

Silver Lining Convergence Limited

Additional Terms and Conditions for the Supply of Network Services

1 INTERPRETATION

1.1 In addition to those words and expressions defined in the General Conditions, the following additional definitions shall apply in these Network Conditions:-

1.1.1 AUP or Acceptable Use Policy: means the Supplier's Acceptable Use Policy as appended to the Order or to any applicable MSA or as otherwise published or made available by the Supplier from time to time.

1.1.2 Call Charges: the Supplier's charges for calls made by End Users by means of the Network Services calculated at the rates set out or referred to in the Order or in any applicable MSA or if no rates are set out or referred to in the Order or any applicable MSA, calculated at the Supplier's Standard Call Charge Rates in each case, as reviewed, amended or updated from time to time in accordance with the Contract.

1.1.3 "Call Charge Top Up" means a lump sum being the difference between the Call Charges for all calls made under the Contract over the period from the commencement of the Network Services until the Cancellation of the Network Services:-

- (a) calculated at the call charge rates set out in the Contract; and
- (b) calculated at the Supplier's Standard Call Charge Rates; provided that, if a Minimum Monthly Call Charge applies under the Contract, the Call Charge Top Up shall be zero;

1.1.4 Call Credits: the charges payable by the Supplier to the Customer for calls made to those non-geographic or premium rate telephone numbers set out in the Order which are to be provided by the Supplier to the Customer pursuant to the Contract (if any), such charges to be calculated at the rates set out or referred to in the Order or in any applicable MSA or if no rates are set out or referred to in the Order or any applicable MSA, calculated at the Supplier's standard rates for call credits (in each case) as reviewed, amended or updated from time to time in accordance with the Contract.

1.1.5 'Cancellation' means:-

- (a) in respect of Ancillary Services, the occurrence of any of the following at any time prior to the completion of the Ancillary Services:-
 - (i) the Customer cancels its requirement for the Ancillary Services; or
 - (ii) the Contract for the Ancillary Services is terminated for any reason other than by the Customer pursuant to clause 17.1 of the General Conditions; and:-
- (b) in respect of Network Services, the occurrence of any of the following at any time prior to the end of the Initial Service Term or (if the Initial Service Term has already expired) the Subsequent Service Term:-
 - (i) the Customer cancels its requirement for the Network Services; or
 - (ii) the Contract for the Network Services is terminated for any reason other than :-
 - (A) by the Customer pursuant to clause 17.1 of the General Conditions; or
 - (B) by either party under clause 10.1.2 of the General Conditions; and 'Cancels' and 'Cancelled' shall be interpreted accordingly.

1.1.6 Cancellation Charges: means the cancellation charges payable in accordance with Clause 6.

1.1.7 Minimum Monthly Call Charge: means the minimum monthly call charges which the Customer is obliged to pay under the Contract (if any) as set out in the Order or any applicable MSA or as otherwise agreed between the parties in writing.

1.1.9 Network Conditions: means these Additional Conditions which in addition to the General Conditions, shall apply to the provision by the Supplier of the Network Services.

1.1.10 Network Services: means the Network Services and associated facilities (including for example, non-geographic telephone numbers) described in the Order.

1.1.12 "Supplier's Average Monthly Net Call Revenue" means a sum calculated as follows:-
(A + B) – C
Where:-

- (a) 'A' is the greater of:-
- (i) Call Charges (calculated at the Supplier's Standard Call Charge Rates) for the average of the monthly volume of calls made under the Contract over the period from the commencement of the Network Services until the Cancellation of the Network Services; and
- (ii) (if applicable) the Minimum Monthly Call Charge;
- (b) 'B' is the average monthly revenue received by the Supplier from its service providers in connection with calls made to those non-geographic or premium rate telephone numbers set out in the Order less any Call Credits which would (but for such Cancellation) have been payable to the Customer in connection with such calls; and
- (c) 'C' is those call charges (other than Call Credits included in the calculation of 'B') and other charges and costs which the Supplier would have been liable to pay in connection with the provision of the Network Services if they had not been Cancelled and which the Supplier is no longer obliged to pay or which the Supplier is reasonably able to avoid or mitigate following the Cancellation of the Network Services; in each case, net of any applicable VAT.

1.1.13 "Supplier's Standard Call Charge Rates" means the Suppliers standard rates for the calculation of call charges as set out on the Supplier's website (<http://www.silver-lining.com/portal/rates.html>) as amended or updated by the Supplier from time to time.

1.1.14 Target Installation/Set Up Date means the anticipated completion date for set-up and (where the Services include the installation of equipment at the Customer's premises or installation of Software on the Customer's equipment) installation.

1.2 A reference in these Network Conditions to the 'Services' shall (unless otherwise expressly indicated) be deemed to be a reference to the Network Services and/or the Ancillary Services (as appropriate).

2 APPLICABILITY OF THESE NETWORK CONDITIONS

2.1 In addition to the General Conditions, the following shall apply to the provision of Network Services and Ancillary Services by the Supplier pursuant to any Order and shall form part of the Contract:-

- 2.1.1** these Network Conditions;
- 2.1.2** the Acceptable Use Policy; and
- 2.1.3** any applicable SLA referred to in the Order or in any applicable MSA.

3 SUPPLY OF NETWORK SERVICES - GENERAL

3.1 The Supplier shall supply the Network Services in accordance with the Contract.

3.2 The Customer agrees that during the Initial Service Term and any Subsequent Service Term, the Customer agrees to satisfy its requirements at the Site for all services which are the same as or substantially similar in nature to the Network Services by purchasing such services exclusively from the Supplier provided always that the provisions of this clause 3.2 shall not apply to any particular Service for a period of more than five (5) years.

3.3 The Supplier may make changes to the Services as necessary:-

- 3.3.1** to comply with any legal or safety requirement;
- 3.3.2** to reflect the withdrawal of or a significant change to the technology used to provide the Services; or
- 3.3.3** which do not materially affect the nature or quality of the Services;
- 3.3.4** and the Supplier shall notify the Customer in any such case. In the event that any change to the Services results in a material adverse impact on the nature or quality of the Services, the Customer may terminate the Contract upon written notice to the Supplier without incurring any Cancellation Charges.



- 3.4** The Supplier will use reasonable efforts to procure that its employees and sub-contractors will have due regard to the Customer's reasonable requirements with regard to health and safety whilst carrying out works at the Site.
- 3.5** The Supplier may give directions about the use of the Services to the Customer which the Supplier thinks are reasonably necessary in the interests of safety or the quality of the Services. The Customer shall comply with all such directions.
- 3.6** The Supplier may upgrade Customers to a different level of service or system capacity if, in the Supplier's opinion, existing Services become inappropriate or insufficient to meet the Customer's requirements, usage pattern or needs or if existing Services become obsolete. The Supplier will consult the Customer and if the Customer agrees to change the Services in accordance with the Supplier's recommendation, the Customer may be liable for higher Charges and costs associated with the upgrade and any cancellation fees associated with the terminated Services (which may include third party cancellation fees for which the Customer shall also be liable). If the Customer does not agree to the upgraded Services, the Supplier may terminate the existing Services on providing 30 day's written notice. If the Customer chooses not to upgrade and the Supplier allows the Customer to continue using the existing Services, any applicable service levels shall cease to apply. The Supplier reserves the right to pass on any third party costs associated with change to the Services.
- 3.7** If the use of the Services by the Customer is more than double the average across all of the Supplier's customers (or across all of the customers of the Supplier's service providers) in any 3 month period, the Supplier will notify the Customer by email to require the Customer to mitigate such excessive use. The Supplier shall provide reasonable guidance and assistance to the Customer in connection with the mitigation of such excessive use. If within 30 days of such notification such excessive use has not ceased, the Supplier reserves the right (without prejudice to any other rights the Supplier may have) to levy a supplementary fee for any continuing excessive use.
- 3.8** The Supplier may temporarily suspend a Service because of an emergency or for operational maintenance or improvements or for the purpose of ensuring network or information security.
- 4 CUSTOMER OBLIGATIONS**
- 4.1** The Customer shall:
- 4.1.1** provide the Supplier, its employees, agents, consultants and sub-contractors (and those of the Supplier's service providers), with access to the Site, offices and other facilities as reasonably required by the Supplier, including any access to server rooms;
- 4.1.2** on not less than 24 hours prior notice, itself provide or in the case of third party sites, procure access to the Site. If the Customer fails to provide or procure such access and the Supplier incurs any third party costs as a result, the Supplier reserves the right to pass such costs on to the Customer;
- 4.1.3** observe and comply with the AUP in connection with the use of the Services and ensure that its end users do likewise;
- 4.1.4** use the Services only in the manner described in any instructions, manuals or any other reasonable requirements of the Supplier from time to time and ensure that its end users do likewise;
- 4.1.5** ensure that there is appropriate connectivity between each device in respect of which the Services are to be provided and the service platform run by the Supplier or its service providers for the purpose of providing the Services.
- 4.2** The Customer shall also provide access to all facilities, equipment, personnel and information as needed for the Supplier (or its sub-contractors or service providers) to undertake installation and set-up. The Customer shall also undertake any work for preparation of the Site, on the Supplier's reasonable instruction (or upon the reasonable instruction of the Supplier's service provider) in good time ahead of installation and set-up.
- 4.3** Subject to any other timescales as may be specified by the Supplier in writing, the Customer will have 7 Business Days from the Service Start Date to notify the Supplier of any Service defect. Unless the Customer so notifies, Services will be deemed set up correctly and to be accepted by the Customer and the Supplier may invoice Charges accordingly.
- 4.4** If the Customer notifies the Supplier of any such defect in accordance with clause 4.3, the Supplier will use its reasonable endeavours to fix such defect as soon as is reasonably practicable, taking account of the nature of the Service and the nature of the defect. The Customer shall provide the Supplier with reasonable assistance and Site access to allow the Supplier to remedy a defect.
- 4.5** Unless otherwise expressly agreed in writing by the Supplier, the Services shall be used solely for the Customer's internal business operations and shall not under any circumstances be used to provide services to third parties by way of resale, sub-licence or similar. Further, the Customer shall use all reasonable endeavours to prevent unauthorised access or use of the Services and promptly notify the Supplier of any unauthorised access or use as soon as the Customer becomes aware of it.
- 4.6** The provisions of this Clause 4 apply equally to any replacement Services and references to Service Start Date in this Clause 5 shall in such cases, mean the date on which replacement Services are available.
- 5 PERIODIC CHARGES, CALL CHARGE AND CALL CREDITS**
- 5.1** Unless otherwise set out in the Order or in any applicable MSA, Periodic Charges shall be payable monthly in advance.
- 5.2** All Call Charges and Call Credits payable under this Contract shall be calculated and paid monthly in arrears by reference to data recorded or logged by the Supplier or its sub-contractors and subject to any Minimum Monthly Call Charge which may apply under the Contract.
- 6 CANCELLATION OF SERVICES BY THE CUSTOMER**
- 6.1** In the event of a Cancellation, the Customer shall be liable to pay as an equitable pre estimate of the Supplier's losses and costs arising out of such Cancellation, the Cancellation Charges (together with any applicable VAT in addition) calculated in accordance with the following provisions of this clause 6. The receipt by the Supplier of such Cancellation Charges shall be without prejudice to any other rights the Supplier may have arising out of or in connection with the Cancellation.
- 6.2** If the Customer Cancels its requirement for any Ancillary Services then:-
- 6.2.1** if the Cancellation occurs before the Supplier has commenced the provision of the Ancillary Services then the Customer shall pay to the Supplier (as) a sum equal to fifty per cent (50%) of the Supplier's Charges for the Ancillary Services; or
- 6.2.2** if the Cancellation occurs after the Supplier has commenced the provision of the Ancillary Services then the Customer shall pay to the Supplier a sum equal to one hundred per cent (100%) of the Supplier's Charges for the Ancillary Services cancelled by the Customer.
- 6.3** If the Customer Cancels its requirement for any Network Services then (without prejudice to any other rights the Supplier may have) the Customer shall pay to the Supplier:-
- 6.3.1** the Call Charge Top Up; and
- 6.3.2** the following sums for each month (and pro rata for each part of a month) from the date upon which the Network Services are cancelled by the Customer until the end of the Initial Service Term or (if the Initial Service Term has already expired) the Subsequent Service Term:-
- (a) a sum equal to all Periodic Charges for the Network Services which would have been due under the Contract; and
- (b) a sum equal to the Supplier's Average Monthly Net Call Revenue.



- 6.4 The Cancellation Charges described above shall be due and payable immediately upon Cancellation of the applicable Service by the Customer.

7 NUMBERING AND NUMBER PORTABILITY

- 7.1 The Customer Acknowledges that any telephone number used by the Customer as part of the Services does not belong to the Customer and no rights shall be acquired by the use of it. The Customer shall make no attempt to apply for any registration of any such telephone number as a trade or service mark.
- 7.2 The Supplier may for operational or technical reasons or in order to comply with any numbering scheme or other obligation of any competent authority, to withdraw or change any telephone number or code or group of numbers or codes allocated to the Customer. The Supplier shall provide as much notice as is reasonably possible in the circumstances of any such withdrawal or change.
- 7.3 Where the ability to port or migrate telephone numbers is made available to the Supplier by the relevant service provider, the Supplier will comply with any reasonable request from the Customer to port or migrate a telephone number. However, the Supplier shall have no obligation to comply with any request to port or migrate a telephone number if:-
- 7.3.1 the Customer is in material breach of the Contract (including failure to pay any sums due under the Contract);
- 7.3.2 the request relates to any Cancellation of Network Services.
- 7.4 The porting or migrating of any telephone number by the Supplier at the request of the Customer shall be subject to the payment by the Customer of porting or migration fees calculated at the rates describes on the Supplier's website (<http://www.silver-lining.com/portal/rates.html>) as amended or updated by the Supplier from time to time.

8 NETWORK CAPACITY

- 8.1 The Customer shall notify the Supplier in writing at least thirty (30) days prior to any increase in the usage of any part of the Network Services which the Customer anticipates is reasonably likely for example as a result of a marketing campaign. If the Customer should fail for whatever reason to provide such notice, the Supplier shall have no liability to the Customer under the Contract in respect of any failure to deliver any part of the Service or any failure to comply with any applicable SLA as a result of such increase in usage.

9 SECURITY CODES

- 9.1 Security codes issued in connection with the Services shall remain the responsibility of the Customer who shall keep the same secure and confidential including disclosing them to only those of its employees who need them.
- 9.2 If the Customer becomes aware of any loss or inappropriate use of security codes, the Customer shall immediately inform the Supplier and shall take such action as the Supplier may require to restrict the damage that may be caused by such breach.
- 9.3 The Customer shall indemnify the Supplier against any and all costs, claims, damages, liabilities and expenses incurred by the Supplier as a result of damage to, loss of, theft of or inappropriate use of security codes.
- 9.4 The Supplier shall not under any circumstances be liable to the Customer as a result of any failure by the Customer to maintain security codes as appropriate.
- 9.5 The Supplier may disable any security codes or other information if the Customer is in breach of this Agreement and may for operational reasons, change security codes or other security information at any time.

