

DATASHARP HOSTED SERVICES

Terms and Conditions for the Provision of Hosted Services, SIP, VOIP and Broadband

This agreement, together with any order confirmation issued by Datasharp Hosted Services, represents the entire agreement between Datasharp Hosted Services and the subscriber named on the order form for the provision of Hosted, SIP Services, Calls and Broadband unless otherwise agreed by both parties in writing. The subscriber hereby agrees that the agreement cannot be modified by its own terms and conditions of business. The agreement can be modified from time to time by the service provider via its Online Billing service at www.datasharp.co.uk.

Datasharp Hosted Services is a trading style of Datasharp UK Ltd whose registered office is at Woodlands Court, Truro Business Park, Truro, Cornwall TR4 9NH, company number 1807741 registered in England and Wales.

1. Definitions

The meanings of various terms set out in the agreement are:

- a) "Act" the Telecommunications Act 1984 and any amendments to the Act which may be made from time to time.
- b) "Agreement" the agreement between Datasharp Hosted Services and the subscriber for the provision of IP Hosted telephony services
- c) "Allowances" Refers to any bundled (either limited or unlimited) services included as part of the monthly service charge.
- d) "Broadband" the provision of a Digital Subscriber Line (ADSL or SDSL)
- e) "BT" British Telecommunications PLC
- f) "Calls" the provision of IP capacity required for telephone calls
- g) "Connection Date" the date when the service provider agrees to commence the supply of the Service
- h) "Contracted Seats" the minimum number of Seats covered under the Agreement
- i) "CPI" Consumer Prices Index as provided by Office of National Statistics
- j) "Subscriber Equipment" any communications apparatus owned, hired or housed by the subscriber
- k) "Datasharp" Datasharp UK Ltd
- l) "Fair Usage Policy" Refers to the policy of the service provider of any free minutes or broadband download allowance which can be consumed within a given time frame.
- m) "Hosted Services" the provision of a centrally hosted telephony service
- n) "IP" Internet Protocol
- o) "IP Trunking" the connection and termination of calls through an IP infrastructure
- p) "LAN" Local Area Network
- q) "Lines" the telephone line required to carry the Broadband service
- r) "Minimum Period" the period set out on the order form which must be at least 12 months
- s) "Network Partner" Any supplier of services to Datasharp Hosted Services
- t) "Order Form" the subscriber order form overleaf setting out details of IP Hosted telephony services required
- u) "Seat" a license for one user of the Hosted Services and the Service Equipment associated with that license
- v) "Service" the provision of Hosted Services, SIP Trunking and SIP Telephony, Broadband and calls carried over these services as set out on the order form
- w) "Service Charge" the monthly/quarterly charge for Service Rental and any Free National and Local Calls
- x) "Service Equipment" the equipment relating to the service including handsets, routers and any other equipment supplied by the service provider for the service
- y) "Service provider" Datasharp Hosted Services, together with its employees and agents
- z) "Subscriber" The company, business or person specified on the order form
- aa) "VoIP" Voice over Internet Protocol

2. Provision of Hosted Services

- a) Datasharp Hosted Services shall provide Services as set out on the Order Form from the connection date, subject to and on the terms of this agreement. Datasharp Hosted Services shall have the right to refuse to connect any subscriber.

3. Duration

The agreement shall come into force from the connection date, the minimum term of the agreement is set out on the order form. The agreement shall continue beyond the minimum period until either party to the agreement terminates the agreement as set out in Clause 17(a).

4. Conditions for the Use of Hosted, SIP & Broadband Services

The subscriber agrees to the following conditions of use:

- a) To comply with the Act, all other relevant legislation and licenses
- b) Not to use the Service in any way unlawful or fraudulent or has any unlawful or fraudulent purpose or effect
- c) Not to send or procure the sending of any unsolicited advertising or promotional material other than in the case of the subscriber to its own subscribers.
- d) To maintain all telephone equipment in good working order, which conforms to any standards for equipment set out in the Act.
- e) To use the Hosted, broadband or SIP Trunking services in accordance with any terms and conditions notified by Datasharp Hosted Services or network partner from time to time.
- f) Not to use the Hosted, broadband and SIP Services to communicate any material that is offensive, abusive, obscene, pornographic, menacing, or for hoax calls to the emergency services, nor to use the Hosted Services for any fraudulent or otherwise criminal activity
- g) To maintain all Service Equipment in good working order; which conforms to any standards for equipment set out by the service provider and/or by legislation.
- h) The service provider has the right to disconnect any Subscriber Equipment that it has not approved, in particular where it may cause personal injury or death, or where it may damage or impair the operation of the Service.
- i) The service provider has the right to reasonable access to the subscriber's premises where required for the performance of its duties.
- j) The subscriber will co-operate with Datasharp's reasonable requests for information regarding the subscriber's use of the Service and supply such information without delay.
- k) To ensure that there is a suitable Broadband service at each site, which would normally consist of a single analogue line should broadband be required.
- l) Not to use the Service in a way that in Datasharp's reasonable opinion could affect the experience of other users on the network, more specifically heavy download users affecting the performance of the network. In extreme circumstances, Datasharp reserves the right to ask the subscriber to leave. A heavy user is currently defined by Datasharp as anyone downloading or uploading more than 100GB per calendar month
- m) The service is subject to a sufficient existing LAN infrastructure to support VoIP. Datasharp will not accept any responsibility for loss of service due to any fault as a result of LAN issues. It is the subscriber's responsibility to ensure Quality of Service mechanisms are in place within the LAN to ensure there is reduced impact on the voice quality.
- n) It is the responsibility of the subscriber to ensure that all passwords used for accessing the Datasharp Hosted Services are kept secure at all times.
- o) Datasharp can only provide support on products and services that are supplied by Datasharp Hosted Services.
- p) Telephone numbers provided by the Service provider remain in the ownership of the service provider and the subscriber has no right to sell, dispose or transfer those numbers.
- q) Datasharp Hosted Services will endeavour to ensure that the subscriber is able to keep its telephone number throughout the period of this agreement, the service provider reserves the right to change the numbers at its sole discretion, the service provider will give reasonable notice of such changes.
- r) In cases where the telephone number and area code does not match the service address, the 999 Emergency Services may not be able to determine the subscriber's address from the telephone number.
- s) It is highly recommended that voice and data be separated as much as possible within the LAN environment, should this not be achieved support for quality issues will be reduced.
- t) Transmission performance of some metallic local loops will mean it is technically impracticable to provide service to all subscribers within the Service Availability Area.
- u) Any usage allowance provided as part of a bundle must be used in month; any unused allowance does not roll over into the next month or billing period and any unused allowance shall be forfeit. Calls made outside any bundle or inclusive minutes plan are chargeable.
- v) Any usage allowance provided by the service provider as part of the service, maybe either limited or unlimited and is subject to fair usage. Where the subscriber exceeds any allowance as specified by the Service, bundled or otherwise, then the service provider shall charge the subscriber for any usage which exceeds the stated allowance. The charges for any excessive usage of an allowance will be charged at the rate specified in the standard sell rate tariff as published by the service provider.
- w) Calls that are forwarded are chargeable and are not included in any free minute plans. Forwarded calls will be charged at the destination rate specified in the standard sell rate tariff as published by the service provider.
- x) The fair usage policy for the GM SIP Trunk LNMOb service is as follows: The total number of calls per channel from a SIP account shall not exceed 5,000 minutes per month to 01/02/03 terminations & 2000 minutes per channel per month to the UK Mobile Network Operators of Vodafone, EE, H3G & O2. In addition calls to numbers beginning 03 shall not exceed 15% of the total calls on that channel. Any channels exceeding that limit will be subject to a per minute price for the total volume of calls generated from that channel according to the standard sell rate tariff as published by the service provider. Datasharp reserves the right to disconnect any end-point where usage is deemed illegitimate or excessive in terms of standard use and in line with the Fair Usage Policy.
- y) The fair usage policy for the Voiceflex Bundled SIP Trunk service is as follows: Included calls to 01,02,03 & Mobile carriers Vodafone, EE, 3&O2 and all mobile ranges owned by the companies for calls delivered in the United Kingdom. Max amount outbound calls 75%. The service is not to be used for outbound call centers, or for dialler traffic, an outbound call centre is deemed to be a company making more than 75% outbound calls. Any company found to be breaking the 25/75% rule will be informed within 14 days of the end of the month, if no action is taken within 14 days of the action being reported, the SIP trunk service will be moved to our standard SIP trunk product with calls being chargeable according to the standard sell rate tariff. The Fair Usage Policy, is applied so that Users who carry out normal inbound/outbound calling activity, based upon our average statistical analysis, will not be charged for any UK National (01,02,03) or UK Mainland Mobile (EE, Vodafone, O2, Three) minutes. Datasharp reserves the right to switch customers with excessive call volume (e.g. Telemarketers, Dialers etc.) to a more appropriate tariff at any time in line with the Fair Usage Policy. Calls to, including but not limited to, Redirect services, Wi Fi services (fw charge

codes), Channel Islands and the Isle of Man are not included in any bundled minutes.

- 2) Rented hardware, including but not limited to handsets, remains the property of Datasharp or the Supplier of such equipment. Rented hardware must be returned to Datasharp or to Datasharp's Network Partners when the service has been cancelled. Datasharp will confirm the return or collection details during the cease process of a service that includes rented hardware. If rented hardware is not returned, or if collection is not made possible then charges may be applied to cover the cost of the rented hardware.

5. Provisions of Broadband Service

- a) Datasharp shall provide or procure the provision of the Service to the subscriber in accordance with the terms of this Agreement. The subscriber acknowledges that it is technically impracticable to provide a fault free Service and Datasharp does not undertake to do so.
- b) The provision of the Service to the subscriber will be subject to the characteristics of the subscriber's Access Connection and BT may determine that it is not possible to supply the Service over the subscriber's Access Connection. Where this is the case, Datasharp will immediately terminate this Agreement, Datasharp will not be liable to the subscriber for such termination.
- c) The subscriber acknowledges that during the installation of the Subscriber Equipment for the provision of the Service the subscriber Access Connection may suffer a temporary loss of telephone service, and/or interference to any other Access Connection services, which shall be reinstated following installation. Datasharp will not be liable for any loss, interruption or interference during installation. The subscriber also acknowledges that any telephone socket extensions that are incorrectly wired may be disconnected during installation, without liability to Datasharp.
- d) Occasionally Datasharp and/or BT may have to interrupt the Service or change the technical specification of the Service for operational reasons (such as maintenance or Service upgrades) or because of an emergency. In these circumstances where possible Datasharp will give notice to the subscriber of any such interruption however, the subscriber shall have no claim against Datasharp for any such interruption.
- e) Except as otherwise expressly permitted under this Agreement, the subscriber may not:
 - i. modify the Service without Datasharp's prior written consent;
 - ii. redistribute, copy or use the Service, or transfer rights to the use of the Service to any third party;
 - iii. disclose details of the Service, to any third party without Datasharp's prior written consent;
 - iv. use the Service except in conjunction with Datasharp's recommended operating guidelines;
- f) Datasharp shall use its reasonable endeavors to comply with the subscriber's reasonable requests in respect of installation but Datasharp or BT's decision on the routing of cables and wires and the positioning of outlets and other apparatus constituting the Subscriber Equipment shall be final and binding.
- g) Datasharp shall use all reasonable endeavors, where required to do so, to provide and install or procure the provision and installation of the Subscriber Equipment at the Site so that the Service can be provided on or before any installation date specified or agreed to by Datasharp. Any installation date is an estimate only and Datasharp shall not be liable for any failure to meet such installation date.
- h) Installation of the Service may be subject to a survey carried out by Datasharp or BT and the Service may not be provided where the survey carried out, is incomplete or unsatisfactory.
- i) The subscriber accepts that the service is rate adaptive and will run at the most reliable speed available. Speed can be affected by external conditions.
- j) The subscriber accepts that peak and sustained throughput rates may be reduced by contention within the network, the BT Central or BT Central plus (as applicable) other components sourced by the subscriber to provide the subscriber service, end user speed control systems and the internet and by rate adaptation of modems and Line Rate for Max products.

6. Emergency Services

- a) Services provided by Datasharp Hosted Services allow access to emergency services by dialing 999 or 112.
- b) In common with other communications systems with the exception of line powered analogue lines, access to these services will not be possible in the event of a power failure, or failure of the broadband connection.
- c) Access to emergency services is possible using an analogue line in the event of power or broadband failure, providing an analogue phone is attached to the line. It is recommended that the analogue line supporting the broadband installation is utilized for this purpose.
- d) Datasharp registers the fixed address of subscribers with emergency services at inception of the contract. If, however, a telephone is used as a nomadic service, the subscriber should inform emergency services of any change of address, or location relating to individual numbers.

7. Support Cover

- a) Datasharp shall provide support at the installation address for the equipment and services shown on this agreement.
- b) Datasharp will use its reasonable endeavors to respond to fault reports received in normal working hours (9.00am to 5.00pm), Monday to Friday, except Bank Holidays.
- c) Datasharp will arrange for technical support to contact the subscriber and institute remedial action, where necessary, through remote interrogation, subject to Connectivity.
- d) Technical support for the service is available by telephoning 01872 266644 or by sending email to hosted.services@datasharp.co.uk
- e) The following are not covered within this Agreement;
 - i. Cabling, wiring, or any other equipment not supplied under this agreement;
 - ii. Maintenance required as a result of the subscriber's failure to follow instructions or recommendations issued by Datasharp, neglect or other misuse;
 - iii. support required as a result of repairs or modifications to the equipment not carried out by Datasharp;
 - iv. support required as a result of damage caused by an Act of God, failures of electrical power, power surges, computer viruses or other reasons beyond Datasharp's control. Where it is found that support is required as a result of i to iv above, Datasharp will charge the subscriber for any such work at Datasharp's normal rates.
- f) Any degradation of service, both voice or user management that is likely to be caused by issues associated with the subscriber's supplied hardware and software will not be supported.

8. Subscriber Obligations

- a) To allow the installation and use of the Subscriber Equipment at the Site, the subscriber will at the subscriber's own expense:
- b) Obtain all necessary consents, including consents for any necessary alterations to buildings;
 - i. take up or remove, any fitted or fixed floor coverings, ceiling tiles, suspended ceiling and partition covers, as Datasharp or BT advises are necessary, and carry out afterwards any making good or decorator's work required; and
 - ii. provide any electricity and connection points required by Datasharp or BT;
 - iii. The criteria above must be completed in advance of any installation work.
- c) The subscriber shall at their own expense provide suitable accommodation, assistance, facilities and environmental conditions for the Subscriber Equipment and all necessary electrical and other installations and fittings.
- d) A secure electricity supply is required at the Premises for the installation, operation and maintenance of the Subscriber Equipment. Unless otherwise agreed, this power supply is to be provided by the subscriber. Datasharp shall not be responsible for interruption or failure of the Services caused by a failure of such power supply.
- e) Any Subscriber Equipment connected to or used with the Service must be connected and used in accordance with any instructions, safety and security procedures applicable to the use of that equipment. Any equipment which is attached (directly or indirectly) to the Service must be technically compatible with the Service and approved for that purpose under any relevant legislation or telecommunications industry standards.
- f) To enable Datasharp to carry out its obligations under this Agreement, the subscriber will at all reasonable times provide Datasharp employees, and anyone acting on Datasharp's behalf including BT, who produces a valid identity card, with access to any Site and any other premises outside of Datasharp's control. Datasharp will normally only require access during its usual working hours but may, on reasonable notice, require the subscriber to provide access at other times. Datasharp may agree to work outside its usual working hours, but the subscriber must pay Datasharp's additional charges for doing so as detailed in Clauses and the Datasharp Price List.
- g) If through no fault of Datasharp, Datasharp is unable to carry out an installation at, or gain access to, the Site or the installation is aborted, Datasharp will notify the subscriber Nominated Contact and may raise an abortive visit charge.
- h) Where this Agreement or the Service is terminated for any reason Datasharp or BT shall be entitled to enter the Site to remove Subscriber Equipment installed there.
- i) The subscriber undertakes:-
 - i. to comply with all instructions Datasharp may notify to the subscriber for use of the Subscriber Equipment;
 - ii. not to damage the Subscriber Equipment and not to add modify or in any way interfere with the performance of the Subscriber Equipment;
- j) The subscriber shall be responsible for the repair and maintenance of any Subscriber Equipment used in order to obtain or use the Service.
- k) The subscriber confirms that all information provided in any applicable desktop survey is complete and accurate. The subscriber acknowledges that an iPECS cloud solution requires a Cat5/6 data point at every location where a handset is required and that each handset will require power as referenced in section 8 (d). The subscriber will ensure that all required rules and permissions to enable an iPECS solution are granted on the subscriber's LAN and that each IP handset provided by the service provider can access the internet. Should additional work be required to complete the installation or any delay due to LAN restriction occur, the subscriber accepts any additional engineering and associated costs to enable the fulfilment of the solution being provided by the service provider.
- l) To ensure the network requirements are met for supporting Datasharp's Hosted Telephony Service, this includes but is not limited to ensuring the LAN/WAN infrastructure is suitable and that Network Firewall requirements are met.

9. Suspension of Services

- a) The service provider, in its absolute discretion, has the right to suspend the provision of Hosted Services and associated support cover, without notice and without compensation in the event of the following:
- b) The subscriber is in serious breach of the terms of this agreement. Failure to pay the service provider by the due date is considered to be a serious breach of this agreement.
- c) The service provider believes that the Service is being used unlawfully or fraudulently.
- d) The service provider believes that the Service is being used for the purposes set out in section 4f above.
- e) The service provider is required to comply with an order, instruction or request from Central or Local Government, the emergency services or other relevant administrative body.

10. Technical Limitations of the Service

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

- a) transmission performance of some metallic local loops will mean it is technically impracticable to provide Service to all subscribers within the Service Availability Area;
- b) currently until such time as Datasharp advises otherwise, the Service cannot be provided over the same Access Connection as certain other telecommunications services;
- c) the Service is not available to Sites where all or part of the Access Connection is provided over fibre optic cable or radio systems;
- d) that the Service may also affect the performance of some PSTN subscriber premises equipment;
- e) that some technical limitations may not become apparent until after the Service has been installed and working for some time. In such circumstances the Service for some individuals may need to be withdrawn;
- f) that in the case of any rate-adaptive product, upload and download speeds are dependent on distance from the exchange, atmospheric conditions and quality of the metallic path and may vary without notice to the subscriber;
- g) Rate adaptation can occur several times a day and may cause the link to the DSLAM to reset;
- h) that in the case of any rate adaptive product, throughput guarantees will relate only to the actual rated speed of an individual connection, not any implied speed of service;

11. Invoicing, Pricing and Payment

- a) The subscriber shall be invoiced monthly by the service provider.
- b) Services will be invoiced one month in advance of the service being provided, calls will be invoiced in arrears.
- c) The price of the Service will be set out in the service provider's price list.
- d) The Service Provider may increase the monthly service charge each fiscal year based on the previous December rate of Inflation Measure RPI Published by Office of National Statistics.
- e) The Service Provider has the right to amend the service charges from time to time, by giving no less than 30 days notice. In particular, the Service Provider may at any time amend the charges where its own suppliers have increased their charges. Any change will be published on the online billing platform at www.datasharp.co.uk/billing or notified in writing by email or letter.
- f) The Service Provider has the right to amend any and all call rates in the price list including minimum call charge or call connection charge from time to time, by giving no less than 30 days notice. Any changes will be published on the Service Providers Standard Call Price List at www.datasharp.co.uk/billing or notified in writing by email or letter.
- g) The charges for the Service invoiced to the subscriber shall be calculated by reference to data logged by or on behalf of the service provider, and not by reference to any data logged by the subscriber.
- h) Datasharp may also make an additional charge (on the basis of additional charges detailed in the Datasharp Price List), on its own behalf or on behalf of BT in circumstances where
 - i. an abortive visit charge may be incurred where incorrect information supplied by the subscriber means it is technically impractical to provide the Service over the subscriber's Access Connection;
 - ii. where it is necessary to relocate the existing telephone master socket to provide the Service;
 - iii. where Datasharp or BT are unable to gain access to the Site to carry out installation of the Service or the installation is aborted an abortive visit charge may be payable;
 - iv. where certain order information provided by the subscriber is illegible, inaccurate or incomplete an administration fee will be charged;
 - v. where Datasharp or BT provide the support to the subscriber outside its normal support times in supply of the Service;
 - vi. where a fault relates to equipment other than the supplied Equipment;
- i) Value Added Tax (VAT) will be added to all Charges at the applicable rate.
- j) The Subscriber must access its invoices via Datasharp's online billing platform at www.datasharp.co.uk/billing under special circumstances Datasharp Hosted Services can provide a printed bill at a cost of £5, as per our commitment to reducing paper usage and protecting our environment.
- k) Invoices must be paid within 14 days of the date of the invoice.
- l) At any time during this agreement, should the subscriber fail to settle an invoice by the date due, then the service provider reserves the right to restrict any and all services it provides to the subscriber. Should services be restricted in this way, the service provider will require the subscriber to immediately settle all outstanding invoices and to pay a bond equivalent of up to three months service charges and estimated call charges (including VAT) in order to remove any said restrictions. The call charges element of the bond will be calculated as an average of the last three months call charges invoiced to the subscriber's account. The service provider must be able to confirm receipt of payment for outstanding invoices and any applicable bond before service restrictions can be removed. Without payment of outstanding invoices as well as the bond, any restriction will not be removed.
- m) The Subscriber is advised to pay the invoices by Direct Debit, the Direct Debit will usually be taken between the 14th day and 30th day of each month.
- n) The Service Provider will charge a £30 administration charge each calendar month in which there is a late payment of an invoice. This is in addition to any late payment that attracts commercial debt interest or charges levied on any balances.
- o) The service provider shall be entitled to add debt collection charges and interest in accordance with Late Payment of Commercial Debts (Interest) Act 1998.
- p) The subscriber agrees to pay the invoices in full without the set off of any amounts.
- q) If the subscriber disputes an invoice, it shall notify Datasharp UK Ltd in writing giving its reasons. The subscriber agrees that it is not entitled to withhold payment:
 - i. Of any amount not in dispute;
 - ii. To Datasharp UK Ltd on the grounds that the subscriber has a dispute with Datasharp UK Ltd
 - iii. Of any amount which is the subject of fraud or suspected fraud by subscriber's end users or third parties
- r) The subscriber agrees that any dispute relating to an invoice (including the calculation of any amounts payable) must be notified to Datasharp UK Ltd within 6 months of the date of the invoice – the Subscriber shall not be entitled to any credit or refund relating to disputes raised after the expiry of this period. If any amounts remain in dispute, such amounts shall not be included in the calculation of progress against the minimum commitment or stretch commitment.
- s) Any promotional price agreed at the start of the contract for the provision of the service shall revert to the standard price list or as stipulated on the contract or as advertised once the promotional period has ended unless otherwise specified.

12. Intellectual Property Rights

- a) The subscriber acknowledges that the subscriber shall have no rights to any intellectual property rights arising as a result of any use of the Service.
- b) Any and all intellectual property rights used or embodied in or in connection with the Service shall be and remain the sole property of Datasharp or Datasharp's licensors. No title or intellectual property rights therein or in any modification or extension thereof shall pass to the subscriber unless specifically stated under the Agreement.
- c) The subscriber acknowledges such title, interest and rights and the subscriber shall not take any action to jeopardise, limit or interfere in any manner with Datasharp's (or any third party suppliers') title, interests or rights with respect to the Service, including but not limited to, using Datasharp's or BT's trademarks or trade name.
- d) Where software is provided to enable the subscriber to use the Service, Datasharp grants the subscriber, for the duration of this Agreement, a non-exclusive, non-transferable license to use the software for that purpose.

13. Liability

- a) The service provider's liability in contract, tort or otherwise is limited the lower of the annual charges in this contract or to £5,000 in any one incident and £5,000 in total. This liability relates solely to the performance of the service provider's obligations in the agreement.
- b) The service provider shall not be liable to the subscriber for any breach of any provision of this agreement caused by any reason outside of the control or responsibility of the service provider, including the failure of the Network Carrier to provide Network capacity, or the failure of any equipment supplied by any third party communications equipment operator to the service provider, on which it was reliant for the purpose of this agreement. The following are examples of reasons outside of the control of Datasharp Hosted Services; Act of God, failure or shortage of power supplies, internet failure, computer viruses, flood, drought, inclement weather, lightning-strike, fire, strike or other labour dispute, any Act or omission of Central or Local Government.
- c) The service provider shall not in any event be liable to the subscriber or any third party for any indirect, consequential or incidental loss or other damages howsoever arising, or for any loss of revenue, cost savings or profit. The subscriber shall indemnify the service provider against any claims and expenses arising out of any situation.
- d) The service provider shall not be liable to the subscriber for any delay in either providing a Connection Date to the subscriber or any other reason for delay in connection.
- e) Nothing in this agreement shall restrict the service provider's liability for death or personal injury resulting from the negligence of the service provider or of its employees while performing their duties on behalf of the service provider.
- f) The subscriber shall indemnify the service provider against all liabilities, claims, damages, losses and expenses arising from the use by the subscriber of the Hosted Services in breach of this agreement.
- g) In the event of loss of service, due to issues beyond the control of Datasharp Hosted Services, such as LAN issues, Datasharp or other third party partners shall not be liable.

14. Hacking

- a) Datasharp does not accept liability for breaches of the Hosted Services system, nor any call charges that might arise from such a breach.
- b) It is the subscriber's responsibility to ensure the security of their telephone system and/or equipment.

15. Warranties

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

16. Assignment

- a) The service provider may assign or delegate any rights under this agreement
- b) The subscriber may only assign or delegate its rights or obligations under this agreement with the prior written consent of the service provider.

17. Termination

- a) Either party may terminate the agreement by giving 30 days written notice to the service provider; after the end of the minimum term, or at any stage thereafter. Where the Service is provided by Datasharp Hosted Services' partner Voiceflex, the notice period required would be to the end of that current month plus 90 days. Where such notice is given it must be in writing or via email. In respect to cessation of BT IP Stream / WBC products a cease charge will apply.

- b) This agreement may be terminated immediately by the service provider either orally (followed by confirmation in writing) or in writing if there is a material or persistent breach of the terms of this agreement by the subscriber. In cases where the service provider believes that the breach is capable of remedy then a period of 7 days may be given to remedy the breach.
- c) The service provider may terminate the agreement immediately in the event that a receiver, liquidator or trustee in bankruptcy is appointed in respect of the subscriber for the whole or part of the business, or where the subscriber enters into an arrangement with its creditors, or where any proceedings to wind up the subscriber have commenced.
- d) The service provider may terminate this agreement immediately in the event that any license required to operate is revoked, significantly amended, ceases to be valid or a network partner ceases to provide the services required for this agreement.
- e) The subscriber may cancel this agreement prior to the Connection Date by giving written notice, but will be required to pay any reasonable charges that the service provider has incurred to date, including any equipment and services purchased by the service provider before the cancellation date.
- f) Where the subscriber terminates this agreement before the end of the minimum contract period, the subscriber agrees to pay the service provider compensation equivalent to the whole of the Service Charge to the end of the minimum contract period and 35% of the normal call charges. The normal call charges shall be calculated using the average daily rate from the last 3 complete months call spend.
- g) Upon termination of this Agreement the subscriber shall immediately stop using the Service and the subscriber's right to use the Service shall immediately terminate.
- h) Upon termination of this agreement, the subscriber shall no longer be entitled to benefit from any bundled allowances contained within the service.
- i) Upon termination or cancellation of this agreement by either party, the Service Provider will invoice all services to the termination date including any notice period. As per clause 11(k), invoices must be settled within 14 days from the date of the invoice to ensure continuity of service.

18. Confidentiality

- a) The parties will keep in confidence any information (whether written or oral) of a confidential nature (including software and manuals) obtained under or in connection with this Agreement or the service and will not without the written consent of the other party disclose that information to any third party, except as required for the provision of the service or as required by Government bodies.
- b) This Clause 18a will not apply to:
 - i. any information, which has been, published other than through a breach in this Agreement;
 - ii. information lawfully in the possession of the recipient before the disclosure under this Agreement took place;
 - iii. information obtained from a third party who is free to disclose it; and
- c) This Clause 18a will remain in effect for 2 years after the termination of this Agreement.

19. Data Protection

- a) Datasharp and the subscriber each agree to comply with the respective obligations under applicable data protection legislation and maintain all relevant registrations, including (in relation to the subscriber) such registrations and consents as the subscriber should obtain and maintain to enable Datasharp to process personal data in connection with the performance by Datasharp of its obligations under this contract.
- b) The subscriber agrees that Datasharp may put their name and other details obtained from the Order Form into a computerised directory for internal use and to enable Datasharp to provide the service.
- c) Rights of subject access will be in accordance with the Data Protection Act 1998 and upon request in writing and payment of the appropriate fee.
- d) Any and all data supplied by subscribers is held in accordance with Datasharp's current Privacy Policy available at www.datasharp.co.uk

20. Call Recording

- a) The parties acknowledge that Datasharp Hosted Services is acting as a data processor (as defined in the Data Protection Act 1998) in respect of and in connection with any call recordings made and stored by the service provider, and/or the subscriber using these services.
- b) The service provider is the 'data controller' as defined in the Data Protection Act 1998 and warrants for personal data that Datasharp Hosted Services has in place now and will on a continuing basis take all appropriate technical and organisational measures against unauthorised and unlawful processing of personal data and against accidental loss, destruction of, or damage to, personal data.

21. Legal

- a) This agreement shall be governed by and interpreted in accordance with English Law and the parties hereby submit to the jurisdiction of the English Courts.
- b) Implied Terms shall be excluded to the fullest extent permitted by law.
- c) Any Director or representative of the subscriber will be deemed to be an authorised signatory and thereby guarantee the subscriber's acceptance of its obligations under this agreement.
- d) Failure of either party to exercise or enforce any right within this agreement shall not be deemed to be a waiver of such right.
- e) The contract will not become binding until the subscriber becomes connected.



The Direct Debit Guarantee

This guarantee is offered by all banks and building societies that accept instructions to pay Direct Debits.

If there are any changes to the amount, date or frequency of your Direct Debit, Datasharp Network Services will notify you ten working days in advance of your account being debited or as otherwise agreed. If you request Datasharp Network Services to collect a payment, confirmation of the amount and date will be given to you at the time of the request.

If an error is made in the payment of your Direct Debit, by Datasharp Network Services or your bank or building society, you are entitled to a full and immediate refund from your bank or building society.

-if you receive a refund you are not entitled to, you must pay it back when Datasharp Network Services asks you to.

You can cancel a Direct Debit at any time by simply contacting your bank or building society. Written confirmation maybe required. Please also notify us.