls from the Line to the Chess Divert based on the Customer's applicable National Call rate, and for calls delivered from Chess Divert to the call destination shall be charged in accordance with the Supplier Tariffs which can be found on the Supplier's website.
- 8.12 Chess Divert will not be automatically withdrawn upon resolution of a Service Fault or expiry of the 1-month period. The Customer must request the Chess Divert to be ceased when it is no longer required. Should the Customer not request to cease the call divert service, the Customer shall be liable to pay for Charges for the call divert service as stated in the Supplier's Tariffs and for any calls associated with it in accordance with clause 8.11 above.
- CHES DIVERT PLUS**
- 8.13 Where a Line is experiencing a P1 Service Fault, as described in **Schedule 4.1 (Fault Management)**, the Supplier will, where requested by the Customer, provide and configure up to ten (10) call divert agents free of charge during a Service Fault and for a maximum 1-month.
- 8.14 The Customer must request the call divert agents as part of the Service Fault Notification it sends to the Supplier in accordance with **Schedule 4.1 (Fault Management)** and provide the information requested by the Supplier to configure the call divert agents.
- 8.15 The Customer must carry out the Supplier's prescribed Initial Checks when requested to do so and accepts that failure to do so will delay resolution of the Service Fault, and that the Service Fault Target shall not apply where the Supplier Initial Checks have not been completed as requested.
- 8.16 The Supplier can only provide the call divert agents where the call divert instance has been provided and configured in accordance with paragraphs 8.7 to 8.12 above. The call divert agents will be set up within 4 Working Hours of receipt of the information required by the Supplier to configure them, provided the call divert instance has been configured.
- 8.17 Whilst up to 10 call divert agents are provided free of charge during a Service Fault and for a maximum 1-month period, the Customer is liable for Charges relating to calls associated with the call divert agents. The Customer is liable to pay Charges relating to the forwarding of calls from the Line to the call divert agent based on the Customer's applicable National Call rate, and for calls delivered from the call divert agent to the call destination shall be charged in accordance with the Supplier Tariffs which can be found on the Supplier's website.
- 8.18 The call divert agents will not be automatically withdrawn upon resolution of the Service Fault or expiry of the 1-month period. The Customer must request the call divert agents to be ceased when they are no longer required. Should the Customer not request to cease the call divert agents, the Customer shall be liable to pay for Charges for the call divert agents as stated in the Supplier's Tariffs and for any calls associated with it in accordance with clause 8.17 above.
- SERVICE UPGRADE**
- 8.19 The Supplier will, where requested by the Customer, provide a free of charge upgrade in relation to an existing Line or Broadband Service to a FTTP, SOGFast or SOGEA service ("**New Product**") in accordance with paragraphs 8.20 to 8.28 below, provided such New Products are available at the Customer's site address.
- 8.20 The service upgrade is subject to the Customer entering into an agreement with the Supplier for the New Product. The agreement for the provision of the New Product shall include a Minimum Term equal to the remaining Minimum Term of the existing agreement with the Customer relating to the provision of the Line and/or Broadband Service being replaced or 12 months, whichever is greater.
- 8.21 The Supplier agrees to provide the New Product for the same Charges applicable to the existing Line and/or Broadband Services being provided under the existing agreement with the Customer. The Charges will therefore be the cumulative Charges of the Line and/or Broadband Services being replaced.
- 8.22 The Supplier will provide the New Product with bandwidth which it reasonably determines to be comparable to the bandwidth of the existing Line and Broadband Service.
- 8.23 The Customer may request a New Product with higher bandwidth. The upgrade and router will remain free of charge; however, the Customer will be liable to pay Charges associated with the higher bandwidth New Product.

SCHEDULE 3.1 VOICE SERVICES

- 8.24 The Supplier will provide the Customer with a new router with its standard configuration free of charge. Installation and any bespoke configuration of the router is the responsibility of the Customer. Should the Customer request that the Supplier undertakes installation or bespoke configuration work, the Supplier will undertake the work requested and the Customer shall be liable for the Supplier's Charges for such work as detailed in its Tariffs.
- 8.25 Should the Customer wish to retain an existing Line in addition to taking a New Product, the existing Line will be included in the new agreement and the Charges will be equal to the Charges payable under the existing agreement with the Customer for that Line. For the avoidance of doubt, the Charges for the retained Line shall be in addition to the Charges applicable to the New Product as stated at paragraph 8.21.
- 8.26 Should the Customer require Voice Services for an existing retained Line or require Cloud Voice Service for use in conjunction with the New Product, the Customer must enter into an agreement with the Supplier for the provision of Voice or Cloud Voice Services.
- 8.27 If the Customer terminates the new agreement for the New Product early for convenience or moves the Services during the Minimum Term of the new agreement, the Supplier has the right to charge the Customer the costs incurred in relation to the service upgrade as part of the Early Termination Charges payable by the Customer to the Supplier under the new agreement.
- 8.28 The Customer continues to have the option of entering into a new agreement for a New Product on different commercial terms than as stated in this paragraph 8, such as on longer Minimum Term, to obtain improved pricing.

SCHEDULE 1 - DEFINITIONS

Ancillary Services means Call Recording, Fraud Monitor, line assurance, disaster recovery and other services as set out in the Order;

Artificially Inflated Traffic means the flow of Calls to any particular revenue share service which is, as a result or consequence of any activity by or on behalf of the Customer, disproportionate to the flow of Calls which would be expected from good faith commercial practice and usage of the Services;

Call means a signal, message or communication that is silent, spoken or visual;

Call Bundle has the meaning given to it in paragraph 2.3.1;

Call Features has the meaning given to it in paragraph;

Call Recording means the recording of inbound/outbound Calls;

Call Service has the meaning given to it in paragraph 2.2;

CLI means the calling line identity, the identifying number of the Line;

Contract Year means the 12 month period from the Commencement Date of the Agreement or a 12 month period from an anniversary of the Commencement Date of the Agreement;

Carrier Pre-Selection or **CPS** means a service which enables certain outgoing calls to be routed via Networks which are not operated by the Third Party Supplier;

DQ Codes means a code which is used for directory enquiry numbers;

Emergency Services means in respect of any locality:

- (a) the relevant public police, fire, ambulance and coastguard services for that locality; and
- (b) any other organisation, as directed from time to time by Ofcom as providing a vital service relating to the safety of life in emergencies.

Fraud Incident means an instance of Fraudulent Activity perpetrated by a third party in respect of a Line and Call Service which benefits from Fraud Monitor;

Fraud Monitor means the call analytics service known as Fraud Monitor (as modified or substituted from time to time);

General Conditions means the Supplier's standard terms and conditions for the provision of the Services as set forth on the Supplier's website at www.chessict.co.uk and which forms part of this Agreement;

Hold Music means the music which is played to any caller placed on hold;

Initiated Use means to activate a Service Number;

Internet Protocol or **IP** means a communication protocol for devices connected to the internet that specifies the format for the addresses and units of transmitted data;

IP Address means a unique number on the internet or a network card or controller that identifies a device and is visible by all other devices on the internet;

Installation Charges means those Charges in relation to installation of the Voice Services or any Customer Equipment, Hardware or Ancillary Equipment as applicable;

Line has the meaning given in Paragraph 2.1;

Local Presence Numbers means geographic numbers 01, 02 built on MyPortal or any Third-Party Supplier portal or contact platform;

Network means a Third Party Supplier telecommunications and data network providing connectivity to the Voice Services;

Network IVR means the Network Interactive Voice response service;

Network Queuing means the queuing of Calls in the Network;

Network Terminating Unit means the socket where the Customer's wiring, equipment or existing qualifying voice and data service is connected to the Network;

Normal Working Hours has the meaning given to it in the General Conditions;

Nuisance Calls means any unwanted Call which causes annoyance to the receiver of the Call, is a hoax Call, is of an offensive, spiteful, abusive, indecent, defamatory, obscene or menacing nature;

Number Porting has the meaning given in paragraph 4.11;

Ofcom means the Office of Communications or its successors from time to time;

Pence per Call Numbers means the numbers listed in the Order (or as agreed between the Parties) where the Customer pays for the Call if the Call lasts longer than sixty (60) seconds;

Phonepay Plus means the premium rate services regulator (or any body which replaces the same from time to time);

Port Date means the date that the Supplier provides to the Customer on which the existing number will be ported, and the Voice Service made available on that number;

Premium Rate Services or **PRS** means all those number ranges regulated by Phonepay Plus as amended from time to time (including but not limited to 09XX, 0871, 0872 and 0873);

Recurring Charges means the Charges for the Voice Services or applicable part of the Voice Services, including but not limited to the Line Rental, Call Bundle and Call Package, , that are invoiced repeatedly in every billing period as set out in the Order;

Resolved or **Resolve** means a Service Fault which is required to be, or has been resolved and normal operation of the Voice Services is required to be, or has been resumed;

Service Care Levels means the repair options as set forth in paragraph 7 above;

Service Fault and Service Fault Targets have the meaning given to them in **Schedule 4.1 (Fault Management Connectivity)**;

Service Numbers means those number ranges (including but not limited to 0800, 0845, 0870, 0900) specified in the Order as varied and substituted from time to time in accordance with clauses 4.16 to 4.17;

Special Services means all those number ranges, not being Premium Rate Services, where an Outpayment is payable (for the time being including but not limited to 084X and 08570);

Termination Charges means any compensatory charges payable by the Customer to the Supplier on termination of this Agreement in whole or part, in accordance with clause 8.7 of the General Conditions and as set out the Order, or if not specified, then an amount equal to the Charge Per Month stated for the particular Services within the Supplier's Tariffs multiplied by the number of remaining months of the Minimum Term;

Transfer Period means a period of 10 Working Days which starts after the Working Day on which notification has been given requesting a Line to be transferred to or from the Supplier;

Usage Charges means the Charges for the Voice Services or applicable part of the Voice Services that are calculated by multiplying the volume of units (voice minutes) that the Customer has used or incurred in a billing period with the relevant Tariff (e.g. Call Service);

Voice Services means the services set forth in this Schedule, including the provision of a Line, Standard Call Service or Service Package, and;

Working Day has the meaning given to it in the General Conditions.

SCHEDULE 3.2 – INTERNET SERVICES

1. APPLICATION

- 1.1 This schedule, which contains a description of Internet Services form part of the Agreement.
- 1.2 Definitions and interpretations that are specific to this Schedule 3.2 are set out in **Annex 1** and apply in addition to the definitions and interpretations set out in **Schedule 1 (Definitions)** of the General Conditions and Schedules 3 and 4.

2. SERVICE DESCRIPTION

INTERNET SERVICES

- 2.1 The Supplier will provide the Customer with access to either an ADSL or Fibre Broadband Service as set out in the applicable Order hereinafter defined as “**Internet Services**”.
- 2.2 The Supplier will provide and manage the Internet Services as set out in paragraph 4 of this schedule and as set out in the Order, up to the Hub or, if the Customer does not use a Hub, up to the Network Terminating Unit (**Internet Support Boundary**).
- 2.3 The Supplier has no responsibility for the Internet Service outside of the Internet Support Boundary.
- 2.4 The Supplier makes no representations, whether express or implied, about whether the Internet Services will operate in combination with any Customer Equipment or other equipment and software.

3. CUSTOMER OBLIGATIONS

- 3.1 Before the Commencement Date and where applicable, during the Term of this Agreement, the Customer shall ensure that:
- 3.1.1 any Equipment that is connected to or is used directly or indirectly in relation to the Internet Services is:
- (a) connected only by using the Networking Terminating Unit or Hub;
 - (b) technically compatible with the Internet Services; and
 - (c) will not harm or damage the Equipment, Network or any network or equipment of the Third-Party Supplier or third-party;
- 3.1.2 there is adequate resilience in place to protect against loss of data, service or connectivity, including appropriate secure and continuous power supply;
- 3.1.3 procures and maintains all internal cabling;
- 3.1.4 distribute, manage and maintain access profiles, passwords and other systems administration information relating to the control of End User’s access to the Internet Service(s); and
- 3.1.5 maintain a written list of current End User’s.
- 3.2 On and from the Commencement Date, the Customer shall ensure the security and proper use of all valid End User access profiles, passwords and other systems administration information used in connection with the Internet Service(s) and shall:
- 3.2.1 inform the Supplier immediately if an End User ID or password has, or is likely to, become known to an unauthorised person, or is being or may be used in an unauthorised way;
- 3.2.2 take all reasonable steps to prevent unauthorised access to the Internet Service(s);
- 3.2.3 satisfy the Supplier’s security checks if a password is lost or forgotten; and

- 3.2.4 change all passwords or other systems administration information used in connection with the Internet Service(s) if the Supplier requests the Customer to do so to ensure the security and integrity of the Internet Service(s).

4. SERVICE CONDITIONS

BROADBAND

- 4.1 The Supplier shall provide the Customer with one of the following Broadband services in accordance with the details set forth in the Order:
- 4.1.1 ADSL Broadband
 - 4.1.2 Fibre Broadband
 - 4.1.3 FTTP
- hereinafter defined as “**Broadband Services**”.
- 4.2 The Supplier shall provide Broadband Services using a Customer’s pre-existing Access Line(s) or a dedicated fibre connection (e.g. FTTP) up to the Internet Support Boundary, variants of Broadband Service are further described on the Supplier’s website at www.chessict.co.uk;
- 4.3 The Customer’s Access Line(s) may be provided by the Supplier or by a Third-Party Supplier and the Customer must be the account holder or have written authority from the account holder to use the Access Line(s) for the Broadband Services.
- 4.4 Where the Customer ceases to have an Access Line(s) for whatever reason, the Broadband Service will automatically cease, and the Customer may be liable for Termination Charges.

BANDWIDTHS

- 4.5 The achievable Bandwidths and throughput of ADSL and Fibre Broadband is subject to the quality and distance from the exchange of the Access Line and other factors outside of the Supplier’s reasonable control. Therefore, the Supplier cannot guarantee that the Access Line can support the prioritised upstream and minimum downstream Bandwidths specified on the Supplier’s website.
- 4.6 The Customer may request a change in the Bandwidth supplied, subject to the limits of any Bandwidth Flex. Any Bandwidth Flex will be chargeable and will operate for a minimum period, subject to specific Internet Services.

USE OF INTERNET SERVICES

- 4.7 The Customer acknowledges and agrees that:
- 4.7.1 use of Internet Services is at the Customer’s own risk and subject to any Applicable Laws;
 - 4.7.2 the Supplier shall not be liable for any loss or damage arising from any virus, trojan horse, spam or other malicious content that the Customer may receive whilst using Internet Services notwithstanding that there may be a firewall contained in the Ancillary Equipment;
 - 4.7.3 the Supplier and/or its Third-Party Supplier may take action to manage performance of the Network during periods where there is high demand, such actions may include line speed reductions/applications and protocol management;
 - 4.7.4 except for IP Addresses expressly registered in the Customer’s name, all IP Addresses and Domain Names made available with Internet Services will remain at all times the property of the Supplier or the Third-Party Supplier and shall be non-transferrable;

SCHEDULE 3.2 – INTERNET SERVICES

- 4.7.5 All rights to use IP Addresses or Domain Names will cease on termination or expiration of the Internet Service;
- 4.7.6 the Supplier does not ensure that any requested Domain Name is available from or approved for use by the applicable regional Internet registry and the Supplier has no liability for any failure in the Domain Name registration, transfer or renewal process;
- 4.7.7 all fees associated with registration and maintenance of a Domain Name will be the Customer's responsibility and the Customer shall reimburse the Supplier for any and all fees paid to any applicable regional Internet registry and thereafter pay such fees directly to the applicable regional Internet registry;
- 4.7.8 the Supplier may take any reasonable measures or actions (including virus screening technology) necessary to block access to or delivery of any email which appears to be of an unsolicited nature or part of a bulk email transmission to prevent spam from entering or affecting the operation of the Supplier's business systems;
- 4.7.9 if the Supplier considers the Customer's usage profile to be outside of its Fair Use Policy, abnormal or out of the ordinary, the Supplier shall have the right to take such action as the Supplier deems reasonably appropriate, which shall include, without limitation, restricting or suspending use of the Internet Services or increasing the Charges for the provision of the Internet Services; and
- 4.7.10 where the Broadband Service is being used as a back-up service to the Internet Services, the Access Line must be located within 2 meters of the Network Terminating Equipment or Hub.

SERVICE FAULTS

- 4.8 The Supplier shall provide and manage the Internet Services in accordance with **Schedule 4.1 (Fault Management Connectivity)**, which sets out the Supplier's notification procedure for Service Faults together with its Service Fault Targets.
- 4.9 Service Levels specific to the Internet Services and in addition to those set forth in paragraph 4.8 above (if any) shall be set forth in paragraph 7 below and where there is a conflict between **Schedule 4.1 (Fault Management Connectivity)** and paragraph 7, the latter shall prevail.

5. INVOICING

- 5.1 The Supplier shall invoice the Customer for the Charges for the Internet Services as set out in paragraph 5.2 in the amounts specified in any Order.
- 5.2 Unless stated otherwise in an applicable Order, the Supplier shall invoice the Customer monthly (depending on billing period) for:
 - 5.2.1 Installation Charges, on or after the Commencement Date for any work carried out
 - 5.2.2 Recurring Charges, except Usage Charges in advance on the first day of the relevant billing period (for any period where the Internet Service is provided for less than the relevant billing period, the Recurring Charges will be calculated on a daily basis);
 - 5.2.3 Usage Charges, in arrears on the first day of the relevant billing period, calculated at the then current rates;

- 5.2.4 any Charges for Hardware, which shall apply from the date of delivery of such Hardware;
- 5.2.5 any Termination Charges upon termination of the Internet Service.
- 5.3 The Supplier may also invoice for the following Charges in addition to those set out in the Order;
 - 5.3.1 investigating a Service Fault where no Service Fault is found or is caused by something which the Supplier is not responsible for under this Agreement;
 - 5.3.2 commissioning the Internet Service outside of Normal Working Hours;
 - 5.3.3 restoring the Internet Service if the Internet Service has been suspended in accordance with clause 7 of the General Conditions;
 - 5.3.4 cancelling Internet Service in accordance with clause 8 of the General Conditions; and
 - 5.3.5 any other charges set out in the Order or the Tariffs or as otherwise agreed; and including but not limited to charges for (i) providing paper invoices, (ii) late payment fees (iii) dishonoured payments and (iv) payment processing fees.

6. TERMINATION

- 6.1 This paragraph 6 is supplemental to clause 8 of the General Conditions and in the event this paragraph 6 conflicts with clause 8 of the General Conditions, this paragraph shall take precedence.
- 6.2 The Customer shall be liable to pay Termination Charges to the Supplier in accordance with clause 8.7 of the General Conditions, where the Agreement is terminated prior to the expiry of the Minimum Term.
- 6.3 The Supplier may terminate this Agreement if the Supplier is unable to connect the Customer to the Internet Services, due to the Customer not meeting its obligations set forth in paragraph 3.1 or any circumstances which are outside of the Supplier's reasonable control.

7. SERVICE CARE LEVELS

- 7.1 The Supplier shall use reasonable endeavours to repair a Service Fault in accordance with the Service Care Level the Customer has purchased from the following options:

| BROADBAND | BT Target SLA | TTB Target SLA |
|----------------------|------------------|------------------|
| Standard Care | 40 (clock hours) | 48 (clock hours) |
| Enhanced Care | 20 (clock hours) | 24 (clock hours) |

- 7.2 The Customer may upgrade its Service Care Level at an additional charge as set out in the Supplier's current Tariffs.
- 7.3 Where the Supplier fails to meet the applicable Service Care Level, the Customer may, subject to **Schedule 4.1 (Fault Management Connectivity)**, make a one-off claim for a Service Credit.
- 7.4 The Supplier's liability under this paragraph to pay Service Credits to the Customer shall be the maximum liability of the Supplier and the Customer's sole financial remedy for failure to meet Service Care Levels.

8. BROADBAND ASSURANCE

- 8.1 Where specified in the Order, the Supplier shall provide the Customer with Broadband Assurance as detailed in this

SCHEDULE 3.2 – INTERNET SERVICES

paragraph 8. Broadband Assurance shall only apply to the Broadband Services as stated in the Order or as otherwise agreed by the Supplier.

- 8.2 Unless otherwise stated in the Order, the monthly Charges for Broadband Assurance are as stated in the Supplier's applicable Tariffs.

FAULT MANAGEMENT

- 8.3 Chess will provide for Fault Management for one (1) Service Fault per calendar year which falls outside the Internet Support Boundary and in such circumstances the Customer shall not be liable for any charges imposed on to the Supplier by BT Openreach where no fault is found by Openreach or on any Openreach equipment.
- 8.4 Fault Management will be provided in accordance with Schedule 4.1 (**Fault Management Connectivity**).
- 8.5 The Customer must provide timely site access for engineers procured or engaged by the Supplier or BT Openreach in relation to the Service Fault.
- 8.6 The Customer must carry out the Supplier's prescribed Initial Checks when requested to do so and accepts that failure to do so will delay resolution of the Service Fault, and that the Service Fault Target shall not apply where the Supplier Initial Checks have not been completed as requested.

REPLACEMENT ROUTER

- 8.7 Where the Supplier provides Fault Management in accordance with **Schedule 4.1 (Fault Management)** in relation to a Service Fault and reasonably determines that the Customer's router has failed, the Supplier will dispatch a replacement router free of charge in accordance with paragraph 8.7 to 8.11 provided the Customer router is not a Draytek router.
- 8.8 The Customer must carry out the Supplier's prescribed Initial Checks when requested to do so and accepts that failure to do so will delay resolution of the Service Fault as Chess shall be unable to determine whether the router has failed.
- 8.9 The replacement router will be shipped to the Customer's installation address for the Internet Service the Service Fault relates to for next business day delivery, provided the router request has been made by 3pm. Where a request was made after 3pm it will be deemed as having been received the following working day.
- 8.10 The replacement router will be a Supplier standard router and the Supplier shall not be obliged to provide the same make or model as the router being replaced. The make and model of the replacement router shall be entirely at the Supplier's discretion.
- 8.11 The Supplier will provide the replacement router with its standard configuration together with the router log on/WIFI credentials. Installation and any bespoke configuration of the replacement router is the responsibility of the Customer. Should the Customer request that the Supplier undertakes installation or bespoke configuration work, the Supplier will undertake the work requested and the Customer shall be liable for the Supplier's Charges for such work as detailed in its Tariffs.

TEMPORARY 4G DISASTER RECOVERY ROUTER

- 8.12 Where the Supplier provides Fault Management in accordance with **Schedule 4.1 (Fault Management)** in relation to a P1 Service Fault on the Broadband Service which has persisted for longer than 2 Working Days, the Supplier will provide, upon request, a 4G device free of charge in accordance with paragraph 8.13 to 8.26.

- 8.13 The 4G device is being provided on a temporary basis and for use pending resolution of the Service Fault only. The Customer is responsible for arranging the return of the 4G device once the Supplier determines the Service Fault resolved.
- 8.14 The Customer must carry out the Supplier's prescribed Initial Checks when requested to do so and accepts that failure to do so will delay establishing the cause of the Service Fault and may therefore cause delay in the provision of the 4G device.
- 8.15 The Supplier will offer the Customer temporary use of the 4G device where it has determined that the Service Fault is a P1 Service Fault, it relates to the Broadband Service and it remains unresolved for more than 2 Working Days. The 4G device will only be provided where the Customer responds to expressly request that the Supplier provides it.
- 8.16 The 4G device will be shipped to the Customer's installation address for the Internet Service the Service Fault relates to for next business day delivery, provided the router request has been made by 3pm. Where a request was made after 3pm it will be deemed as having been received the following working day.
- 8.17 The 4G device will be a Supplier standard 4G device and the Supplier shall not be obliged to provide the same make or model as the router being replaced. The make and model of the replacement router shall be entirely at the Supplier's discretion.
- 8.18 The Supplier will provide the 4G device with its standard 4G broadband configuration. Installation and any bespoke configuration of the replacement router is the responsibility of the Customer. Should the Customer request that the Supplier undertakes installation or bespoke configuration work, the Supplier will undertake the work requested and the Customer shall be liable for the Supplier's Charges for such work as detailed in its Tariffs.
- 8.19 The 4G device is provided with an unlimited inclusive data allowance which is included free of charge subject to the restrictions stated in paragraphs 8.20 to 8.22.
- 8.20 The following usage is deemed inappropriate usage and is strictly prohibited:
- 8.20.1 any usage outside normal commercial practices;
 - 8.20.2 any usage made via automated means;
 - 8.20.3 any usage that damages or impairs the hosting network;
 - 8.20.4 any usage which is considered fraudulent, abusive, illegal or a nuisance; and
 - 8.20.5 data usage where users regularly tether to 12 or more devices or have more than 25GB within a single billing period.
- 8.21 The Supplier may investigate usage to ascertain whether the Customer's usage is inappropriate as detailed in paragraph 8.20. If inappropriate usage is determined the Supplier reserves the right to restrict services, adjust services or terminate the service and request the return of the 4G device.
- 8.22 The Supplier does not allow the 4G device to be used in any equipment which enables routing of calls or data (including without limitation, text or picture messages) from fixed apparatus or standard devices to mobile equipment by establishing mobile to mobile call or transmission. Nor does it allow the use of any equipment which enables the sending of bulk SMS, voice or data services. The Supplier reserves the right to suspend services without notice should it believe that such equipment is being used. During suspension liability for any access charges or calls with rest with the Customer.
- 8.23 The Supplier does not offer any guarantees as to the availability or performance of the 4G device. The 4G coverage may be affected by a number of factors including the

SCHEDULE 3.2 – INTERNET SERVICES

geographical area of the Customer site and the location of the 4G device at the Customer site. The 4G coverage is also dependent upon a number of other factors such as the number of users of the 4G service, maintenance and upgrades, faults from other networks, the weather or environmental factors.

- 8.24 Once the Supplier has determined that the Service Fault has been resolved and the Broadband Service restored, the Supplier will deactivate the 4G device provided. The Supplier will also contact the Customer to arrange the return of the 4G device.
- 8.25 Should the Customer fail to co-operate with arrangements to return the router following reasonable attempts by the Supplier to arrange its return, the Customer shall be liable to pay the Supplier the cost of the router as stated in the Supplier's Tariffs and the Supplier shall be entitled to invoice the Customer on that basis.
- 8.26 If the Customer wishes to retain the 4G device, the Customer will need to enter into an agreement with the Supplier for the ongoing supply of the 4G device.

Charges applicable to the New Product as stated at paragraph 8.29.

- 8.34 Should the Customer require Voice Services for an existing retained Line or require Cloud Voice Service for use in conjunction with the New Product, the Customer must enter into an agreement with the Supplier for the provision Voice or Cloud Voice Services.
- 8.35 If the Customer terminates the new agreement for the New Product early for convenience or moves the Services during the Minimum Term of the new agreement, the Supplier has the right to charge the Customer the costs incurred in relation to the service upgrade as part of the Early Termination Charges payable by the Customer to the Supplier under the new agreement.
- 8.36 The Customer continues to have the option of entering into a new agreement for a New Product on different commercial terms than as stated in this paragraph 8, such as on longer Minimum Term, to obtain improved pricing.

SERVICE UPGRADE

- 8.27 The Supplier will, where requested by the Customer, provide a free of charge upgrade in relation to an existing Broadband Service to a FTTP, SOGFast or SOGEA service ("**New Product**") in accordance with paragraphs 8.28 to 8.36 below, provided the New Products are available at the Customer's site address.
- 8.28 The service upgrade is subject to the Customer entering into an agreement with the Supplier for the New Product. The agreement for the provision of the New Product shall include a Minimum Term equal to the remaining Minimum Term of the existing agreement with the Customer relating to the provision of the Line and/or Broadband Service being replaced or 12 months, whichever is greater.
- 8.29 The Supplier agrees to provide the New Product for the same Charges applicable to the existing Line and/or Broadband Services being provided under the existing agreement with the Customer. The Charges will therefore be the cumulative Charges of the Line and/or Broadband Services being replaced.
- 8.30 The Supplier will provide the New Product with bandwidth which it reasonably determines to be comparable to the bandwidth of the existing Line and Broadband Service.
- 8.31 The Customer may request a New Product with higher bandwidth. The upgrade and router will remain free of charge; however, the Customer will be liable to pay Charges associated with the higher bandwidth New Product.
- 8.32 The Supplier will provide the Customer with a new router with its standard configuration free of charge. Installation and any bespoke configuration of the router is the responsibility of the Customer. Should the Customer request that the Supplier undertakes installation or bespoke configuration work, the Supplier will undertake the work requested and the Customer shall be liable for the Supplier's Charges for such work as detailed in its Tariffs.
- 8.33 Should the Customer wish to retain an existing Line in addition to taking a New Product, the existing Line will be included in the new agreement and the Charges will be equal to the Charges payable under the existing agreement with the Customer for that Line. For the avoidance of doubt, the Charges for the retained Line shall be in addition to the

SCHEDULE 1 - DEFINITIONS

Access Line means a telecommunication circuit, usually an analogue line required before an overlay service such as ADSL, Broadband, FTTC can be delivered;

Access Service means services providing Internet connectivity with speeds from 2Mb/s to 10Gb/s and access is available via ADSL, SDSL and Ethernet;

ADSL means symmetric digital subscriber line, which allows for higher downstream Bandwidth and lower upstream Bandwidth while enabling use of the same circuit for concurrent Voice Services;

Bandwidth means the amount of data traffic measured in bps (bits per second) across the Internet;

Broadband Service means an internet Access Service available in a range of options and delivered over a compatible Access Line as further defined in paragraph 4.1 above;

Domain Name means a readable name on an Internet page that is linked to a numeric IP Address;

End User means anyone who is permitted by the Customer to use or access the Internet Services;

FTTC means fibre to cabinet, which uses fibre infrastructure throughout the Network, including exchange to the cabinet, and then copper from cabinet to the premises;

FTTP means fibre to the premises, which uses fibre infrastructure throughout the Network and from the exchange direct to the premises;

General Conditions means the Supplier's standard terms and conditions for the provision of the Services as set forth on the Supplier's website at <https://chessict.co.uk/legal/> and which forms part of this Agreement;

Hub means a router provider by the Supplier or Third Party Supplier that is compatible with the Internet Service, which is Ancillary Equipment for the purposes of this Agreement;

Installation Charges means those Charges in relation to installation of the Internet Services or any Customer Equipment, Hardware or Ancillary Equipment as applicable;

Internet means a global system of interconnected networks that use a standard Internet Protocol to link devices worldwide;

Internet Protocol or **IP** means a communication protocol for devices connected to the Internet that specifies the format for addresses and units of transmitted data;

Internet Services means the services set forth in this Schedule 3.2, including the provision of a Broadband Service, Ethernet Service or a Leased Line;

IP Address means a unique number on the Internet or a network card or controller that identifies a device and is visible by all other devices on the Internet;

Local Loop Unbundling means the regulatory process of allowing multiple Third Party Supplier to use connections from the exchange to the Customer's premises;

Network means a Third Party Supplier telecommunications and data network providing connectivity to the Internet Services;

Network Terminating Equipment means the Hub used to provide the Internet Services, either at the point of connection between the Network and the Access Line, or provided at the Sites for connection to the Network Terminating Unit;

Network Terminating Unit means the socket where the Customer's wiring, equipment or existing qualifying voice and data service is connected to the Network;

Recurring Charges means the Charges for the Internet Services or applicable part of the Internet Services that are invoiced repeatedly in every billing period as set out in the Order (e.g. Broadband Services);

SDSL means asymmetric digital subscriber line, which is similar to ADSL but provides the same Bandwidth in both directions;

Service Care Levels means the repair options as set forth in paragraph 7 above;

Service Fault and Service Fault Targets have the meaning given to them in **Schedule 4.1 (Fault Management Connectivity)**;

Termination Charge means any compensatory charges payable by the Customer to the Supplier on termination of this Agreement in whole or part, in accordance with clause 8.7 of the General Conditions and as set out the Order, or if not specified, then an amount equal to the Charge Per Month stated for the particular Services within the Supplier's Tariffs multiplied by the number of remaining months of the Minimum Term;

Transfer Period means a period of 10 Working Days which starts after the Working Day on which notification has been given requesting a Line to be transferred to or from the Supplier;

Usage Charges means the Charges, if any for the Internet Services or applicable part of the Internet Services that are calculated by multiplying the volume of data that the Customer has used or incurred in a billing period with the relevant Tariff (e.g. data usage or data over usage);

SCHEDULE 4.1 - FAULT MANAGEMENT

1. APPLICATION

- 1.1 This schedule, which contains a description of the Support Services, forms part of the Agreement entered into between the Parties for the provision of Services.
- 1.2 Definitions and interpretations that are specific to this schedule are set out in Annex 1 and apply in addition to the definitions and interpretations set out in **Schedule 1 (Definitions)** of the General Conditions and Schedules 3 and 4.

2. SUPPORT SERVICES

- 2.1 The Supplier will provide and manage the Services as set out in the relevant Order and up to the Support Boundary as defined within the applicable Schedule 3 ("**Support Service Boundary**"). The Supplier will have no responsibility outside of the Support Services Boundary.
- 2.2 The Services will be maintained and repaired by the relevant Third-Party Supplier and the Supplier shall use all reasonable endeavours to respond to a Service Fault in accordance with paragraph 3 below.
- 2.3 The Supplier does not make any representations, whether express or implied, about whether the Service(s) will operate in combination with any Customer Equipment or any other equipment, Hardware or Software.
- 2.4 Notwithstanding the provisions of this Agreement, and with the knowledge that reasonable efforts will be made to diagnose and resolve faults that occur, the Supplier makes no warranties that the Standard Support Services will be successful in resolving all issues that arise.

3. SERVICE FAULT NOTIFICATION

- 3.1 The Customer shall report a Service Fault to the Supplier's Service Desk as soon as reasonably practicable by telephone or email, which shall include all relevant information required to assess the Service Fault and the Service(s) it relates to.
- 3.2 The Supplier will provide the Customer with a unique reference number and will prioritise the Service Fault as follows:

| PRIORITY LEVEL | SERVICE FAULT DESCRIPTION |
|---|---|
| Priority 1 Service Down | Service unavailable or seriously degraded Severe negative impact to all End Users Major security breach |
| Priority 2 Service Degraded | Service unavailable for a single virtual End User Performance degraded but still available to End Users Attempted Security Breach intermittence can be demonstrated repeatedly within an hour interval |
| Priority 3 Service Impaired | Performance may be degraded |
| Priority 6 Service Unaffected | Request for change or information |

- 3.3 Where the Customer reports a Service Fault, the Supplier will investigate any Service Fault reported by the Customer in accordance with its standard procedures and will work with its Third-Party Supplier to restore Service(s) as soon as reasonably practicable during Normal Working Hours. Service Fault Targets available to the Customer are set forth in paragraph 4 below.

4. SERVICE FAULT TARGETS

- 4.1 The Supplier shall use its reasonable endeavours to ensure that response times to the Customer's notification of a Service Fault are not more than:

| SERVICE FAULT | RESPONSE TARGET ¹ (NORMAL WORKING HOURS) | RESOLUTION TARGET ² (NORMAL WORKING HOURS) |
|-------------------|--|--|
| Priority 1 | 1 Hour | 8 Hours |
| Priority 2 | 6 Hours | 12 Hours |
| Priority 3 | 8 Hours | 16 Hours |
| Priority 6 | 5 Working Days | 5 Working Days |

1. calculated from receipt of notification of fault by Supplier

2. calculated from first response by Supplier

- 4.2 The Supplier shall inform the Customer when the Service Fault has been resolved and will close the Service Fault when:
- the Customer confirms that the Service Fault is resolved within 24 hours of being informed, or
 - the Supplier has attempted unsuccessfully to contact the Customer in relation to the Service Fault and the Customer has not responded within 24 hours of the Supplier's attempt to contact the Customer.
- 4.3 If the Customer confirms that the Service Fault is not resolved within 24 hours of being informed, the Service Fault will remain open and the Supplier will continue to work with its Third-Party Supplier to resolve the Service Fault.
- 4.4 If the Supplier and/or its Third-Party Supplier agrees to work outside of Normal Working Hours or if the Customer reports a Service Fault and the Supplier finds that there is no Service Fault, or the Customer has caused the Service Fault, the Supplier may apply a Charge in accordance with the Supplier's current Tariffs.
- 4.5 Where the Third-Party Supplier charges the Supplier for repairs, replacement and/or engineer support and the Service Fault is due to damage to the Customer's Equipment, the Supplier reserves the right to charge the Customer for such Third-Party Supplier charges together with an administration charge.
- ### 5. PRODUCT SERVICE LEVELS
- 5.1 Product specific Service Levels shall be set forth in the applicable Schedule(s) relevant to a service. For the avoidance of doubt, where there is a conflict between this Schedule 4.1 and the applicable Schedule(s) relevant to the Service(s), the latter shall prevail.
- ### 6. SERVICE CREDITS
- 6.1 If a Service Fault occurs and the Supplier fails to meet the Service Fault Targets for P1 and P2 Service Faults set out in paragraph 4.1 above, the Customer may, subject to the exceptions set out in paragraph 7, make a one-off claim for a Service Credit of:
- a maximum of ten per cent (10%) of the monthly Charge to the Customer, or;
 - the maximum amount recoverable by the Supplier from the Third Party Supplier
- whichever is the lowest to be calculated in accordance with this paragraph 6.
- 6.2 The Service Credit under paragraph 6.1.1 above shall be calculated as a percentage of the monthly Recurring Charges attributable to that element of the Service subject to the Service Fault Targets.

SCHEDULE 4.1 - FAULT MANAGEMENT

- 6.3 Any Service Credits owed to the Customer shall be applied as a credit against the Charges due on the affected Service(s), subject to a maximum of one Service Credit per Service Fault or series of connected Service Fault's.
- 6.4 The Supplier's liability under this paragraph 6 to pay Service Credits to the Customer shall be the maximum liability of the Supplier and the Customer's sole financial remedy for failure to meet Service Fault Targets set forth in paragraph 4.1 above.
- 6.5 If the Customer reports a Service Fault that falls within paragraph 7 below, the Supplier may apply an additional charge to cover the Supplier's reasonable costs incurred in trying to rectify the Service Fault.

7. EXCLUSIONS

- 7.1 The Service Fault Targets set forth in paragraph 4.1 above, shall not apply:
- 7.1.1 in the event that Clause 9.6 of the General Conditions applies;
 - 7.1.2 during any trial period of the Service(s);
 - 7.1.3 if the Supplier requests access to the Site and the Customer does not allow this (including where the Customer fails to accept an appointment time for an engineering visit allocated by the Supplier or Third-Party Supplier within the Service Fault Targets, or;
 - 7.1.4 where the Customer is in breach of this Agreement
- 7.2 The Service Fault Targets will not apply if:
- 7.2.1 any of the following events occur:
 - (a) a Service Fault has been reported and the Supplier or Third-Party Supplier cannot confirm that a fault exists after performing tests;
 - (b) the Customer asks the Supplier to test the Service(s) at a time when no fault has been detected or reported;
 - (c) the Customer or any third party incorrectly diagnosing the cause of a Service Fault, or;
 - (d) the Customer cancels the notification of a Service Fault before the Supplier has rectified any Service Fault.
 - 7.2.2 the Service Fault is a result of:
 - (a) a loss or fault with another service or equipment which is not being provided by the Supplier to the Customer;
 - (b) a loss of service of another service provided by the Supplier and the Customer has requested Service Credits under the contract for that service;
 - (c) improper use or neglect of the Services by the Customer;
 - (d) the Service(s) being modified or altered in any way by the Customer, or the Supplier in accordance with the Customer's instructions;
 - (e) the Customer not providing the necessary pre-defined infrastructure and/or configuration requested by the Supplier, or where provided is not accurate or correct;
 - (f) power or cooling failure at the Site(s), or;
 - (g) planned maintenance.

ANNEX 1 - DEFINITIONS

Network means a Third Party Supplier telecommunications and data network providing connectivity to the Services;

Normal Working Hours means 08:30 hours to 17:30 hours on a Working Day;

Service Desk means the helpdesk (which may be an online portal) that the Customer is able to contact to report a Service Fault;

Service Fault means any failure, error or defect in the provision of the Service(s) by the Supplier but excludes failures, errors or defects arising from, caused or contributed to by the Customer's acts and/or omissions or third parties including, but not limited to, any Third Party Supplier or anything that arises as a result of something beyond the reasonable control of the Supplier;

Service Fault Targets has the meaning given to it in paragraph 4;

Support Service means the support services as further described in this Schedule 4.1;

Support Service Boundary has the meaning given to it in paragraph 2.1;

NOTICE OF YOUR STATUTORY RIGHT TO CANCEL IN YOUR COOLING OFF PERIOD

Please refer to your Agreement for information about when and how you can end your Agreement once your cooling off period has ended.

Cancellation period: You have the right to cancel your Agreement without giving any reason within the Cooling Off Period.

Cooling Off Period means the period 14 days from the later of (i) delivery of any equipment; (ii) the date the Agreement is made; and (iii) the date you receive an Order confirmation and/or a copy of the Agreement.

How to cancel: Any cancellation within this timeframe must be in accordance with this notice. You can cancel your Chess order by contacting us on **0330 332 7981**.

You must give your name, customer account number, address, post code, telephone number and, where available, your e-mail address in order to cancel your order. If you cancel in writing we will send you an acknowledgement of receipt by e-mail, or letter if we do not have an e-mail address for you.

Effects of cancellation: If you cancel a contract during your cooling off period we will refund to you all payments received from you, including the costs of delivery of any equipment you ordered but if you requested a service to begin during the cooling off period, you must pay us an amount which is proportionate to the service provided up to the point you cancelled your order. You will not receive a refund for any one-off fees for activation or set up services if you cancel a service after activation. If you cancel Equipment we will automatically cancel any related subscription unless you tell us otherwise.

Return of Equipment: If you cancel a contract you are responsible for returning the equipment provided under that contract without undue delay using the returns method provided with the equipment. You are responsible for the costs of returning the equipment you have ordered and Chess may charge you our direct returns costs. Chess can offset any returns costs against any money that it owes to you for any reason. You must keep any equipment that has been delivered to you safe until it is returned. We may make a deduction for any loss in value as a result of unnecessary handling by you.

Discounts: If you have received any discounted equipment and/or set-up services, and during your cooling off period you cancel any conditional contract but wish to keep your equipment, you will no longer be eligible for that discount and will be required to pay Chess the difference between the discounted price and the full standard price for the equipment and/or set-up services.

Refunds: We will make any refund due to you (less any deductions due to us) without undue delay and not later than the earliest of 14 days after the day we either receive the Equipment back from you or receive evidence from you that the Equipment has been returned (such as a proof of posting receipt). We will make the refund using the same means of payment that you used when you placed your order, unless you have agreed otherwise. These cancellation rights do not affect your legal rights. If you require any advice on your legal rights, you can refer to www.adviceguide.org.uk/.