

Talk Warehouse terms and Conditions for Broadband Services

Definitions

"Agreement" means this agreement entered into between **Talk Warehouse** and the Customer in respect of the Service, commencing on the Commencement Date

"Authorisation" means the authorisation granted to pursuant to the Communications Act 2003 that authorises to Network Operator to run a public communications network

"Charges" means all sums (plus VAT) payable by the Customer to **Talk Warehouse** in respect of the Service including but not limited to the connection charge (in respect of the Customer being connected to the Network) and any other charges for any other services provided by **Talk Warehouse** as identified in the Pricing List

"Commencement Date" means the date of the telephone call concluded between **Talk Warehouse** and the Customer where the Customer requested the Service

"Customer" means the customer **Talk Warehouse** makes this Agreement with. It includes a person who **Talk Warehouse** reasonably believes is acting with the Customer's authority or knowledge

"Early Termination Charges" means the charges (plus VAT) for early termination calculated pursuant to clause 18.6

"Equipment" means equipment that is not part of the Network and which the Customer uses or intends to use with the Service

"Fault" means the continuous total loss of the ability to make or to receive Calls or the continuous total loss of a related service

"Line" means a connection to the Network

"Main Telephone Socket" means the point where the Equipment is connected to the Network which is called the Network Termination Point in the Authorisation

"Minimum Term" means the period of 12 months as notified to the Customer by **Talk Warehouse** on entering into this Agreement and in the Notification Letter

"Network" means the fixed line telecommunications network operated by the Network Operator

"Network Operator" means the network operator who operates a network to which the Line is connected in accordance with an agreement between the Network Operator and **Talk Warehouse**

"Notification Letter" means the statutory transfer letter sent by **Talk Warehouse** to the Customer regarding the Customer's transfer to **Talk Warehouse**, such letter to include details of the Switchover Date

"Parties" means **Talk Warehouse** and the Customer and references to "Party" shall be construed accordingly

"Premises" means the place where the Service is or will be provided, usually the Customer's address unless agreed otherwise

"Price List" means the price list as set out on the Website as varied by **Talk Warehouse** from time to time

"Relevant Standards" means the standards designated under Section 22 of the Telecommunications Act 1984 as amended by the Communications Act 2003

"Service" means all or part of the Service explained in clause 1 and any related services listed in the Price List that **Talk Warehouse** agrees to provide to the Customer under this Agreement and "Services" shall be construed accordingly

"Service Guarantee" means the guarantee set out in clause 24

"Service Provider" means any Public Electronic Communications Network Provider as defined in the Communications Act 2003

"Switchover Date" means the date of transfer of the Service to **Talk Warehouse** as notified to the Customer in the Notification Letter

"Website" means the website www.talkwarehouse.co.uk

1. What the Service is

1.1 The Service **Talk Warehouse** supplies to the Customer is the provision of high speed network access to the internet provided in accordance with the particular type of Broadband Plan chosen by the Customer and supplied to the Customer's Premises via the Customer's nominated fixed telephone line and which is provided in accordance with the terms of the contract;

1.2 The Service does not include any modems or other equipment that **Talk Warehouse** may supply to the Customer under a separate agreement. In providing the Service, **Talk Warehouse** will endeavor to use the reasonable skill and care of a competent telecommunications service provider.

1.3 **Talk Warehouse** can only provide Services in areas of the United Kingdom in which **Talk Warehouse** are technically able to offer broadband services from time to time.

2. Things Talk Warehouse may have to do

From time to time **Talk Warehouse** may have to:

- (a) change the code(s) or number(s) or the technical specification of the Service due to mandatory changes imposed on **Talk Warehouse**; or
- (b) interrupt the Service for operational or emergency reasons; although **Talk Warehouse** will restore the interrupted Service as quickly as possible; or
- (c) give the Customer instructions that **Talk Warehouse** believe are necessary for health or safety reasons, or to maintain the quality of the Service that **Talk Warehouse** supplies to the Customer or to other customers.

3. Phone number

- 3.1 The Customer may not sell or agree to transfer the code(s) or number(s) provided to it for use with the Service.

4. Call Monitoring

Talk Warehouse may occasionally monitor and record calls made to or by **Talk Warehouse** by or to the Customer, for training purposes, to improve the quality of its customer services and to assist with complaint handling.

5. Use of the Customer's information

- 5.1 **Talk Warehouse** complies with its obligations under the Data Protection Act 1998 ("the Act"). **Talk Warehouse** will only use any Personal Data (as defined within the Act) obtained from the Customer as a result of providing the Service for the purposes of administering the Customer's account and notifying the Customer of changes to the Service, enabling **Talk Warehouse** or its third party suppliers to supply the Service to the Customer and for invoicing purposes.
- 5.2 **Talk Warehouse** will not pass Personal Data obtained from the Customer to any third parties for marketing purposes but may send the Customer information about **Talk Warehouse's** own products and services which it considers may be of interest to the Customer, unless the Customer requests **Talk Warehouse** not to do so.
- 5.3 If the Customer or a user does not want its details, or, in the case of the Customer those details of its users to be used in this way then the Customer should contact **Talk Warehouse**.

6. When Talk Warehouse will provide the Service

- 6.1 **Talk Warehouse** will use all reasonable endeavours to provide the Service by the date agreed with the Customer such date being the date informed to the Customer in the Notification Letter.
- 6.2 **Talk Warehouse** will use the reasonable skill and care of a competent telecommunications service provider to provide the Service however, **Talk Warehouse** cannot guarantee that the Service will always be Fault free as other third party companies may provide the Network.

7 . Duration of this Agreement

- 7.1 This Agreement will come into force on the date on which the Customer orders the Service. The Service is supplied by **Talk Warehouse** subject to a Minimum Term unless this Agreement is otherwise terminated prior to expiry of the Minimum Term in accordance with its terms. The Minimum Term will commence on the Switchover Date.
- 7.2 Upon expiry of the Minimum Term, or any anniversary thereafter, this Agreement will renew automatically for further periods of 12 months ("Subsequent Terms") unless terminated by either Party in accordance with the terms of this Agreement.

8. Repairing faults

8.1 If there is a Fault, the Customer must report this directly to **Talk Warehouse**.

8.2 If the Customer reports a Fault, **Talk Warehouse** will report the Fault to the Network Operator as soon as reasonably practicable so that the Network Operator can arrange for an engineer to attend to the Fault as soon as possible.

8.3 **Talk Warehouse** will not be responsible for any Faults arising from fixed lines and/or Personal Computers.

8.4 Modem Support: **Talk Warehouse** offers technical support on all modems purchased under a separate agreement with **Talk Warehouse** and in accordance with those terms and conditions. If the Customer chooses to use their own modem **Talk Warehouse** may have to refer the Customer back to their supplier for technical advice.

9. Use of the Services

9.1 The Services are provided solely for the Customer's use and the Customer's cannot resell or attempt to resell the Services (or any part of them) to any third party. In addition, if the Customer has a mail server, the Customer must not allow relay emails from outside its domain from the Customer's mail server.

9.2 **Talk Warehouse** do not warrant or guarantee the accuracy or completeness of any of the information, sound, software and any other materials (in whatever form) and services made available to the Customer as part of the Services (the "Content") or any further information or results which may be derived from it. The Customer acknowledges that it will not rely on any Content in making any business or other decision and that the Customer uses of the Content is at its sole risk.

9.3 Please note that there may be additional conditions (either **Talk Warehouse's** or those of a third party) displayed on line relating to particular Content. These conditions will also form part of this Agreement should the Customer access such Content.

9.4 The Customer is entirely responsible for evaluating any goods or services offered by third parties via the Services or on the internet. **Talk Warehouse** will not be a party to or in any way be held responsible to the Customer for any transaction between the Customer and third parties.

9.5 The Customer must not use the Services:

9.5.1 in a way that breaches any legislation or any licence applicable to the Customer or that is in any way unlawful or fraudulent; or

9.5.2 to deliver, knowingly receive, upload, download, use or re-use any information or material which is abusive, defamatory, obscene or menacing, or in breach of any copyright, privacy or any other rights; or

9.5.3 to send or procure the sending of any unsolicited advertising or promotional material; or

- 9.5.4 in a way that does not comply with our specific instructions.
- 9.6 The Customer will fully indemnify **Talk Warehouse** against any actual or potential claims or legal proceedings against **Talk Warehouse** by a third party because of the Customer's use of the Services in breach of the provisions of this clause 10. **Talk Warehouse** shall notify the Customer of any such claims or proceedings and inform the Customer regularly as to the progress of such claims or proceedings.
- 9.7 The Customer acknowledges that the Services are provided to other users and **Talk Warehouse** owes a duty to these users as a whole to preserve our network integrity and avoid network degradation. If, in **Talk Warehouse's** reasonable opinion, **Talk Warehouse** believes that the Customer's use of the Services has or may adversely affect such Network integrity or may cause Network degradation **Talk Warehouse** may change the Customer's chosen access rate or manage the Customer's Services as **Talk Warehouse** sees fit in the circumstances.
- 9.8 To prevent spam from entering and affecting the operation of **Talk Warehouse's** systems and the Service, **Talk Warehouse** may take any reasonable measures or actions necessary to block access to, or delivery of, any e-mail which appears to be of an unsolicited nature and / or part of a bulk e-mail transmission. **Talk Warehouse** may also use virus screening technology that may result in the deletion or alteration of e-mail and or e-mail attachments. **Talk Warehouse** gives no warranties whatsoever that such technology will be effective in any way, including against unsolicited emails or against any virus, worm, Trojan horse or other program or device that is apparently intended to access and modify, delete or damage data file(s) or computer program(s).

10. Access and Security

- 10.1 The Customer will at all reasonable times, provide **Talk Warehouse's** employees and agents, and anyone acting on **Talk Warehouse's** behalf producing a valid identity card, with access to the Location.
- 10.2 **Talk Warehouse's** employees and agents will observe the Customer's reasonable premises regulations, as previously notified to **Talk Warehouse** in writing. The Customer will provide a suitable and safe working environment for **Talk Warehouse's** employees and those of any third parties who assist **Talk Warehouse** in providing the Services to the Customer.
- 10.3 The Customer will use its reasonable endeavours to provide personnel, resources and any other information as **Talk Warehouse** reasonably require, assisting **Talk Warehouse** in the provision of the Services to the Customer.

11. User names and Passwords

- 11.1 The Customer must ensure that user names and passwords used in connection with the Services are kept confidential and are only used by authorised users. The Customer must inform **Talk Warehouse** immediately if the Customer knows or suspects that a user name or password has been disclosed to an unauthorised user or is being used in an unauthorised way. The Customer must not change or attempt to change a user name without **Talk Warehouse's** written consent.

11.2 **Talk Warehouse** reserves the right (at **Talk Warehouse's** sole discretion):

11.2.1 to suspend user names and password access to the Services if at any time **Talk Warehouse** think that there has been or is likely to be a breach of security; and

11.2.2 to ask the Customer to change any or all of the passwords the Customer's uses in connection with the Services.

11.3 The Customer must inform **Talk Warehouse** immediately of any subsequent changes to the information the Customer supply to us.

11.4 The Customer accepts and acknowledges that the Services, as other internet applications, is not secure and **Talk Warehouse** do not guarantee the prevention or detection of any unauthorised attempts to access the Services.

12. Intellectual Property Rights

12.1 Any patents, design rights, know-how, copyrights, trade marks, the right to use software and all other similar proprietary rights (whether registered or unregistered) worldwide ("Intellectual Property Rights") relating to the Services or arising during the development of the Services, belong to **Talk Warehouse** or to a relevant third party.

12.2 The Content is protected by copyright, trademark and other Intellectual Property Rights, as applicable. The Customer must not and must not permit anyone else to copy, store, modify, distribute externally, broadcast or publish any part of the Content, and the Content may only be used for the Customer's own purposes.

13. Software

13.1 Where **Talk Warehouse** provide software to the Customer to enable the Customer to use the Services ("Software"), **Talk Warehouse** grant the Customer a non-exclusive, non-transferable licence to use the Software solely for the term and purposes of the Agreement. The Customer may need to sign agreements reasonably required by the owner of the copyright in the Software to protect the owner's interest in that Software for the Customer to be able to use the Software.

13.2 Except as permitted by applicable law or as expressly permitted under this Agreement the Customer cannot de-compile or modify the Software, or copy the manuals or documentation.

13.3 **Talk Warehouse** may offer updates or modifications to the Software or documentation and **Talk Warehouse** will notify the Customer of any applicable charges for such updates or modifications at the time **Talk Warehouse** offer them to the Customer.

14. Paying Talk Warehouse's charges for the Service

14.1 The Customer agrees to pay all of the Charges due in respect of the Service as set out in the Price List.

- 14.2 **Talk Warehouse** will send the Customer the first bill shortly after beginning to provide the Services. **Talk Warehouse** may send the Customer a further bill monthly in advance, but **Talk Warehouse** may also send the Customer a bill at anytime. **Talk Warehouse** will send bills to the address provided by the Customer. **Talk Warehouse** also reserve the right to issue bills by e-mailing these bills to the Customer every month (although **Talk Warehouse** reserve the right to send the Customer a bill by e-mail at any time).
- 14.3 If the Customer does not pay an invoice within 14 calendar days of the date of that invoice, **Talk Warehouse** will send the Customer a reminder. If **Talk Warehouse** does not receive payment of that invoice within 7 calendar days of the date of that reminder, **Talk Warehouse** may charge the Customer daily interest on the overdue amount(s) at a rate equal to 4% above the base lending rate of BARCLAYS Bank plc for the period beginning on the date on which payment is due and ending on the date on which payment is made.
- 14.4.1 Charges are payable by Direct Debit, unless agreed otherwise with **Talk Warehouse**. If a Customer cancels an active Direct Debit or the Direct debit or debit/credit card fails without **Talk Warehouse's** consent, The Customer will also be charged an administration fee five pounds + VAT.
- 14.4.2 The Customer must pay all Charges in accordance with their direct debit authority, or if, for some reason, their direct debit payment fails, in accordance with the time for payment detailed in the invoice. The Customer must pay all deposits when **Talk Warehouse** asks for them.
- 14.4.3 If the Customer's payment is rejected, or becomes, or is, invalid or unavailable, thereby preventing **Talk Warehouse** from recovering the sums due under the Customer's account within 4 days following the due date for payment, **Talk Warehouse** reserves the right immediately to withdraw access to the Services. The Customer will also be charged an administration fee five pounds + VAT.
- 14.4.4 In these circumstances, the Customer will be sent a letter giving them 10 days in which to arrange for their account to be discharged in full.
- 14.4.5 If, in response to **Talk Warehouse's** letter, the Customer provides **Talk Warehouse** with valid payment details so as to enable **Talk Warehouse** to collect the sums due on their account, **Talk Warehouse** will re-apply for payment. If the Customer's proposed payment method is still rejected, invalid or unavailable, or if the Customer's account remains outstanding for any other reason, 18 days after the original due date for payment, then (i) the Customer will be charged a further administration fee of five pounds + VAT together with a fee for the submission of a further warning letter of five pounds + VAT, and (ii) a letter will be sent to the Customer requesting the discharge of the Customer's account in full, and/or for appropriate arrangements to be made with **Talk Warehouse** for the Customer's account to be discharged, which must be effected within 7 days from the date of the letter, failing which **Talk Warehouse** reserves the right to refer the Customer's outstanding account to **Talk Warehouse's** credit control department.
- 14.4.6 If the Customer's account remains unpaid for a period of 25 days after the original due date for payment a security deposit of three times the average monthly invoice or payment in full for the first year will be required before **Talk Warehouse** reinstates the Services.

- 14.4.7 If the Customer's account remains unpaid for a period of 32 days after the original due date for payment, the Services will then be terminated and the Customer's account will be referred to **Talk Warehouse's** credit control department for it to take the appropriate action to collect the outstanding sums.
- 14.4.8 If **Talk Warehouse** are required to instruct their solicitors or other professional advisers to collect any outstanding sums on the Customer's account, the Customer will be responsible for, and **Talk Warehouse** will look to the Customer to discharge, those costs that are incurred by **Talk Warehouse** in taking such action.
- 14.4.9 The Customer must ensure that the account holder's name is the same as the name on the payment details that are provided.
- 14.5 **Talk Warehouse** may amend the Charges at any time. **Talk Warehouse** will notify the Customer in writing at least 14 days before any increase in the Charges takes place. If the Customer does not accept the proposed increase in the Charges, the Customer must notify **Talk Warehouse** within 14 days of receipt of the notice of the proposed increase, otherwise the Customer will be deemed to have accepted the proposed increase.

15. The Customer's obligations

- 15.1 In order to use the Broadband Services, the Customer needs an existing telephone line and a personal computer of a minimum specification. The Customer must also ensure that compatible cables and extension leads are used to and from their telephone socket, modem and PC in order to use the Service. The Customer acknowledges that **Talk Warehouse** are dependent upon certain third parties to install and provide the Services to the Customer. The Customer also acknowledges that there may be technical limits that prevent **Talk Warehouse** from delivering an operational service to the Customer. **Talk Warehouse** will endeavour to provide the Services to the Customer at the access rate the Customer chooses but, due to congestion within the Network, the speed of service may be reduced at times.
- 15.2 The Customer may only connect (directly or indirectly) modems, phones, extension wiring, sockets or other equipment to the Network in a manner technically compatible with the Services, that does not breach any relevant legislation or telecommunications industry standards and by using a Main Telephone Socket that **Talk Warehouse** or the Network Operator have fitted unless the Parties agree otherwise.
- 15.3 The Equipment must only be used with the Network in a way that meets the Relevant Standards, is technically compatible with the Service and complies with the terms under which **Talk Warehouse** or the Network Operator was granted Authorisation. If the Equipment does not meet the Relevant Standards, the Customer must immediately disconnect it, or allow **Talk Warehouse** to do so at the Customer's expense. If the Customer asks **Talk Warehouse** to test the Equipment to make sure that it meets the Relevant Standards, the Customer must pay **Talk Warehouse** the applicable charges as set out in the Price List.
- 15.4 The Customer must ensure the Service is not used:

- (a) to an offensive, menacing, indecent, or nuisance manner;
- (b) fraudulently or in connection with any criminal offence;

In the event that the Customer uses the Service in breach of this clause 15.4, **Talk Warehouse** reserves the right to suspend the Service pursuant to clause 19. The Customer will fully reimburse **Talk Warehouse** in respect of any sums **Talk Warehouse** is obliged to pay to any third party, and any other costs incurred by **Talk Warehouse** (including without limitation properly incurred legal fees), as a result of the Customer's misuse of the Services in breach of this clause 15.4.

- 15.5 If you move premises within the UK, and let us know at least 7 days before you do so and **Talk Warehouse** will continue to provide the service, if **Talk Warehouse** are able to, at your new address. If **Talk Warehouse** are unable to provide the service at your new address, and you are still within your minimum period you will not have to pay a charge for ending the service within the minimum period. If **Talk Warehouse** continue the service at your new address, a new twelve-month minimum period will apply.
- 15.6 If the Customer currently receives services from an alternative supplier the Customer is responsible for any contractual agreement the Customer has with them and any liabilities the Customer may incur for terminating the Customer's current agreement.
- 15.7 If the Customer is migrating to the Service from a third party provider of an alternative broadband service, the Customer will need to obtain a Migration Authorisation Code ("MAC") from that service provider. This MAC will be valid for thirty (30) days from the date of issue and can only be used once. It is the Customer's responsibility to obtain this code and to ensure that the Customer provides it to **Talk Warehouse** in sufficient time to process the Customer's migration. **Talk Warehouse** will not be responsible for any delay, costs, expenses, loss or damage arising or incurred by the Customer through failure to connect the Customer to the Service.

16. Liability

- 16.1 **Talk Warehouse's** liability under this Agreement for a failure in provision of the Service or the Service itself is detailed in this clause 16.
- 16.2 **Talk Warehouse** does not exclude or limit its liability for death or personal injury resulting from its negligence, or for fraud.
- 16.3 Subject to clause 16.2, **Talk Warehouse** shall not be liable to the Customer for any indirect, special or consequential loss arising under this Agreement, including but not limited to loss of profit, business or revenue, loss of anticipated savings, wasted management time or any other loss, damage cost or expense arising out of any breach of this Agreement by **Talk Warehouse** which was not reasonably foreseeable.
- 16.4 **Talk Warehouse** cannot guarantee that the Service will operate Fault free as other third party companies may provide the Network. This is beyond **Talk Warehouse's** reasonable control and **Talk Warehouse** are not therefore liable for Faults due to these matters. However, **Talk Warehouse** accepts liability, as follows, subject to the limitations in clauses 16.3, 16.6 and 16.7: -

- (a) in respect of its failure to report a Fault which has been notified to **Talk Warehouse** by the Customer, to the Network Operator as soon as reasonably practicable; or
- (b) for any actual loss or damage suffered by the Customer which was reasonably foreseeable or unforeseeable.

For the avoidance of doubt **Talk Warehouse** shall not be liable for any delay in the repair of the Fault except to the extent that **Talk Warehouse** delays or fails to report the fault (as notified to **Talk Warehouse** by the Customer under clause 8) to the Network Operator as soon as reasonably practicable.

16.5 **Talk Warehouse** excludes all liability of any kind in respect of:

16.5.1 Customer Information, Third Party Content, Content and any other material on the internet which can be accessed using the Services and **Talk Warehouse** are not responsible in any way for any goods (including software) or services provided by third parties advertised, sold or otherwise made available by means of the Services or on the internet;

16.5.2 the accuracy, completeness or suitability for any purpose of any Content; and

16.5.3 the acts or omissions of other providers of telecommunications or internet services or for faults in or failures of their equipment; and

16.5.4 any temporary loss of the Customer's telephone line upon activation of the Service may cause.

16.6 Subject to clauses 16.2 and 16.3 above, **Talk Warehouse's** total liability to the Customer (in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) in respect of any loss or damage howsoever arising is limited to a total of £6,000 for each line affected and subject to an overall total of £25,000 per event or series of events.

16.7 Unless clause 16.2 applies, **Talk Warehouse's** liability to the Customer in contract, tort (including negligence) or otherwise in relation to this Agreement is limited to £1million in any 12 month period.

16.8 Except as set out expressly in this Agreement, all conditions, warranties, undertakings and obligations implied by statute, common law, custom, trade, usage or otherwise are excluded to the extent permissible in law.

16.9 Nothing in this clause 16 will exclude liability, which one Party would otherwise have to the other Party in respect of any statements made fraudulently.

16.10 The express terms of this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law.

16.11 **Talk Warehouse** does not accept liability for the acts or omissions of other providers of telecommunication services (including for the avoidance of doubt the Network Operator) unless such other providers have been specifically engaged by **Talk Warehouse** as subcontractors or assignees in respect of performing **Talk Warehouse's** obligations under this Agreement.

- 16.5 The Customer acknowledges that in providing the Services **Talk Warehouse** are not engaging in "investment business" (as defined in the Financial Services Act 1986 (FSA)) nor is any Content intended to be an "investment advertisement" for FSA purposes.
- 16.6 The Customer fully indemnifies and hold **Talk Warehouse** harmless against all claims and proceedings arising from infringement of any third party's Intellectual Property Rights by reason of the Customer's use or publication of the Customer Information, the Content or Third Party Content.

17 . Force Majeure

- 17.1 **Talk Warehouse** will not be liable for failure to comply with its obligations as set out in this Agreement due to matters beyond its reasonable control including but not limited to lightning, flood, or exceptionally severe weather, fire or explosion, terrorism, civil disorder, riot, war, or military operations, national or local emergency, anything done by government or other competent authority or industrial disputes of any kind or in respect of any acts or omissions of Ofcom or any other Public Electronic Communications Network Providers as defined in the Communications Act 2003.

18. Termination of this Agreement

- 18.1 **Talk Warehouse** or the Customer may terminate this Agreement at any time upon giving the other one-month's prior written notice of its intention to terminate this Agreement.
- 18.2 The Customer may terminate this Agreement by written notice to **Talk Warehouse**, if **Talk Warehouse** is in material breach of its terms and fails to remedy such breach within 30 days of receiving notice from the Customer requiring such breach to be remedied; or if the Customer does not accept any proposed increase in the Charges notified to it by **Talk Warehouse** pursuant to clause 14.5, provided that the Customer notifies **Talk Warehouse** of its intention to terminate this Agreement within 14 days of receiving notification of the proposed increase pursuant to clause 14.5.
- 18.3 If a Customer is a new customer or an existing customer who has entered into this Agreement over the telephone, the Customer may cancel this Agreement up to 10 working days after the date the Notification Letter was sent to the Customer. This does not affect the Customer's statutory rights.
- 18.4 This Agreement may be cancelled by a Customer at any time prior to the Switchover Date on giving written notice to **Talk Warehouse** or contacting **Talk Warehouse's** customer services. **Talk Warehouse** will inform the Customer of the Switchover Date by issuing a Notification Letter to the Customer.
- 18.5 In the event that the Customer terminates this Agreement prior to expiry of the Minimum Term, other than in respect of termination by the Customer pursuant to clauses 18.2, 18.3 and 18.4, the Customer shall pay the Early Termination Charges, calculated in accordance with clause 18.6.
- 18.6 The Early Termination Charges shall be, for each line that a Customer cancels:-

(a) the sum of the Charges payable by the Customer from the date of actual termination until the date of expiry of the Minimum Term; and

(b) an administration charge of £50.00 (Fifty pounds) plus VAT.

18.8 In the event that **Talk Warehouse** terminates this Agreement after the expiry of the Minimum Term, other than in respect of termination by **Talk Warehouse** pursuant to clauses 19(d), or 19(e), the Customer shall pay the Charges up to the end of the notice period.

18.9 In the event that the Customer terminates this Agreement after the expiry of the Minimum Term, other than in respect of termination by the Customer pursuant to clause 18.2, the Customer shall pay the Charges up to the end of the notice period in accordance with clause 18.1 or until 30 days from the date the notice is received by **Talk Warehouse** whichever is the later.

18.10 If this Agreement ends, **Talk Warehouse** will refund any money owed to the Customer, after first deducting any money the Customer owes to **Talk Warehouse** under this Agreement or any other agreement **Talk Warehouse** has with the Customer.

19. Suspension or termination of the Service for breach

19.1 **Talk Warehouse** reserves the right to suspend the Service or terminate this Agreement immediately at any time without giving the Customer prior notice, and without prejudice to **Talk Warehouse's** other rights and remedies, if:

(a) the Customer breaches this Agreement or any other agreement it has with **Talk Warehouse** and fails to remedy the breach within 14 days of **Talk Warehouse** notifying the Customer of such breach and requesting that such breach is remedied;

(b) **Talk Warehouse** believes that the Service is being used in breach of clauses 9, 11, 12, & 15.4 whether the Customer is aware of such misuse or not;

(c) the Customer, being an individual, partnership or firm has entered into any composition or arrangement with its creditors, has a petition presented by it or by any other person for its bankruptcy or has a bankruptcy order made against it; or, being a company, is subject to any winding up or administration proceedings, or in any event ceases, or threatens to cease to trade;

(d) **Talk Warehouse's** Authorisation (or the authorisation of any relevant third party telecommunications supplier or regulator) expires or is revoked or modified in any respect which materially or adversely affects **Talk Warehouse's** ability to provide the Services to the Customer; or

(e) if **Talk Warehouse** have to do so to comply with any order, instruction or request of any authorised government body or authority or any emergency service; or

(f) **Talk Warehouse** are directed by any competent authority to cease the provision of the Services or any part of it; or

- (g) any direct debit details submitted by the Customer for payment are found not to be or cease to be valid; or
- (h) the Customer's contract with **Talk Warehouse** or the Customer's telecom provider for its direct analogue exchange line is terminated; or
- (i) **Talk Warehouse's** contract with any third party who assists **Talk Warehouse's** in providing the Services to the Customer is terminated; or
- (j) **Talk Warehouse** becomes aware of any breach of third party Intellectual Property Rights caused by the Customer Information or the Third Party Content.

If **Talk Warehouse** suspends the Services in accordance with this clause 19.1, **Talk Warehouse** may, at any time following such suspension (and if the circumstance in Clause 19.1 remains) immediately terminate the Agreement.

19.2 If the Customer does not pay an invoice in accordance with clause 14.3, **Talk Warehouse** reserves the right to suspend the Service and will lift the suspension following full payment being made by the Customer to **Talk Warehouse**

19.3 If **Talk Warehouse** suspends the Service pursuant to this clause 19 (other than pursuant to clauses 19.1(d) and (e)), **Talk Warehouse** will not be obliged to recommence provision of the Service until the Customer does what it is obliged to do under and in accordance with the terms of this Agreement or satisfies **Talk Warehouse** that the Service will not be used in a way that is in breach of this Agreement.

19.4 The Customer is still liable to pay the Charges applicable to any period of suspension of the Service (other than in respect of a suspension pursuant to clauses 19.1 (d) or (e)).

19.5 In the event the Service is suspended by **Talk Warehouse** for reasons as set out in clause 19.1 (c) above, **Talk Warehouse** reserves the right to charge the Customer an administration fee of £5 plus vat payable by the Customer within 14 days of the Service being suspended by **Talk Warehouse**.

19.6 In the event the Service is recommenced, **Talk Warehouse** reserves the right to charge a reconnection fee of £5 plus VAT per affected line.

19.7 **Talk Warehouse** may suspend the Services including during scheduled periods of downtime where necessary for operational reasons such as repair, maintenance or improvement of the Services or because of an emergency. **Talk Warehouse** will restore the Services as soon as it reasonably can after suspension.

20. Validity

If any provision of this Agreement becomes invalid or unenforceable, the other provisions of this Agreement shall not be affected by such invalidity or unenforceability.

21. Disputes

21.1 If the Customer has a complaint or query regarding any aspect of the Service, the Customer should contact **Talk Warehouse's** customer services or write to **Talk Warehouse**.

21.2 If **Talk Warehouse** cannot resolve any dispute with the Customer after a 12 week period, either Party can refer the dispute to the Telecoms Ombudsman at www.otelo.org.uk or on 08450501614 or to Ofcom, the communications regulator at www.ofcom.org.uk or call Ofcom on 0845 456 3000 for resolution.

21.3 Nothing in this clause 21 will prevent either Party from:

(a) seeking injunctive relief in the case of any breach or threatened breach by the other Party;

(b) commencing any proceedings where this is reasonably necessary to avoid any loss of a claim due to the rules on limitation of actions; or

(c) commencing proceedings in the case of non-payment of the Charges.

22. Changing this Agreement

22.1 If the Customer asks **Talk Warehouse** to make any change or changes to the Service **Talk Warehouse** may ask the Customer to confirm its request in writing. If **Talk Warehouse** agrees to a change, this Agreement will be changed when **Talk Warehouse** confirms the change to the Customer in writing.

22.2 **Talk Warehouse** can change the conditions of this Agreement including its Charges at any time. **Talk Warehouse** will notify the Customer in writing at least 14 days before the Charges takes place.

23. Assignment

23.1 The Customer cannot assign or try to assign this Agreement or any part of it to a third party without **Talk Warehouse's** prior written consent.

24. Service Guarantee

24.1 **Talk Warehouse** Guarantees :

(a) to provide the Service by the date agreed with the Customer as described in clause 6.1;

(b) to report a Fault in line to the Network Operator as soon as reasonably practicable;

(c) not to disconnect the Service by mistake; and

(d) to keep any appointment **Talk Warehouse** makes with the Customer under this Agreement.

25. Codes of Practice

In response to Ofcom's publication of its "Statement and Notification on Protecting Citizen's and Consumers from Mis-selling of Fixed-Line Telecoms

Services" (the Ofcom Guidelines") which require all providers of fixed-line voice telephony services to maintain and follow a sales and marketing, and dispute resolution codes of practice in relation to Customer service, **Talk Warehouse** have produced a Sales and Marketing Code of Practice (incorporating the Dispute Resolution Code of Practice) to protect the Customer's rights in this area and a full copy of this is available on the Website.

26. Entire Agreement Clause

26.1 This Agreement constitutes the entire agreement between **Talk Warehouse** and the Customer and supersedes all prior negotiations, representations, proposals, understandings and agreements whether written or oral relating to the Services.

26.2 Each of the parties acknowledges and agrees that in entering into this Agreement, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement. Nothing in this clause shall, however, operate to limit or exclude any liability for fraudulent misrepresentation.

27. Third Party Rights

A person who is not a Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

28. Waiver

The failure or delay by either party to this Agreement to exercise or enforce any right, power or remedy under this Agreement shall not be deemed to operate as a waiver of any such right, power or remedy; nor shall any single or partial exercise by any party operate so as to bar the exercise or enforcement thereof or of any right, power or remedy on any later occasion.

29. Law and Jurisdiction

This Agreement or any term of this Agreement will be governed by English law and the English courts will have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement.