



THESE CONDITIONS (the "Conditions") APPLY TO YOUR PURCHASE AND USE OF THE PRODUCTS AND/OR SERVICES THAT ARE PURCHASED FROM Tpad123. ALL OF THE TERMS THAT ARE AGREED AND RELATE TO YOUR PURCHASE AND USE OF Tpad123 PRODUCTS AND/OR SERVICES ARE SET OUT IN THESE CONDITIONS, YOUR ORDER, THE ORDER CONFIRMATION, THE RELEVANT Tpad123 PRICE LIST AND TIME Tpad123 PRIVACY POLICY AND ACCEPTABLE USE POLICY FROM TIME TO TIME IN FORCE.

THESE CONDITIONS APPLY IN PREFERENCE TO AND SUPERCEDE ANY TERMS AND CONDITIONS REFERRED TO, OFFERED OR RELIED ON BY YOU WHETHER IN NEGOTIATION OR AT ANY STAGE IN THE DEALINGS BETWEEN US WITH REFERENCE TO THE SERVICES AND/OR GOODS WITH WHICH THIS CONTRACT IS CONCERNED. WITHOUT PREJUDICE TO THE GENERALITY OF THE FOREGOING, Tpad123 WILL NOT BE BOUND BY ANY STANDARD OR PRINTED TERMS TENDERED BY YOU UNLESS YOU SPECIFICALLY STATE IN WRITING, SEPARATELY FROM SUCH TERMS, THAT YOU WISH SUCH TERMS TO APPLY AND THIS HAS BEEN ACKNOWLEDGED BY Tpad123 IN WRITING SIGNED BY A DIRECTOR OF THE COMPANY.

1. Definitions and Interpretation

1.1 In these terms and conditions the following terms shall have the following meanings unless the context requires otherwise.

"**Agreement**" means the Order Confirmation, the Charges Schedule, the Rates Card these Conditions any schedules referred to in these Conditions.

"**Calls**" means signals, messages or communications that are silent, spoken or visual;

"**Call Allowance**" means call minutes that are included within the Customer's Subscription Charges as described and specified in the Order Confirmation;

"**Call Charges**" means the charges payable by the Customer to Tpad123 for calls made in excess of the Call Allowance (if any) charged in accordance with the Call Charges Schedule;

"**Charges**" means the Subscription Charges and the Call Charges; "Call Charges Schedule" means the schedule detailing Tpad123 call charges tariff and basis of charging from time to time in force as displayed on the Website at www.tpad123.com;

"**Call Profile**" means the agreed Call Profile (if any) provided the Customer or prepared by Tpad123 from information supplied by the Customer setting out the Customer's actual historic call profile of a stated period of time; "Commencement Date" means the date of the Order Confirmation;

"**Contract Year**" means a period of twelve (12) months from and including the Services Start Date and each consecutive twelve (12) month period thereafter;

"**Customer**" means the person, firm or company who purchases Equipment and/or Services from Time Telecom as stated in the Order Confirmation.

"**Customer Equipment**" means the Customer's equipment and software at the Premises (including any mobile handsets or equipment that is used by the Customer outside the Premises) operated together with any On-Site Equipment for the purposes of obtaining and/or receiving the Services;

"**Customer Number(s)**" means the customers inbound telephone numbers as stated on the Order Confirmation;

"**Customer Order**" means the order placed by the Customer for Equipment and/or Services;

"**Equipment**" means the equipment (excluding any software pre-installed on the equipment at the point of supply) to be purchased by the Customer from Tpad123 for use in conjunction with and to enable provision of the Services, as stated in the Order Confirmation;

"**Inclusive Subscription**" means a Subscription that is expressed on the Order Confirmation as being inclusive of Call Charges;

"**Initial Term**" means the period of time commencing on the Services Start Date and ending on the fifth anniversary of the Services Start Date or such other period as may be stated in the Order Confirmation (if any);

"**Internet Connection**" means a broadband or other suitable form of internet connection supplied by Tpad123 or the Customer's ISP to be used in conjunction with the Services;

"**ISP**" means internet service provider

"**Intellectual Property Rights**" means all patents, copyright, trademarks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

"**Legislation**" means all Acts of Parliament and statutory regulations, instruments or orders and regulatory guidelines and codes of practice and all applicable European Union laws, treaties, directives and other legislation as any of the same may be amended or replaced from time to time that are applicable to the sale and/or use of the Services and/or the Services Equipment;

"**On-Site Equipment**" means any Tpad123 equipment located at the Premises and supplied by Time Telecom as part of the Services, as specified in the Order Confirmation;

"**Order Confirmation**" means the written order confirmation issued by Tpad123 to the Customer detailing the Equipment and/or Services that Time Telecom has agreed to supply to the Customer together with the Charges;

"**Premises**" means the Customer's physical address (es) in the United Kingdom (as stated in the Order Confirmation) to which the Services are to be provided and at which the On-Site Equipment is to be installed;

"**Rate Card**" means the tariff card published by Tpad123 (available upon request) setting out call tariff charges;

"**Service Levels**" means the service levels that shall apply to the provision of the Services as set out Schedule A to these terms and conditions;

"**Services**" means the ability to make and receive Calls using the Tpad123 Platform and any related services specified in the Order Confirmation;

"**Services Equipment**" means Equipment, Onsite Equipment and, where the context so requires) Customer Equipment;

"**Services Start Date**" means the date specified in the Order Confirmation (if any) or the date on which Tpad123 certifies that the Services are available for use by the Customer, whichever is the later;

"**Services Software**" means the software supplied by Tpad123 to the Customer as part of or to be used in conjunction with the Services;

"**Service Change**" means a change to the number of users and/or facilities provided as part of the Services"

"**Standard Price List**" means Tpad123 price list for Services and Equipment as published by Tpad123 from time to time;

"**Subscription Charge(s)**" means the fixed monthly charge for the use of the Services and/or any On-Site Equipment as specified in the Order Confirmation;

"**System**" means the combination of Equipment, Onsite Equipment (if appropriate), Software and Services that facilitates the transmission of voice and data;

"**Software**" means any operating system or other software programmes installed on the Services Equipment by or on behalf of Tpad123 or used by the Customer in connection with the Service;

"**Support Services**" means the support and maintenance services to be provided by Tpad123 or its nominated provider as part of the Services;

"**Time Telecom**" means Supatel Limited (trading as Tpad123) a company incorporated in Cyprus under company number HE267725 whose registered office address is at STADYL Building, Corner Them. Dervis-Florinis Street, CY-1065 Nicosia, Cyprus.

"**Telephone Line**" means a telephone line enabled for a broadband or other suitable form of internet connection;

"**Time Telecom Platform**" means the virtual exchange that enables the transmission of incoming and outgoing VoIP Calls;

"**VAT**" means value added tax or such other tax or taxes as may be imposed in the European Union on the provision of goods and services from time to time charged at the prevailing rate;

"**Website**" means <http://www.tpad123.com>; and

"**Working Day**" means Monday to Friday 9.00am to 6.00pm except for bank and public holidays;

1.2 In these Conditions unless the context otherwise requires:

1.2.1 words used in the singular only shall include the plural where appropriate and vice versa, words denoting any gender shall include every gender and references to persons shall include bodies incorporated and unincorporated; and

1.2.2 references to any Clauses or Schedules are to the Clauses or Schedules of these Conditions; and

1.2.3 any headings are for convenience only and are not to be used as an aid to interpretation; and

1.2.4 reference to any Act of Parliament shall be deemed to include any amendment replacement or re-enactment thereof for the time being in force and to include any by-laws statutory instruments rules regulations notices directions consents or permissions made there under and any condition attaching thereto;

1.2.5 any undertaking by the Customer not to do any act or thing shall be deemed to include an undertaking that the Customer shall not to the extent possible permit or suffer the doing of that act or thing

1.2.6 The words "include" or "including" shall be deemed to be followed by the words "without limitation" or "but not limited to" whether or not they are followed by such words of like import;

1.2.7 All periods of time shall be based on and computed according to the Gregorian calendar

2. Application of Conditions

2.1 These conditions shall apply to the sale and supply of all goods and services by Tpad123 to the Customer and shall prevail over any inconsistent terms or conditions contained in or referred to in the



- Customer's purchase order, confirmation of order or implied by law, trade custom, practice or course of dealing.
- 2.2 No addition to, variation of, exclusion or attempted exclusion of any term of the Agreement shall be binding on Tpad123 unless in writing and signed by a Director of Tpad123.
- 3. Basis of Sale**
- 3.1 Any quotation or proposal provided by Tpad123 is valid for a period of 30 days only and is an indicative invitation to treat not an offer capable of acceptance by the Customer. Tpad123 may withdraw or vary Quotations at any time.
- 3.2 Each Customer Order or acceptance of a quotation for Services Equipment and Services by the Customer shall be deemed to be an offer by the Customer to Tpad123 subject to these Conditions.
- 3.3 A binding contract shall not come into existence between Tpad123 and the Customer until Tpad123 issues to the Customer an Order Confirmation signed by a director of Tpad123.
- 3.4 No Customer Order acknowledged by Tpad123 by the issuance of an Order Confirmation may be cancelled by the Customer, except as agreed in writing by Tpad123 and only then on the condition and provided that the Customer indemnifies Tpad123 in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by Tpad123 as a result of cancellation.
- 3.5 All drawings, specifications and advertising issued by Tpad123, and any descriptions or illustrations contained in Tpad123 brochures are issued for illustrative purposes only and do not form part of the Agreement.
- 3.6 Any typographical or other error or omission in any sales literature, quotation, price list, invoice or other document or information issued by Tpad123 shall be subject to correction without any liability on the part of Tpad123
- 3.7 The Customer acknowledges that the Tpad123 Platform and the Software will be developed from time to time and during the term of this Agreement to provide new and increased functionality and improvements to the Service. Tpad123 does not guarantee that future functionality and Service improvements will be available to or capable of use by the Customer.
- 3.8 If in Tpad123 reasonable opinion it is no longer commercially or technically viable for it to continue to operate and/or support the Tpad123 Platform and/or the Software used by the Customer to access the Service Tpad123 shall have the right to migrate the provision of the Service to an alternative Tpad123 Platform and/or make a new version of the Software available to the Customer provided that the functionality and performance of the Service is not adversely affected to a material extent. Tpad123 and the Customer agree that in the event of migration to an alternative Tpad123 Platform and/or the release of a new version of the Software the Initial Term shall be extended by a period of 3 years. Any additional costs associated with the new platform or Software shall be notified to and payable by the Customer.
- 3.9 Tpad123 reserves the right (but does not assume the obligation) to make any changes to the specification of the Onsite Equipment, Equipment and Services which are or may be required to conform to any applicable Legislation.
- 3.10 Where Tpad123 is not the manufacturer of the Equipment Tpad123 shall use reasonable endeavours' to transfer to or provide the Customer with the benefit of any warranty or guarantee given by the manufacturer to Tpad123.
- 3.11 The Customer acknowledges that due to advances in communications and/or technology the Onsite Equipment may become obsolete and/or redundant during the Initial Term and that it may not be possible for Tpad123 to maintain and/or support the Onsite Equipment beyond three years from the date of the Order Confirmation.
- 3.12 The Customer acknowledges that provision of the Services is subject to establishing and maintaining a minimum speed of internet connection at the Premises. Whilst Tpad123 is able to make certain preliminary enquiries to determine the anticipated speed, the actual speed of internet connection at the Premises cannot be ascertained until the connection is established and tested. Furthermore, connection speed is not constant and can be adversely affected by matters outside of Tpad123 reasonable control for which it is not liable. In the event that the actual speed of the Internet Connection is insufficient to allow provision of the Services to an acceptable standard and quality Tpad123 may terminate this Agreement forthwith by written notice unless the Customer is prepared to upgrade the Internet Connection at the Customer's cost (if possible).
- 3.13 The Customer acknowledges that Tpad123 is only obliged to supply the Services to the Premises.
- 3.14 Tpad123 employees, contractors and agents are not authorised to make any contractually binding representations concerning the Equipment and Services. In entering into this Agreement, the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which have not been confirmed in writing by an authorised officer of Tpad123. However, nothing in these Conditions limits Tpad123 liability for fraudulent misrepresentation.
- 3.15 Any advice or recommendation given by Tpad123 or its employees, contractors or agents to the Customer or its employees, contractors or agents about the storage, application or use of the Equipment and Services which is not confirmed in writing by a Director of Tpad123 is followed or acted on entirely at the Customer's own risk.
- 3.16 The Customer acknowledges the Services have limitations including the maximum number of permissible users. Whilst the Services are scalable in terms of, amongst other things, the number of users and functionality, the Customer acknowledges that upgrades to the Services may require additional bandwidth, configuration, software and/or hardware which in turn may impact upon the pricing of the Services and the minimum contract term. If the Customer wishes to vary or amend the Services, including the number of users and/or the functionality it may place an Order for the revised Services in accordance with these Conditions. Such Order shall constitute an offer by the Customer to purchase the revised services on these Conditions.
- 4. Commencement and Scope**
- 4.1 **Subject to the provisions relating to early termination, this Agreement shall come into effect on the date of the Commencement Date and shall continue until the end of the Initial Term unless terminated in accordance with these Conditions.**
- 4.2 In order for Tpad123 to provide the Service, the Customer must:
- 4.2.1 Provide Tpad123 with details of the Telephone Line;
- 4.2.2 Have a suitably enabled Internet Connection
- 4.3 The Customer acknowledges that use of their existing telephone numbers in conjunction with the Service may be subject to the consent or permission of a third party. Whilst Tpad123 may use its reasonable endeavours to ascertain the portability of telephone numbers the Customer's ability to port and use of existing numbers in conjunction with the Service cannot be guaranteed and Tpad123 shall not be responsible for any associated delays. In the event that telephone numbers cannot be ported for whatever reason the Customer acknowledges that they may have to change their existing telephone number(s) to use the Services and that the cost of doing so (if any) shall be borne solely by the Customer. For the avoidance the Services Start Date shall not be delayed by reason of any outstanding number porting unless expressly agreed by Time Telecom in writing.
- 5. Preparation of Premises**
- 5.1 In order to enable the installation, connection and configuration of any Services Equipment and generally making the Services available for use by the Customer, the Customer shall upon Tpad123 written request:
- 5.1.1 procure all consents necessary from landlords or other interested third parties for the carrying out of preparation work at the Premises;
- 5.1.2 provide site and building plans (to include full details of all internal cabling runs) of the Premises where deemed necessary by Tpad123 in order for Time Telecom to plan the installation of the On-Site Equipment and connection of the Services;
- 5.1.3 provide Tpad123 or its agents with full details of all other utility services within the Premises in the vicinity of the proposed works;
- 5.1.4 ensure that any unique or special conditions applicable to the Premises that may affect Tpad123 survey or the installation and maintenance of the Services are made known to Tpad123 or its agents at the detailed survey stage; and
- 5.1.5 prepare the Premises in accordance with any instructions notified in advance by Tpad123 or its agents and provide such assistance as Tpad123 or its agents may reasonably require for the purposes of carrying out the installation and connection of any On-Site Equipment, Equipment and/or the Services; and
- 5.1.6 Upon request promptly provide Time Telecom or its agents with access to all Customer Equipment.
- 5.2 The Customer shall promptly upon request supply any information and/or documentation relevant to the installation and/or connection of Services Equipment and/or establishing or connecting to an Internet Connection.
- 5.3 The Customer authorises Tpad123 or its authorised agents to enter the Premises for the purposes of preparing the Premises for the Services and to carry out the delivery and installation of any Services Equipment and any Internet Connection, to carry out any inspection, maintenance and/or repair or replacement or removal of Services Equipment (as appropriate) for any reason necessary for the connection, dis-connection and/ or maintenance of the Services.
- 5.4 The Customer shall advise Tpad123 or its agents in writing of all health and safety at work rules and regulations of all dangerous objects and substances and any other reasonable security requirements applicable at the Premises and Tpad123 shall use all reasonable efforts to observe and ensure that its employees and authorised representatives observe such regulations so advised while at the Premises provided that neither Tpad123 or its agents shall not be liable to the Customer if as a result of conforming with such regulations Tpad123 or its agents are in breach of their obligations under these Conditions.
- 5.5 The Customer shall at its own expense provide:
- 5.5.1 Such continuous supply of electrical current and connection sockets as may be required for the installation, operation and maintenance of any Onsite Equipment and the Services.
- 5.5.2 A Telephone Line;
- 5.5.3 An Internet Connection
- 5.5.4 Suitable and secure location for Onsite Equipment (if any).
- 5.5.5 An appropriate operating environment for all On-Site equipment in accordance with manufacturer's recommendations, which are available on request.
- 5.6 The Customer shall not move, add to, modify or interfere with or attempt to repair, or cause to be repaired or serviced by any person other than Tpad123 or its nominated agents or servants, any On-Site Equipment or Equipment.
- 5.7 The Customer shall only attach to any On-Site Equipment or Internet Connection such other equipment or apparatus with the prior written approval of Tpad123.
- 5.8 The Customer shall be responsible for making any notifications and obtaining any consents as may be required from any other service providers, network operators, maintainers, installers, ISP's or other relevant persons in connection with the preparation of the Premises, the installation of any On-Site Equipment or Service Line(s) at the Premises or the use of the Services.



5.9 The Customer is responsible for making the Premises good, after any work undertaken by Tpad123 or its authorized agents at the Premises, including putting items back and for re-decorating.

5.10 In the event of the Customer failing to discharge its obligations under clause 5 resulting in Tpad123 being prevented or delayed in the supply, installation or configuration of Services Equipment and/or Services the Customer shall be responsible for and shall promptly pay to Tpad123 upon demand an amount equal to any and all additional, wasted or abortive costs, expenses and/or charges incurred by Tpad123 or its contractors.

6. **Provision of the Service**

6.1 The Customer acknowledges that the installation and/or configuration of Services Equipment and or the initial provision of the Services may result in a temporary cessation or interruption to the Customer's Internet Connection and/or Telephone Line. Tpad123 shall endeavour to keep such loss or interruption to a minimum.

6.2 The Service will not work in the event of a power failure or any failure or material degradation of the Internet Connection.

6.3 Tpad123 shall provide the Service with reasonable skill and care of a competent telecommunications provider and aims to provide a continuous service to the Customer. The Customer acknowledges that it is impossible to provide a fault free service and that the Service may impair, or be impaired by, the uploading or downloading of data and/or the making or receiving of simultaneous Calls using the same Internet Connection, or by other circumstances beyond Tpad123 reasonable control.

6.4 Tpad123 provision of the Service and call quality is dependent upon the operation of third party telecommunications networks, including but not limited to the Internet Connection(s) and the operation of the Internet in general. Tpad123 will not be liable for any failure or delay in the Service or the Customer's inability to connect to or from the Tpad123 Platform caused by or arising from any problems, faults, delays or non-availability third party telecommunications networks, the Customer's Internet Connection or the Internet in general and/or the inability to obtain and maintain the minimum internet connection speed required to use the Service.

6.5 The Customer may only access the Service through the Software and On-site Equipment provided by Tpad123 or its approved suppliers and must not attempt to circumvent any security measures that are in place from time to time

6.6 From time to time Tpad123 may provide the Customer with instructions regarding the Service and its use. The Customer accepts and agrees that it must follow these instructions.

6.7 Tpad123 may temporarily suspend the Services for operational or technical reasons. Save in the case of emergency, Tpad123 shall endeavour to give the Customer as much notice of any suspensions as is reasonably possible.

6.8 Tpad123 may change the technical specification of the Services (provided that such changes do not materially affect the performance of the Services, where necessary for operational or technical reasons or in order to comply with statutory or regulatory requirements Emergency Calls

6.9 Due to the nature of the Service the Customer's ability to make 999 or 112 emergency calls cannot be guaranteed. If the Customer uses the Service to make emergency calls, the location information received by the emergency services will be limited to the installation address of the Telephone Line, which may not be the location from which the call originated. Emergency calls may fail if there is a power failure or Internet connection failure. Wherever possible alternative arrangements should be made by the Customer and it is the Customer's responsibility to make such appropriate arrangements as it considers necessary.

6.10 If the service is used to carry alarm signals, Tpad123 does not accept and denies any responsibility or liability for any failure to deliver an alarm signal due to, amongst other things (a) the non-availability of the Service for any reason (b) suspension or termination of the Service (c) any technical failure of the Tpad123 Platform or degradation of quality (d) non-availability of the Service and/or Tpad123 Platform due to planned or unplanned maintenance or testing or any other matter outside of Tpad123 reasonable control.

7. **Managing the Service**

7.1 Tpad123 shall endeavour to correct any reported fault as soon as reasonably practicable. In the event that the Customer enters into separate service level agreement, the Services shall be managed and maintained in accordance with such agreement.

7.2 Tpad123 shall not be responsible for any equipment, including but not limited to Customer Equipment that is used in conjunction with the Service that has not been supplied by Tpad123 or a supplier approved by Tpad123.

7.3 The Customer acknowledges that from time to time Tpad123 may connect to the On-site Equipment remotely for the purposes of monitoring the performance of the On-Site Equipment and/or the Services generally and the Customer gives its consent to the making of such connections.

8. **Equipment**

8.1 Any Services Equipment used in conjunction with the Services that is not supplied by Tpad123 is used entirely at the Customer's own risk.

8.2 It is the Customer's sole responsibility to ensure that any Customer Equipment connected to or used in conjunction with the Service must be:

8.2.1 Technically compatible with the Service and not harm the Tpad123 Platform or another customer's equipment or the On-Site Equipment; and

8.2.2 Connected and used in accordance with any relevant instructions, standards or applicable laws

8.3 The Customer shall ensure that any Personal Computer, data or other Customer Equipment used in connection with the Service is secure and protected from any risks (including but not limited to viruses) that may be associated with the use of the Internet.

9. **Title and Risk in Equipment and Onsite Equipment**

Equipment

9.1 Tpad123 approved suppliers will supply equipment specified by Tpad123 directly to the Customer.

9.2 In the event that Tpad123 supplies equipment directly to the Customer risk in Equipment shall pass to the Customer at the time of delivery.

9.3 Title to Equipment shall pass to the Customer on the later of delivery or when Tpad123 has received in cleared funds all sums due to it in respect of the Equipment and all other sums which are or which become due to Tpad123 from the Customer on any account save for charges that are or a recurring nature.

9.4 Until ownership of the Equipment has passed to the Customer in accordance with clause 9.3, the Customer shall:

9.4.1 hold the Equipment on a fiduciary basis as Tpad123 bailee;

9.4.2 store the Equipment (at no cost to Tpad123) separately from all the Customer's other equipment or any third party so that it remains readily identifiable as Tpad123 property;

9.4.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Equipment; and

9.4.4 keep the Equipment insured on Tpad123 behalf for its full price against all risks and hold the proceeds of such insurance on trust for Tpad123 and not mix them with any other money, nor pay the proceeds into an overdrawn bank account

9.4.5 not to sell, lease, charge, assign by way of security or otherwise deal in or encumber the Equipment in any way.

9.5 The Customer's right to possession of the Equipment before ownership has passed to it shall terminate immediately the Customer is in breach of clause 9.4 or if the Customer fails to make any payment to Time Telecom on the due date.

9.6 For the avoidance of doubt title in any software supplied to the Customer shall at all times remain vested in Time Telecom or its partners and shall not pass to the Customer under any circumstances.

Onsite Equipment

9.7 Risk in the Onsite Equipment shall pass to the Customer at the time of delivery.

9.8 The Customer shall be responsible for the safe keeping of any On-Site Equipment at the Premises, and for maintaining the necessary environmental and other conditions for any On-Site Equipment as may be specified by Tpad123 from time to time.

9.9 The Customer undertakes that it shall not move or cause to be moved the Onsite Equipment from the Premises without the prior written consent of Time Telecom and shall provide Tpad123 with unfettered access to the Onsite Equipment at all times

9.10 Title in any and all On-Site Equipment shall remain vested in Tpad123 or the Tpad123 approved supplier at all times and shall not pass to the Customer.

9.11 The Customer undertakes:

9.11.1 not to sell, lease, charge, assign by way of security or otherwise deal in or encumber in any way the On-Site Equipment;

9.11.2 not destroy, deface or obscure any identifying mark, label or sticker relating to the Onsite Equipment or Tpad123 ownership of the same;

9.11.3 Upon being given not less than two (2) Working Days notice to give Tpad123 or its nominated agents access to Onsite Equipment for the purposes of attaching an identifying mark, label or sticker to denote Tpad123 ownership of such Onsite Equipment

9.11.4 to keep the Onsite Equipment insured with a reputable insurer on Tpad123 behalf for its full value (as may be stipulated by Toad) against all risks, including but not limited to theft, fire, flood, water damage from burst pipes and accidental damage.

9.11.5 Upon Tpad123 written request to:

(a) provide Tpad123 with a copy of the such insurance policy affected in accordance with clause 9.11.4 together evidence of premium payment; and

(b) note Tpad123 interests on such policy of insurance

9.11.6 to promptly notify Tpad123 in the event of any loss or damage to Onsite Equipment and to diligently pursue any claims under the aforementioned insurance policy and to hold the proceeds of such insurance on trust for Tpad123 or the Tpad123 approved supplier and not mix them with any other money, nor pay the proceeds into an overdrawn bank account and to promptly pay the same to Tpad123.

9.12 The Customer acknowledges and agrees that save where caused by Tpad123 the Customer shall be responsible for any loss of or damage to Onsite Equipment however so caused. In the event of loss or damage to the Onsite Equipment the Customer shall promptly pay to Tpad123 an amount equal to the cost of repairing and/or replacing the Onsite Equipment (as appropriate). In the event of replacement the cost of the Onsite Equipment shall be determined by reference to Tpad123 published price list prevailing on the date of the Order Confirmation.



- 9.13 Both in relation to Equipment and Onsite Equipment the Customer grants Tpad123, its agents and employees an irrevocable licence at any time to enter any premises where the Services Equipment is or may be stored in order to inspect it, or where the Customer's right to possession has terminated, to remove it. All costs incurred by Tpad123 in repossessing the Services Equipment shall be borne by the Customer on an indemnity basis and paid on demand.
- 10 Delivery of Services Equipment and Services and Acceptance**
- 10.1 Tpad123 shall use reasonable endeavours to deliver or procure the delivery of the Services Equipment and Services on Services Start Date specified in the Order Confirmation but such date(s) is approximate only. If no Services Start Date such dates are so specified in the Order Confirmation delivery shall take place within a reasonable time of the date of the Order Confirmation. Tpad123 shall not be of the essence as to the delivery of Services Equipment and/or Services and Tpad123 shall not be liable for any delay in delivery however caused. Under no circumstances shall Tpad123 be liable for any delay in the provision of the Services arising from delay, default or neglect of any third party including but not limited to the provision of an Internet Connection or Service Line of any other matter outside of Tpad123 reasonable control.
- 10.2 The Services Equipment and Services may be delivered in advance of the quoted delivery date on giving reasonable notice to the Customer.
- 10.3 Delivery shall be made during normal business hours (excluding bank or public holidays). Additional charges may be levied for any deliveries made outside such hours at the Customer's request.
- 10.4 The Customer shall be responsible (at the Customer's cost) for preparing the delivery location for the delivery of the Services Equipment and Services and for the provision of all necessary access and facilities reasonably required to deliver and install the Services Equipment and Services. If Tpad123 is prevented from carrying out delivery or installation on the specified date because no such preparation has been carried out, Tpad123 may levy additional charges to recover its loss arising from this event.
- 10.5 The Customer shall be deemed to have accepted Equipment when the Customer has had 7 days to inspect the Equipment.
- 11 Use of Services**
- 11.1 The Customer agrees that it shall not and shall not permit others to use the Service:
- 11.1.1 To make offensive, indecent, threatening, harassing, menacing, abusive, annoying, nuisance or hoax calls or communications; or
- 11.1.2 Fraudulently or in connection with a criminal offence; or
- 11.1.3 To send or knowing receive, upload, download or use any material which is offensive, abusive, indecent, defamatory, obscene or menacing; or
- 11.1.4 to cause annoyance, inconvenience or needless anxiety;
- 11.1.5 to spam or to send or provide unsolicited advertising or promotional material or, knowingly to receive responses to any spam, unsolicited advertising or promotional material sent or provided by any third party;
- 11.1.6 in an unlawful manner, in contravention of any legislation, laws, licence or third party rights of any kind; or
- 11.1.7 In any way which contravenes reasonable instructions or guidance that may be issued by Tpad123 from time to time in writing; or
- 11.1.8 To re-sell or supply the Services to any third party; or
- 11.1.9 In any way that contravenes Tpad123 acceptable use policy from time to time in force.
- 12 Software Licence**
- 12.1 If the Customer is provided with any software licence regarding the Software (or any update to the Software or any replacement of the same) the Customer shall sign and return it to Tpad123 within 7 days of installation of the software, unless the licence has been supplied on a "shrink-wrap" or "click-wrap" basis
- 12.2 If no software licence has been provided to the Customer, the Customer hereby accepts a non-exclusive, non-transferable licence to use the Software for the duration of this Agreement on the following conditions:
- 12.2.1 the Customer shall not copy (except as permitted under applicable law or for normal operation of the Services Equipment), reproduce, adapt, or modify the software, nor communicate it to any third party, without Tpad123 prior written consent;
- 12.2.2 the Customer shall not use the Software on any equipment other than the Services Equipment, and shall not remove or adapt with any copyright notice or logo which appears in or on the Software;
- 12.2.3 such licence shall be terminable by either party 28 days' written notice, provided that Tpad123 terminates only if the continued use or possession of the Software by the Customer infringes the developer's or a third party's rights, or Tpad123 is compelled to do so by law, or if the Customer has failed to comply with any term of the Contract; and
- 12.2.4 on or before the expiry of this licence, the Customer shall return to Tpad123 all copies of the Software in its possession.
- 12.3 The Customer acknowledges and agrees that Software updates and/or new versions of the Software may provide increased functionality and/or improved performance and may be subject to the payment of a licence fees which, by using the Software, the Customer agrees to pay in addition to the Charges set out in the Order Confirmation.
- 13 Charges Deposits and Payments**
- 13.1 All charges and prices are exclusive of delivery, installation, packaging, carriage, insurance, VAT and other charges, duties and taxes as may be levied from time to time
- 13.2 The Charges and the price(s) for Equipment (if any) shall be as stated in the Order Confirmation and are subject to variation or change in accordance with these Conditions.
- 13.3 Tpad123 reserves the right, by giving notice to the Customer at any time before delivery, to increase the price of the Equipment and/or the Services to reflect any increase in the cost to Tpad123 which is due to any factor beyond the control of T pad123 (including change in Legislation, material increase in the costs of labour or materials), any change in delivery dates, any matters revealed quantities or specifications for the Equipment and/or Services which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give Tpad123 adequate information or instructions.
- 13.4 Call Charges shall be calculated using details recorded by Tpad123, which shall be binding upon the Customer save in the event of demonstrable manifest error. The Customer shall be responsible for all Call Charges resulting from the use of the Services regardless of whether Calls are authorised by or made with the knowledge of the Customer.
- 13.5 Call Charges are subject to change from time to time and shall be charged in accordance with the Rate Card specified in the Order Confirmation prevailing at the time the Call is connected using the Tpad123 Platform.
- 13.6 Tpad123 shall post the current Rate Card on the Website
- 13.7 Tpad123 reserves the right to vary the Charges at anytime, provided that should Tpad123 seek to increase the Charges (other than to reflect increased charges to Tpad123 by third party telecommunications providers over whose networks Calls may be routed) by on average more than 10% in any twelve month period the Customer shall have the right to terminate this Agreement upon 30 days written notice to Tpad123 provided that such notice is served within 30 days of such price increase.
- 13.8 The Customer acknowledges that Inclusive Subscription Charges (if any) are based on the Customer's historic call profiles derived from information supplied by the Customer, including telephone bills, prior to the issuance of the Order Confirmation as set out in the Call Profile. The Customer further acknowledges that Tpad123 has relied on that information in good faith when agreeing to the Inclusive Subscription Charge. In the event that Calls or a particular type (local, national, international or mobile) in any one month period exceed by ten percent or more the level set out in the Call Profile for the corresponding month ("the Limit") Tpad123 shall have the right to charge for all calls made in excess of Limit in accordance with and at the call tariffs set out in its standard rate card as applicable from time to time.
- 13.9 Tpad123 shall have the right in certain circumstances to require the Customer to pay a deposit, a guarantee or such other form of acceptable security for payment of future charges. Such circumstances shall include but are not limited to payment delinquencies, any change in the financial standing of the Customer that Tpad123 reasonably considers to be material and/or material changes in call volumes. In the event that Tpad123 in its absolute discretion exercises this right the required security shall be for an amount not exceed three months Charges and Subscription Charges as estimated by Tpad123 acting reasonably.
- 13.10 Subject to any special terms agreed in writing between the Customer and Tpad123, Tpad123 may invoice the Customer:
- 13.10.1 For the price of any Equipment on or at any time after delivery of the Equipment unless the Equipment is to be collected by the Customer or the Customer wrongfully fails to take delivery of the Equipment and in either case Tpad123 shall be entitled to invoice the Customer for the price at any time after Tpad123 has notified the Customer that the Equipment is ready for collection; and
- 13.10.2 For the Charges at such frequency as may be stipulated in the Order Confirmation and in default, monthly in advance in respect of Subscription Charges and monthly in arrears in respect of Call Charges (if any).
- 13.11 All Charges shall be paid by direct debit. Cancellation of a direct debit instruction shall entitle Tpad123 to suspend and/or terminate the Agreement without notice. Without prejudice to the foregoing, if the Customer makes payment other than by direct debit additional administration fees will apply.
- 13.12 Time for payment shall be of the essence.
- 13.13 Tpad123 reserves the right to use a collection agent for the purposes of collecting all payments due under these Conditions. The Customer agrees that it shall, upon Time Telecom's written request, promptly make payments to Time Telecom's nominated collection agent. All payments made to Time Telecom's nominated collection agent shall be treated as payments to Tpad123.
- 13.14 All payments shall be made in full and without set off of any kind.
- 14 Late Payment provisions**
- 14.1 If the Customer fails to make payment in full on the due date of any Charges or the price of any Equipment then outstanding shall become immediately due and payable and, without prejudice to any other right or remedy available to it, Tpad123 may:
- 14.1.1 terminate the Contract or suspend any further deliveries of Equipment and Services (whether ordered under the same contract or not) to the Customer;
- 14.1.2 appropriate any payment made by the Customer to such of the Equipment and Services (or the Equipment and Services supplied under any other contract between the Customer and Tpad123) as it thinks fit;
- 14.1.3 charge and administration fee of £50 or interest on the amount outstanding from the due date to the date of receipt by Tpad123 (whether or not after judgment) at the annual rate of



2% per annum above the base lending rate from time to time of HSBC Bank plc accruing on a daily basis until payment is made whether before or after any judgment, whichever is the higher. Tpad123 reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998 in lieu of the contractual interest rate referred to above;

- 14.1.4 withdraw any special pricing or discount previously applied to the Charges in question and raise a further invoice for the difference between Tpad123 standard pricing (as set out in the Standard Price List) and the discounted or special pricing which shall be immediately due and payable;
- 14.1.5 Suspend the provision of the Services without any liability to the Customer;
- 14.1.6 Suspend all further delivery, installation or maintenance services until payment has been made in full.
- 14.1.7 make a storage charge for any undelivered Equipment at its current rates from time to time;
- 14.1.8 stop any Equipment and Services in transit; and
- 14.1.9 exercise a general lien on all Equipment and property belonging to the Customer, exercisable in respect of all sums lawfully due from the Customer to Tpad123. Tpad123 shall be entitled, on the expiry of 14 days' notice in writing to from the Customer's Premises or from any location where Equipment is located and dispose of the same in such manner and at such price as Tpad123 in its absolute discretion thinks fit and to apply the proceeds firstly towards the costs of removal and sale and secondly towards the amount outstanding.
- 14.1.10 Require the Customer to make all future payments by Direct Debit.
- 14.1.11 Without prejudice to any other rights it may have, set off any liability of the Customer to Tpad123 against any liability of Tpad123 to the Customer.

15. Equipment Warranty

- 15.1 Tpad123 warrants to the Customer that the Equipment shall be free from defects in workmanship and materials for a period of 12 months from the date of supply. Tpad123 undertakes (subject to the remainder of this condition 15), at its option, to repair or replace Equipment (other than consumables) which is found to be defective as a result of faulty materials or workmanship within 12 months of delivery and installation.
- 15.2 Tpad123 shall not be liable for a breach of the warranty contained in condition 15.1 unless:
 - 15.2.1 the Customer gives written notice of the defect to Tpad123 within 7 days of the time when the Customer discovers or ought to have discovered the defect; and
 - 15.2.2 After receiving the notice, Tpad123 is given a reasonable opportunity of examining such Equipment and the Customer (if asked to do so by Time Telecom) returns such Equipment to Time Telecom's place of business at Tpad123 cost for the examination to take place there.
- 15.3 Tpad123 shall not be liable for a breach of the warranty in condition 15.1 if:
 - 15.3.1 the Customer makes any use of Equipment in respect of which it has given written notice under condition 15.2.1; or
 - 15.3.2 the defect arises because the Customer failed to follow Tpad123 oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Equipment or (if there are none) good trade practice; or
 - 15.3.3 The Customer operates, uses or locates in an environment other than in accordance with the manufacturer's instructions
 - 15.3.4 the Customer alters or repairs the relevant Equipment without the written consent of Tpad123.
- 15.4 Any repaired or replacement Equipment shall be under warranty for the unexpired portion of the 12 month period.
- 15.5 Tpad123 shall not be liable for any damage or defect to the Equipment and Services caused by improper use of the Equipment and Services or use outside its normal application or any failure by the Customer to adhere to any follow any instructions communicated to the Customer by Tpad123.
- 16. Service Levels – Services and Onsite Equipment The Service Levels applicable to the Services and the Onsite Equipment (which form part of these Conditions) are set out in Schedule A of these Conditions

17. Cancellation and Termination

- 17.1 This Agreement shall continue for the Initial Term. Upon the expiry of the Initial Term this Agreement shall automatically renew for subsequent periods equal to the length of the Initial Term (each period hereinafter referred to as a "Subsequent Term") unless cancelled in writing by either party not less than 12 months prior to the expiry Initial Term or any Subsequent Term.
- 17.2 At its sole option Tpad123 may immediately suspend the provision of Services (without any liability to the Customer and without prejudice to its other rights) or terminate this Agreement forthwith if:
 - 17.2.1 The Customer fails to make payment of any sums due under this Agreement or any connected agreement
 - 17.2.2 The ability of the Customer to accept delivery of Services Equipment and/or Services is delayed or prevented by circumstances beyond the Customer's reasonable control; or
 - 17.2.3 An order is made or a resolution is passed for the winding up of the Customer, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to the Customer; or
 - 17.2.4 An order is made for the appointment of an administrator to manage the affairs, business and property of the Customer, or documents are filed with a court for the appointment of an administrator of the Customer, or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or

- 17.2.5 a receiver is appointed of any of the Customer's assets or undertaking, or if circumstances arise which entitle a court or a creditor to appoint a receiver or manager of the Customer, or if any other person takes possession of or sells the Customer's assets; or
- 17.2.6 The Customer makes any arrangement or composition with its creditors, or makes an application to a court for the protection of its creditors in any way, or becomes bankrupt; or
- 17.2.7 In Tpad123 reasonable opinion any of the events referred to in clauses 17.2.3 to 17.2.6 is threatened or is likely to occur in the foreseeable future.
- 17.2.8 Time Telecom is prevented from supplying the Services or the Services Equipment by law or such other matters that are beyond Tpad123 reasonable control; or
- 17.2.9 Tpad123 is obliged to comply with an order, instruction or request of Government, an emergency services organisation, or other competent administrative authority; or
- 17.2.10 Any authorisation or consent required by either party or their suppliers to connect to or use or provide the Services expires or is terminated or is withdrawn without replacement; or
- 17.2.11 The Customer breaches clause 11 or in all the circumstances Tpad123 (acting reasonably) has reason to believe that the Services are being used in a manner which would or might breach the provisions of clause 11; or
- 17.2.12 The Customer commits any material breach of any term of these Conditions and which (in the case of a breach capable of being remedied) shall not have been remedied within 21 days of a written request to remedy the same;
- 17.3 The Customer may terminate this Agreement if:
 - 17.3.1 Time Telecom commits any material breach of any term of these Conditions and which (in the case of a breach capable of being remedied) shall not have been remedied within 60 days of a written request to remedy the same; or
 - 17.3.2 If an order is made or a resolution is passed for the winding up of Tpad123 (other than voluntarily for the purpose of solvent amalgamation or reconstruction)

- 17.4 In circumstances where Tpad123 suspends the provision of the Services by reason of the Customer's breach of this Agreement Tpad123 shall be entitled to charge a disconnection fee and, where Tpad123 agrees to re-commence the provision of the Services, a re-connection fee at the rate from time to time in force.

18 Effect of Termination

- 18.1 Upon termination of this Agreement (howsoever caused) the Customer shall:
 - 18.1.1 cease to use the Services and pay Tpad123 all outstanding amounts accrued or due (including, without limitation, all Charges) in connection with this Agreement together with any and all prevailing and applicable charges for disconnecting the Services in force at the time; and
 - 18.1.2 Immediately deliver up to Tpad123 or its authorised agents and make available for collection at the Premise(s) all Onsite Equipment any and Equipment which has not been paid for in full
- 18.2 If this Agreement is terminated earlier than the expiry of the Initial Term or any Successive Term in accordance with clause 17.2 or by the Customer other than in accordance with clause 17.3, the Customer shall pay to Tpad123 a termination payment ("Termination Payment"). The amount of this Termination Payment will be an amount equal to the remaining number of months of the Initial Term/Successive Term multiplied by the average monthly charges in the preceding 6 months less five percent (5%), which the Customer agrees is a genuine pre-estimate of Tpad123 losses arising from the early termination of this Agreement.
- 18.3 Any termination of this Agreement in accordance with clause 17 or otherwise shall (unless where stated to the contrary) be without prejudice to any other rights or remedies a party may be entitled to under this Agreement or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.

19 Limitation of Liability

- 19.1 Nothing in this Agreement shall limit either party's liability for fraud, or for death or personal injury resulting from its own negligence or that of its employees, subcontractors or agents.
- 19.2 The parties accept liability for direct physical damage to the other party's tangible property resulting from its or its employees' negligence up to an aggregate of £2,000,000 (two million pounds).
- 19.3 Except as expressly set out in this Agreement all conditions, warranties, terms, undertakings and obligations express or implied by statute (including, without limitation, those of satisfactory quality or of fitness for a particular purpose (even if that purpose is made known expressly or by implication to Time Telecom), common law, custom, trade usage or otherwise and all liabilities (if any) of Time Telecom in respect of the same wholly are excluded to the maximum extent permitted by Law.
- 19.4 Neither party will in any circumstances be liable to the other in contract, tort (including negligence) or otherwise for any loss of business; loss of data; loss of profits; loss of goodwill; loss of anticipated savings even when advised of the possibility; loss of revenue or; any indirect or consequential losses, liabilities or costs.
- 19.5 Other than in respect of clause 19.1 and 19.2 and subject to clause 19.4 and 19.7, each party's maximum aggregate liability in contract, tort, negligence or otherwise arising out of or in connection with this Agreement, will in respect of any and all acts, omissions, defaults or events occurring in a Contract Year be limited in aggregate to the lesser of: 19.5.1 £500,000; or 19.5.2 the value of the Charges paid by the Customer in the preceding Contract Year ("Liability Sum").
- 19.6 In the event that 12 months has not accrued from the Service Start Date, the Liability Sum will be calculated by calculating the monthly average Charges incurred over the relevant period and multiplying it by 12.
- 19.7 The Customer's sole remedy for the non-performance or non-availability of the Services shall be the payment of service credits calculated in accordance with clause 16.



20 Force Majeure

Tpad123 shall not be liable to the Customer for any failure to perform its obligations if prevented from doing so by an event beyond Tpad123 reasonable control (which may include, without limitation, strikes; labour disputes; acts of God; war; riot; civil action; malicious acts or damage; compliance with any law, governmental or regulatory order, rule, regulation or direction; virus or other harmful components; any act or omission of any government or other competent authority; accident; equipment or services failure, including the unavailability of third party telecommunications services, lines or other equipment; fire; flood or storm).

Intellectual Property

- 20.1 Any software contained in any Onsite Equipment or Equipment or provided by Tpad123 in connection with any Service Line(s) or generally in connection with the provision of the Services is the property of Tpad123 or its licensor and the Customer is granted a non-exclusive, non-transferable right to use such software for the purpose of accessing the Service only. The Customer shall not make any modifications to such software. For the avoidance of doubt such licence shall terminate immediately on termination of this Agreement for whatever reason.
- 20.2 Any documentation provided by Tpad123 to the Customer hereunder in connection with the Services (other than marketing brochures, pamphlets or other literature) is the property of Tpad123 or its licensor and is confidential to Tpad123 or such licensor and shall not be copied or disclosed by the Customer to any third party (except as may be strictly necessary to comply with the terms of this Agreement) without the prior written consent of Tpad123 or its licensor.
- 20.3 Tpad123 shall indemnify the Customer against any claim by a third party that the Customer's use of any software described in Clause 21.1, constitutes the infringement of any third party's intellectual property rights enforceable in the United Kingdom provided that the Customer shall:
 - 20.3.1 notify Tpad123 immediately it becomes aware of any such infringement or alleged infringement;
 - 20.3.2 allow Tpad123 to conduct all negotiations and proceedings in respect of such allegation; 20.3.3 make no admission or statement to such third party without the consent of Time Telecom; and 20.3.4 Provide all reasonable assistance to Tpad123 in conducting or settling any such claim. 20.3.5 Tpad123 may in settling any such claim, alter or modify the software so as to avoid infringement or replace the same with a non-infringing replacement, provided that the quality of the Services shall not be substantially degraded.
- 20.4 The above indemnity does not apply to any infringement of a third party's intellectual property rights resulting from any modification to any software made by the Customer without the consent of Tpad123, or the use of any software in combination with any other equipment, or software not supplied by Time Telecom, or modifications to the any software made at the request of, and to the design of, the Customer. The Customer indemnifies Tpad123 against any loss, liability, damages or expenses arising out of any claim brought against Time Telecom in respect of any infringement of a third party's intellectual property rights in the manner described in this clause 21.4.
- 20.5 The Customer acknowledges that all Intellectual Property Rights used by or subsisting in the Services Equipment and Services are and shall remain the sole property of Tpad123 or (as the case may be) third party rights, owner.
- 20.6 Tpad123 shall retain the property and copyright in all documents supplied to the Customer in connection with the Contract.
- 20.7 Tpad123 Intellectual Property Rights in and relating to the Services Equipment and Services shall remain the exclusive property of Tpad123, and the Customer shall not at any time make any unauthorised use of such Intellectual Property Rights, nor authorise or permit any of its agents or contractors or any other person to do so.
- 20.8 In relation to the Software:
 - A. The Customer acknowledges that it is buying only the media on which the software is recorded and the accompanying user manuals;
 - B. nothing contained in these conditions shall be construed as an assignment of any Intellectual Property Rights in the Software or user manuals; and
 - C. the Customer shall be subject to the rights and restrictions imposed by the owner of the Intellectual Property Rights in the Software and user manuals, and shall comply with all licence agreements, terms of use and registration requirements relating to them.
- 22. Confidentiality of Supplier's Property
 - 22.1 The Customer shall keep in strict confidence all technical or commercial knowhow, specifications, inventions or processes which are of a confidential nature and have been disclosed to the Customer by Tpad123 or its agents, and any other confidential

information concerning Tpad123 business or its products which the Customer may obtain. The Customer shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Customer's obligations to Time Tpad123, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Customer.

22.2 All materials, equipment, drawings, specifications and data supplied by Tpad123 to the Customer shall at all times be and remain the exclusive property of Tpad123 and shall not be disposed of or used other than in accordance with Tpad123 written instructions or authorisation.

22.3 This condition 22 shall survive termination of the Contract, however arising.

23. Variation

- 23.1 Save as provided for by these Conditions, this Agreement may only be varied in writing signed by Tpad123 and the Customer.
- 23.2 Tpad123 shall be entitled to amend these Conditions from time to time to reflect changes in Legislation or commercial, administrative or accounting practices by giving notice in writing to the Customer. Any such variations shall take effect 7 days from the date upon which the Customer is notified of the changes in writing or is supplied with a copy of the new conditions.
- 23.3 In the event it is agreed that Tpad123 shall supply additional Services Equipment and/or Services (including but not limited to additional functionality, capacity and/or Services Equipment) unless agreed in writing to the contrary the supply and/or provision of such additional Services Equipment and/or Services shall be on the basis of a new Initial Term commencing on the date of the Order Confirmation relating to such additional Services Equipment and/or Services.

24. General

- 24.1 A waiver of any right under the Contract is only effective if it is in writing and signed by or on behalf of the waiving party, and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.
- 24.2 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.
- 24.3 If any provision of these Conditions (or part of a provision) is found by any court or administrative body to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 24.4 The Customer acknowledges and agrees that in entering into the Contract subject to these Conditions it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this agreement or not) relating to the subject matter of this agreement other than as expressly set out in this these Conditions and/or the Order Confirmation.
- 24.5 The Customer shall not, without the prior written consent of Tpad123, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 24.6 Tpad123 may at any time assign, transfer, novate, charge; sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement and the Customer agrees that upon the written request of Tpad123 it shall enter into a novation agreement.
- 24.7 This Agreement is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns and is not intended to benefit or be enforceable by anyone else.
- 24.8 Any notice required to be given pursuant to this agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the address of the party as set out in these conditions or such other address as may be notified by one party to the other. A notice delivered by hand is deemed to have been received when delivered (or, if delivery is not in business hours, 9.00 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.
- 24.9 Notwithstanding that Tpad123 is not resident in the United Kingdom and this contract is concluded outside the United Kingdom, this Agreement and any disputes or claims arising out of or in connection with its subject matter are governed by and construed in accordance with the law of England.
- 24.10 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement.

Appendix A – Service Level Agreement