



Fixed Telephone Systems Terms and Conditions

BACKGROUND

The parties have agreed that PMGC will supply the Equipment and the Service (both as defined below) and that the Customer will pay for and use the Equipment and Service in accordance with the terms and conditions of this Agreement.

AGREED TERMS

1. DEFINITIONS

1.1 In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

- “Agreement”** means these terms and conditions and the relevant Particulars for the supply of the Service and Equipment by PMGC to the Customer;
- “Call Charge”** means the charges payable by the Customer for telephone calls made using the Service;
- “Connection(s)”** means the number of connections originally set out in the Particulars or as added thereafter within the Initial Term.
- “Equipment”** means the Equipment specified in the Particulars;
- “Equipment Charge”** means the cost of the Equipment payable by the Customer specified in the Particulars;
- “Line Rental Charge”** means the periodic rental charges specified in the Particulars;
- “Minimum Period”** means [INSERT DEFINITION] as set out in the Particulars
- “Particulars”** means the details of the Customer’s order set out in a PMGC order form signed on behalf of the Customer and PMGC;
- “Service”** means the telephony service specified in the Particulars.
- “PMGC”** means PMGC Technology Group Limited means us and any of our Affiliates.

1.2 Clause headings shall not affect the interpretation of this Agreement;

1.3 Words in the singular include the plural and vice versa. A reference to one gender shall include a reference to the other genders.

1.4 References to clauses are to clauses in this Agreement.

2. COMMENCEMENT

2.1 PMGC will be bound contractually to supply and (if stated in the Particulars) install the Equipment and provide the Service only when this Agreement has been signed by both the Customer and PMGC. PMGC shall not be required to install the Equipment unless otherwise stated in the Particulars.

2.2 PMGC will supply and (if stated in the Particulars) install the Equipment and provide the Service subject to the terms of this Agreement. No additions or modifications to this Agreement or to the Particulars shall be effective unless accepted by PMGC in writing.

3. CUSTOMER ACKNOWLEDGEMENTS

3.1 The Customer acknowledges that whilst PMGC will take reasonable steps to protect the confidentiality of transmissions via the Service, PMGC does not warrant that transmissions made via the Service are secure.

3.2 The Customer will be allocated by agreement between the Customer and PMGC a user name, a telephone number and a password. The Customer acknowledges that the user name and the password are personal and confidential and the Customer agrees to keep the user name and password confidential and not to disclose them to any third party in any form whatsoever.

3.3 Any telephone number allocated by PMGC to the Customer under this Agreement is licensed to the Customer for the duration of this Agreement and for the purpose of using the Service only.

4. TIME

4.1 Any periods or times stated for delivery or for compliance with any contractual obligations by PMGC in the Particulars or otherwise are estimates only and PMGC accepts no responsibility for loss or damage resulting from delay or any failure to notify the Customer of any delay.

5. DELIVERY

5.1 Unless otherwise agreed in writing delivery of the Equipment will be ex-works. The Customer will be responsible for any loss of or damage to the Equipment after it has been delivered.

5.2 The Customer shall be responsible for unpacking the Equipment upon delivery and shall notify PMGC immediately of any damage, discrepancy or shortage within seven (7) days of delivery.

6. PAYMENT

6.1 The Customer will pay to PMGC in each case within fourteen (14) days of the date of invoice:

- 6.1.1 the Equipment Charge;
- 6.1.2 the Line Rental Charge for each month of this Agreement;
- 6.1.3 all Call Charges for each month of this Agreement;
- 6.1.4 any additional charges at PMGC’s standard rates from time to time in force in respect of any additional services which PMGC may from time to time provide at the request of the Customer.

6.2 If the Customer has elected to rent the Equipment from PMGC then it shall enter into a rental agreement as part of this Agreement in respect of the Equipment in PMGC’s standard form (the “Rental Agreement”). In such circumstances the Customer shall be released from its obligations to pay the Equipment Charge in accordance with clause 6.1 and shall pay to PMGC the rental charges in respect of the Equipment specified in the Particulars.

6.3 Subject to clause 6.5 the Line Rental Charge is payable by the Customer monthly in advance within fourteen (14) days of the date of invoice.

6.4 Subject to clause 6.5 the Call Charges are payable by the Customer monthly in arrears within fourteen (14) days of the date of invoice.

6.5 PMGC shall be entitled from time to time to amend the billing periods and the invoice dates applicable to any charges referred to in clause 6.1.

6.6 Any sums payable by the Customer will if unpaid for more than seven (7) days after the date for payment bear interest at the rate of four percent (4%) above the base rate of Santander UK plc from the date payment was due until the date of payment (whether before or after judgement).

6.7 The Customer will pay the charges referred to in clause 6.1 and any other amounts due to PMGC by direct debit or such other method of payment as PMGC may specify.



Fixed Telephone Systems Terms and Conditions

- 6.8 Unless otherwise stated in writing the amount of any charge quoted is exclusive of VAT which is payable by the Customer in addition at the appropriate rate.
- 6.9 Ownership of the Equipment shall not pass to the Customer until the Equipment Charge has been received in full by PMGC in cleared funds. Until such time the Customer grants to PMGC and its agents an irrevocable licence to enter any premises to recover the Equipment.

7. DURATION OF AGREEMENT

- 7.1 This Agreement shall commence on the date of acceptance by PMGC and unless terminated in accordance with clause 12 shall continue for the period stated in the Particulars (the "Initial Term") and shall continue thereafter until terminated by either party giving to the other party not less than ninety (90) days written notice to expire at any time after the expiry of the Initial Term.
- 7.2 Additional Connections (users) may be added to this agreement at any point within the Initial Term, or any continuance or renewal thereof. Unless otherwise stated, any such Connections will be bound by the same terms and conditions set out in this Agreement and each such additional Connection shall be subject to the original Minimum Period.

8. WARRANTIES

- 8.1 PMGC warrants that the Equipment will be free from defects in workmanship and materials for twelve (12) months from the date of supply.
- 8.2 The warranty in clause 8.1 does not apply to any defect in the Equipment arising from fair wear and tear, wilful damage, accident, negligence by the Customer or any third party, use otherwise than as recommended by PMGC, failure to follow PMGC's instructions or any alteration or repair carried out without PMGC's approval.
- 8.3 If any Equipment develops a defect whilst under warranty in accordance with clause 8.1 the Customer shall notify PMGC in writing within fourteen (14) days of the time the Customer becomes, or ought reasonably to have become, aware of the defect, and in any event within the warranty period specified in clause 8.1.
- 8.4 Provided that the Customer has complied with clause 8.3 PMGC will at its option repair or replace any defective Equipment. If PMGC complies with this clause 8.4 it shall have no further liability for any breach of the warranty in clause 8.1.
- 8.5 PMGC does not warrant that the Equipment and/or the Service will meet the Customer's needs, nor that the Service will be free from any interruption, delay, incident or error.
- 8.6 Any performance figures quoted or referred to in any document used in concluding the Agreement are estimates only.

9. LIABILITIES

- 9.1 This clause 9 sets out the entire financial liability of PMGC (including any liability for the acts or omissions of its employees, agents and subcontractors) to the Customer in respect of:
- 9.1.1 any breach of this Agreement;
 - 9.1.2 any use made by the Customer of the Equipment and/or the Service;
 - 9.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
- 9.2 Except as expressly and specifically provided in this Agreement, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.
- 9.3 Nothing in this Agreement excludes the liability of PMGC:
- 9.3.1 for death or personal injury caused by PMGC's negligence; or
 - 9.3.2 for fraud or fraudulent misrepresentation; or
 - 9.3.3 under the Consumer Protection Act 1987 (but to the extent only PMGC is prohibited by law from seeking to restrict or exclude its liability); or
 - 9.3.4 for breach of the obligations arising under Section 12 of the Sale of Goods Act 1979 (as amended from time to time).
- 9.4 physical damage to or loss of the property of the Customer which results from the negligence or wilful misconduct of PMGC or its employees provided that PMGC's total liability shall not exceed £5,000 in respect of any one event or series of connected events and provided also that PMGC is notified of any alleged damage or loss within seven (7) days of the date on which the damage or loss occurred.
- 9.5 Except as set out in clause 9.4 PMGC shall have no liability for damage to or loss of the property of the Customer however caused.
- 9.6 Subject to clauses 9.3, 9.4 and 9.5:
- 9.6.1 PMGC shall not be liable for any loss of profits, loss of business, loss of use, loss of operating time, depletion of goodwill and/or similar losses or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising; and
 - 9.6.2 PMGC's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited an amount equal to the charges paid for the Equipment and the Service during the twelve (12) months preceding the date on which the claim arose or £12,000 (twelve thousand pounds) (whichever is the lesser).

10. USE OF THE SERVICE

- 10.1 The Customer shall:
- 10.1.1 not use, or allow others to use, the Service for any improper, immoral or unlawful purpose;
 - 10.1.2 not use, or allow others to use, the Service for the purpose of causing annoyance, inconvenience or needless anxiety to any person;
 - 10.1.3 comply with all instructions issued by PMGC in relation to use of the Service;
 - 10.1.4 not by any act or omission, cause the quality of the Service to be impaired.

11. FORCE MAJEURE

- 11.1 PMGC shall have no liability to the Customer if the Service is interrupted or disrupted or if PMGC is prevented from or delayed in performing its obligations under this Agreement or from carrying out its reasonable business by any acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lockouts or other industrial disputes (whether involving the workforce of PMGC or any other party) failure of a utility, commotion, malicious damage, compliance with any law or breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

12. TERMINATION

- 12.1 Without prejudice to any other rights or remedies it may have, PMGC may terminate this Agreement immediately without liability by written notice to the Customer if:



Fixed Telephone Systems Terms and Conditions

- 12.1.1 the Customer fails to pay any charges payable under this Agreement within seven (7) days of the due date for payment;
- 12.1.2 the Customer commits a material breach of any of this Agreement and (if such a breach is remediable) fails to remedy that breach within fourteen (14) days of being requested to do so in writing; or
- 12.1.3 the Customer makes a composition or voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) enters administration or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction), or a moratorium comes into force in respect of the Customer (within the meaning of the Insolvency Act 1986) ; or
- 12.1.4 an encumbrancer takes possession, or a receiver or administrative receiver is appointed, of any of the property or assets of the Customer; or
- 12.1.5 the Customer ceases, or threatens to cease, to carry on business; or
- 12.1.6 PMGC reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.
- 12.2 Upon termination of this Agreement PMGC shall cease immediately to provide the Service and the Customer shall pay all charges outstanding at the date of termination. In addition (and without prejudice to any other rights or remedies of PMGC) the Customer shall pay to PMGC the Line Rental Charge which would have become due had the Agreement continued for the period specified in the Particulars.
- 13. ASSIGNMENT**
- 13.1 This Agreement is personal to the Customer and may not be assigned without the prior written consent of PMGC.
- 14. VARIATIONS**
- 14.1 PMGC may adjust all or any of its charges on giving the Customer at least seven (7) days prior written notice that the Customer may within seven (7) days of receiving any such written notice terminate this Agreement by written notice to PMGC.
- 14.2 PMGC may at any time or from time to time make reasonable changes to this Agreement and/or the Service. PMGC shall notify the Customer in writing of any proposed changes, which shall take effect thirty (30) days after notification to the Customer.
- 15. DATA PROTECTION**
- 15.1 PMGC and the Customer shall comply with their respective obligations set out in Schedule 1.
- 16. INDEMNITY**
- 16.1 The Customer shall indemnify and hold harmless PMGC from and against any and all actions, claims, proceedings, losses, damages, expenses and costs (including without limitation court costs and legal fees) arising out of or in connection with the Customer's use of the Service.
- 17. INTELLECTUAL PROPERTY**
- 17.1 The Customer acknowledges that all intellectual property rights in the Equipment and the Service are owned by PMGC or its licensors and that nothing in this Agreement shall operate as an assignment or licence to the Customer of any such intellectual property rights.
- 18. GENERAL**
- 18.1 If any part of this Agreement is unenforceable, the enforceability of any other part of this Agreement will not be affected.
- 18.2 Failure by PMGC at any time to enforce any provision of this Agreement shall not be construed as a waiver of any such provision, nor shall it affect the validity of this Agreement or any part thereof.
- 18.3 Where the Customer is more than one person, all of the Customer's obligations under this Agreement shall be joint and several.
- 18.4 No third party shall be entitled to enforce any provision of this Agreement under the Contracts (Rights of Third Parties) Act 1999.
- 18.5 This Agreement is governed by English law and the parties submit to the exclusive jurisdiction of the English Courts.
- 18.6 Any notice required to be given under this Agreement shall be in writing and shall be delivered in person or sent by fully prepaid first class recorded delivery post or sent by facsimile to the respective addressee at its usual place of business or to such other address or facsimile number as it may have notified for such purpose. Any notice given in accordance with this clause 18.6 shall be deemed to have been received on the next working day following delivery (when delivery by hand or sent by facsimile) or (when sent by prepaid first class recorded delivery post) seven (7) working days after posting.



Fixed Telephone Systems Terms and Conditions

Schedule 1: Data Protection

1. INTERPRETATION

1.1 In this Schedule:

"Controller"	shall have the meaning set out in the GDPR;
"Data Protection Laws"	means the GDPR and the Privacy and Electronic Communication Regulations 2003, any amendment, consolidation or re-enactment thereof, any legislation of equivalent purpose or effect enacted in the United Kingdom, or, where relevant, the European Union, and any orders, guidelines and instructions issued under any of the above by relevant national authorities, a judicial authority in England and Wales or, where relevant, a European Union judicial authority;
"Data Subject"	shall have the meaning set out in the GDPR;
"Disclosing Party"	shall mean the party to the Agreement who discloses or makes available Personal Data.
"GDPR"	means General Data Protection Regulation (EU) 2016/679 as in force from time to time;
"Personal Data"	has the meaning given to it by the GDPR, but shall only include personal data to the extent that such personal data, or any part of such personal data, is processed in relation to the services provided under the Agreement;
"Processor"	shall have the meaning set out in the GDPR;
"Receiving Party"	shall mean the party to the Agreement who receives or obtains Personal Data whether directly from the Disclosing Party or indirectly;
"Replacement National Legislation"	means legislation in the United Kingdom which is enacted to cover, in whole or part, the same subject matter as the GDPR.

1.2 Words and phrases with defined meanings in the GDPR have the same meanings when used in this Schedule, unless otherwise defined in this Schedule.

1.3 If the GDPR ceases to apply to the United Kingdom, references to the GDPR, to provisions within it and to words and phrases with defined meanings in it, shall be deemed references to Replacement National Legislation, the nearest equivalent provisions in it and the nearest equivalent words and phrases in it (as the case may be).

2. OBLIGATIONS

2.1 Each party shall comply with the Data Protection Laws applicable to it in connection with the Agreement and shall not cause the other party to breach any of its obligations under Data Protection Laws.

2.2 The parties have agreed that the Receiving Party will process Personal Data as the Processor on behalf of the Disclosing Party which shall act as a Controller of such Personal Data in connection with the Agreement. The Processor shall, or shall ensure that its sub-contractor shall:

- 2.2.1 process the Personal Data only on behalf of the Controller, only for the purposes of performing its obligations under the Agreement, and only in accordance with instructions contained in the Agreement or instructions received in writing from the Controller from time to time. The Processor shall notify the Controller if, in its opinion, any instruction given by the Controller breaches Data Protection Laws or other applicable law;
- 2.2.2 not otherwise modify, amend or alter the contents of the Personal Data or disclose or permit the disclosure of any of the Personal Data to any third party (including without limitation the Data Subject itself) unless specifically authorised in writing by the Controller;
- 2.2.3 document all processing in accordance with Article 30 GDPR;
- 2.2.4 only grant access to the Personal Data to persons who need to have access to it for the purposes of performing the Agreement;
- 2.2.5 ensure that all persons with access to the Personal Data are:
 - 2.2.5.1 reliable, trustworthy and suitably trained on Data Protection Laws; and
 - 2.2.5.2 subject to an obligation of confidentiality or are under an appropriate statutory obligation of confidentiality.
- 2.2.6 taking into account the nature of the processing and the information available to the Processor, assist the Controller (at the Controller's cost) in ensuring compliance with its obligations pursuant to Article 32 to 36 GDPR inclusive;
- 2.2.7 take such measures as are required pursuant to Article 32 GDPR in accordance the security obligations set out in the Agreement (as amended from time to time) and at the request of the Controller provide a written description of the technical and organizational measures implemented, or to be implemented, to:
 - 2.2.7.1 protect the Personal Data against unauthorized or unlawful processing and accidental loss, destruction, damage, alteration or disclosure; and
 - 2.2.7.2 detect and report personal data breaches within good time,
- 2.2.8 notify any loss, damage or destruction of Personal Data to the Controller as soon as reasonably practicable and in any event within 24 hours of becoming aware of such breach and provide all reasonable assistance to the Controller in relation to the notification of such breach to the Information Commissioner and any other applicable regulator and any data subject;
- 2.2.9 provide all reasonable assistance to the Controller (at the Controller's cost) in ensuring compliance with its legal obligations relating to data protection impact assessments.
- 2.2.10 not engage another processor (a "Sub-Processor") to process the Personal Data on its behalf without specific written consent of the Controller, approving a named Sub-Processor, such consent always subject to:
 - 2.2.10.1 the Processor binding any Sub-Processor by written agreement, imposing on the Sub-Processor obligations in relation to the Personal Data equivalent to those set out in the Agreement; and



Fixed Telephone Systems Terms and Conditions

- 2.2.10.2 the Processor remaining liable to the Controller for the acts and omissions of any Sub-Processor, as if they were the acts and omissions of the Processor;
- 2.2.11 notify the Controller (within seven days) if it receives:
 - 2.2.11.1 a request from a Data Subject to have access to that person's Personal Data; or
 - 2.2.11.2 a complaint or request relating to the Controller's obligations under Data Protection Laws; or
 - 2.2.11.3 any other communication relating directly or indirectly to the processing of any Personal Data in connection with the Agreement;
- 2.2.12 not take action in relation to such communication, unless compelled by law or a regulator, without the Controller's prior approval, and shall comply (at the Controller's cost) with any reasonable instructions the Controller gives in relation to such communication;
- 2.2.12 provide the Controller with reasonable co-operation and assistance (at the Controller's cost) in relation to any complaint or request made in respect of any Personal Data including by:
 - 2.2.13.1 providing the Controller with details of the complaint or request;
 - 2.2.13.2 complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Controller's reasonable instructions; and
 - 2.2.13.3 providing the Controller with any Personal Data it holds in relation to a Data Subject making a complaint or request within the timescales reasonably required by the Controller;
- 2.2.14 on termination of the Agreement and otherwise at the Controller's request, delete or return to the Controller the Personal Data, and procure that any party to whom the Processor has disclosed the Personal Data does the same;
- 2.2.15 where reasonably possible, store the Personal Data in a structured, commonly used and machine-readable format;
- 2.2.16 not transfer Personal Data outside of the European Economic Area without the prior written consent of the Controller except that the Data Processor may disclose Personal Data to its employees providing maintenance and support services provided that such disclosure is solely for the purpose of, and no more than is necessary for, the purpose of maintenance and support under the Agreement. Where the Controller consents to the transfer of Personal Data outside the European Economic Area, the Processor shall comply with:
 - 2.2.16.1 the obligations of a controller under Articles 44 to 50 GDPR inclusive by providing an adequate level of protection to any Personal Data transferred; and
 - 2.2.16.2 any reasonable instructions of the Controller in relation to such transfer;
- 2.2.17 have a data protection officer where required by the GDPR, and where a data protection officer is not required, have a named individual that is responsible and available to deal with data protection issues as and when they arise in conjunction with the Controller; and
- 2.2.18 allow the Controller, or its external advisers who are not in the reasonable opinion of the Processor competitors of the Processor (subject to reasonable notice and the execution of appropriate confidentiality undertakings), to inspect and audit the Processor's data processing activities and those of its relevant agents, group companies and sub-contractors during normal business hours, and comply with all reasonable requests of the Controller, to enable the Controller to verify and procure that the Processor is in full compliance with its obligations under this Schedule.

3. LIABILITY

- 3.1 Subject to paragraphs 3.1 and 3.2, the Processor shall indemnify and keep indemnified the Controller against any fine imposed by any applicable regulatory body (and where applicable any appellate court or tribunal of competent jurisdiction) under Data Protection Laws if and to the extent that such fine is imposed on the Controller solely and directly as a result of a breach by the Processor and/or any Sub-Processor of its obligations under this Schedule, unless such indemnity is prohibited on grounds of public policy.
- 3.2 The Processor's maximum liability under this Schedule shall be capped at a sum equal to the value of the payments received by the Processor under the Agreement in the previous year or [£50,000], whichever is the higher.
- 3.3 The Processor's obligations under paragraph 3.1 shall be subject to the conditions that the Controller: (i) promptly gives the Processor written notice of the claim; (ii) gives the Processor sole control of the defence and/or settlement of the claim including the bringing of any appeal that may be available (provided that the Processor may not settle the claim in any manner that the Controller reasonably regards as adverse to its interests without the consent of the Controller, which shall not be unreasonably withheld or delayed); and (iii) provides the Processor, at the Processor's expense, with all reasonable assistance in the defence and/or settlement of the claim.

4. INTELLECTUAL PROPERTY RIGHTS

- 4.1 All intellectual property rights in the Personal Data vest and shall remain vested absolutely in the Disclosing Party, that transferred the relevant Personal Data to the Receiving Party.

Electronic media and other means of transport containing the Personal Data received by the Receiving Party and all copies or reproductions thereof shall also remain the property of the Disclosing Party, that transferred these media or provided other means of transport.