

# TERMS AND CONDITIONS

## Guernsey Data Service

These terms and conditions are important and should be read carefully. If You have any queries regarding the terms and conditions, please telephone 01481 882882 or contact Us via [www.itglobal.com](http://www.itglobal.com). Any capitalised term not defined in these terms and conditions shall have the meaning given to it in Our [Definitions Terms & Conditions](#).

For the purposes of these terms and conditions “**Minimum Contract Period**” means: (a) a period of 12 months from the commencement of the Contract or such other period as may be stated in the Application Form; or (b) any remaining minimum contract period relating to a Service where We have permitted You to take over the Service, without break or without alteration of that Service by Us, from another customer. “**Service**” means the provision by Us of any of the following services (as selected by You in the Application Form): Private Circuit; Internet Backbone; DSL Services and any variants thereof; Managed Firewall (each as more particularly described in the relevant Product Description) or any other Service selected by You in the Application Form where these Conditions are stated to apply.

### 1. COMMENCEMENT AND DURATION

- 1.1 Unless otherwise expressly agreed in writing or provided for by law or regulation, the Contract shall have effect from the earlier of: (a) when the Application Form has been received and accepted by Us; or (b) when a Service is provided to You.
- 1.2 Subject to the provisions of clauses 13.1, 13.2 and 13.3 hereunder the Contract shall remain in force for the Minimum Contract Period and thereafter shall continue in force until terminated by either Us or You in accordance with clause 13.4 below.
- 1.3 Save where termination is notified by You to Us under clause 13.2 or 13.3 below, if: (a) You terminate the Contract during the Minimum Contract Period; or (b) pursuant to clause 5 below, We either cancel a Service during the Minimum Contract Period or suspend or limit a Service during the Minimum Contract Period and do not reinstate it, You shall, even if We have terminated the Contract pursuant to clause 13 below by reason of the matter giving rise to the cancellation, suspension or limitation of a Service, pay a sum equal to the Service Charges and any extra charges which would have been payable to Us for the balance of the Minimum Contract Period.
- 1.4 Nothing in this clause shall prevent either Us or You from terminating the Contract in accordance with clause 13 below.

### 2. VARIATION

- 2.1 We may from time to time vary the Conditions and Product Description applicable to a Service and will as soon as practicable and in any event not less than 1 calendar month before any such variation is to take effect Publish notice of such variation.
- 2.2 Subject to clause 2.5 below, We may vary all or any of the Service Charges:
  - (a) in accordance with the schedule of increases to the Service Charges where applicable to Your Contract, as Published at <https://www.itglobal.com/price-changes/>; or
  - (b) by Publishing any such variation in a schedule of tariffs, such variation to have immediate effect unless stipulated otherwise.
- 2.3 We may increase any or all of the Service Charges by Publishing any such variation in a schedule of tariffs where the increase is directly referable to the introduction of, or increase in, any direct tax or other government duty or levy of whatever description. Such variation shall have immediate effect as of the date of the publication of the variation or on such later date that may be specified in the notice.
- 2.4 We will apply an annual increase to the Service Charges paid by You under a Contract based on the annual percentage increase (if any) in the "all items" RPI as published by the States of Guernsey Data and Analysis Team. The increase will be calculated on the basis of the December RPI figure published by the States of Guernsey Data and Analysis Team (<https://gov.gg/rpi>) and will be applied in March/April of that year.
- 2.5 We shall give a Relevant Subscriber not less than 2 calendar months' notice of any increase in the Service Charges (other than an increase made pursuant to clause 2.2(a) (provided that such increase is in accordance with the schedule of increases applicable at the start of the Minimum Contract Period), 2.3 or 2.4) applicable to that Relevant Subscriber's Contract by Publishing any such variation in a schedule of tariffs, such variation to have effect on the date specified in the notice.
- 2.6 Other than as stated above any variations to the Contract shall be made in writing by Us and signed by a duly authorised officer of the same.
- 2.7 Save as herein expressly provided no servant or agent of Us shall have the authority to agree any variation or addition to the Contract. Any representation or warranty so made is of no force or effect unless made in accordance with this clause.

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- 2.8 In the event that the British Pound Sterling suffers a currency devaluation as a result of an adverse change in applicable foreign exchange rates, and this devaluation directly impacts and increases Our costs in providing the Service, We reserve the right to adjust the Service Charges in order to take account of that increase in Our costs.

## 3. SERVICE

- 3.1 A Service does not include the provision of Your Equipment unless specified on the Application Form. If Your Equipment is provided as part of a Service, then either the JT Equipment Rental Terms and Conditions or the JT Equipment Purchase Terms and Conditions will apply as appropriate to the provision of Your Equipment.
- 3.2 Where part or parts of a Service will be provided and/or supported by a telecommunications provider other than Us or an Other Operator, We shall not be responsible for those parts so provided.
- 3.3 We reserve the right to vary the technical specification of a Service at any time.
- 3.4 We will deliver a Service to the Premises using the most appropriate method, medium or technologies as decided by Us at Our sole discretion.
- 3.5 The NTP and the NTU or ONT will normally be installed at the same location in the Premises. The NTU or ONT can only be installed at an alternative location within the Premises if You provide additional wiring to that location at Your own expense which conforms to the relevant standards required by Us.
- 3.6 Your Equipment must only be connected to a Service via the NTU or ONT.
- 3.7 Extension wiring and/or additional socket outlets must conform to the relevant standards required by Us, must be supplied installed and maintained by You at Your own cost and must only be connected to a Service via the NTU or ONT.
- 3.8 The whole of the Telecommunications Apparatus shall remain Our property and shall solely and exclusively be maintained and moved by Us.
- 3.9 Where, by reason of a fault with Our data network or Telecommunications Apparatus a Service has failed to operate in accordance with the Product Description We will, at no additional charge to the Service Charges, repair the same unless any part of the Telecommunications Apparatus located at the Premises is damaged or tampered with by persons other than Us, Our employees or agents, when an extra charge for repair may be made to You.
- 3.10 We reserve the right without penalty to alter Your network/IP addresses provided by Us or any other names, codes or numbers allocated from time to time by Us for use in connection with a Service and all and such addresses, names, codes or numbers remain Our property.
- 3.11 You acknowledge and accept that provision of a Service may involve the carriage of a high intensity light source or electric current which energies are dangerous and may cause serious injury or death if not handled properly.
- 3.12 Where You comprise more than one person We reserve the right to provide information with respect to a Service provided to You to any of the persons named in the Application Form.
- 3.13 Any URL or Domain Name used by You in conjunction with a Service must not infringe the rights of another in any corresponding trademark, service mark or name.
- 3.14 We reserve the right to disclose Your name, telephone and/or facsimile numbers and/or email address to any person making any complaint or enquiry in relation to use of the Service, or in an emergency, to the emergency services.
- 3.15 We reserve the right without penalty to limit, black-hole or discard any internet traffic or data that We reasonably suspect to be of a malicious nature, or which threatens the stability of Our network including, but not limited to, bandwidth swamping or suspected denial of service attacks.
- 3.16 You acknowledge that We are unable to exercise control over the content of data made available to, accessed by, transmitted by, or published by You and undertake to use a Service only for lawful purposes.

## 4. TELEPHONE AND ONLINE ORDERING

- 4.1 We may, at Our discretion, provide additional services to You in conjunction with or related to a Service and/or terminate the provision of any services to You, and/or take or not take any other action relating to You on the basis of instructions received by telephone or On-line.
- 4.2 We will use reasonable endeavours to ensure that instructions purporting to be from You are indeed from You. However, provided that We have acted in good faith, We (other than as provided in clause 9.1 and without prejudice to the generality of clause 9.2) accept no liability, and You shall be responsible for all and any sums payable, in respect of any services provided or terminated or any action taken or not taken in reliance of telephone instructions received by Us.

## 5. SUSPENSION OF A SERVICE

- 5.1 We may (without prejudice to any other right or remedy) suspend, limit or cancel a Service provided to You without penalty and with immediate effect:
- (a) during any technical failure, modification or maintenance of a Service or where We are unable to provide a

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Service for reasons beyond Our control or otherwise for reasons not Our fault provided that We will use Our reasonable endeavours to procure resumption of a Service as soon as reasonably practicable;

- (b) if You fail to observe or perform the Conditions;
- (c) if We have reasonable grounds to suspect that a Service is being used fraudulently or otherwise illegally; or
- (d) if We have reasonable grounds to believe that You have provided Us with false, misleading or incomplete details about You or any other person who may use a Service (including, but not limited to, name, current and previous address(es), date of birth, telephone numbers, employment information and bank and credit or debit card information) when You applied for a Service or thereafter or that You have failed to tell Us if any of these details have changed.

5.2 Notwithstanding any suspension, limitation or cancellation of a Service under this clause You shall remain liable for all charges due hereunder throughout the period of suspension, limitation or cancellation unless We at Our sole discretion determines otherwise but You shall not be liable for any line rental charge for any period beyond a 7-day period of suspension or limitation or the 7<sup>th</sup> day of cancellation.

## 6. CHARGES AND PAYMENT

- 6.1 The Service Charges shall comprise any connection charge for a Service, whether initial or after suspension, limitation or cancellation, and rental charge (payable in advance) for a Service where such charges depend on the relevant service options selected in the Application Form.
- 6.2 Where You name more than 1 person on the Application Form upon commencement of the Service or thereafter, liability for the Service Charges and/or any additional sums relating to a Service shall be joint and several.
- 6.3 Where You request work to be carried out which is not included in the Service Charges, We may charge additional sums. We will, for example, make extra charges where:
- (a) We install additional wiring at Your premises other than that required to provide the Service;
  - (b) We repair or trace a defect or fault to any wiring owned or maintained by You that is used to extend the location of the NTU or ONT remotely from the NTP;
  - (c) We repair any of Your Equipment where such repair is not covered by any other agreement between Us and You;
  - (d) We respond to a fault report and no fault is found to exist;
  - (e) repair of a fault reported by You is made more difficult or costly by breach of Your obligations under the Contract;
  - (f) We correct any defect or fault caused by You or anyone using a Service; or
  - (g) We repair Telecommunications Apparatus located at the Premises that is damaged other than by Us, Our employees or agents.
- 6.4 Service Charges and/or additional sums are payable in full on demand or as otherwise agreed between You and Us. If payment is agreed in writing to be made by instalments and if You fail to pay any instalment on its due date then We shall be entitled to demand immediate payment of the unpaid balance (including all arrears).
- 6.5 We reserve the right to charge an administration fee in addition to the Service Charges where: (i) You choose to receive a paper copy of a bill; and/or (ii) You pay the Service Charges in a bill by any payment method other than by Direct Debit.
- 6.6 We will charge a Late Payment Fee on any balances which remain unpaid after the due date.
- 6.7 For the purposes of credit referencing and fraud prevention, We reserve the right from time to time during the term of the Contract to:
- (a) make searches about You at credit reference agencies and elsewhere to verify Your identity and to help Us to decide whether to accept Your application for a Service and/or to continue to provide a Service to You;
  - (b) use (and share with debt collection agencies and appropriate authorities) Your details for the purpose of collecting debts, preventing and detecting fraud and seeking to recover damages and costs arising from fraud or other unlawful activity on Your part;
  - (c) record, and pass to the appropriate authorities, details of any false or inaccurate information provided by You or where We suspect fraud or any other unlawful or improper activity on Your part; and
  - (d) pass on to and share information with other communications service providers and network operators for the detection and prevention of theft and fraud.

## 7. YOUR OBLIGATIONS

- 7.1 You shall:
- (a) only use, make use of, cause, allow or permit to be used a Service in accordance with the specification contained in the Application Form, Product Description, any relevant Usage Policy and any instructions provided by Us and shall only use a Service for the purpose for which it was designed;

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- (b) insure, at Your own cost, all Telecommunications Apparatus located at the Premises;
- (c) enter into an appropriate contract with any other telecommunications provider that provides part or parts of the Service;
- (d) comply with Our reasonable requests for assistance in order to diagnose existing or potential faults;
- (e) allow Us full and convenient access to the Telecommunications Apparatus, NTU, ONT and associated wiring at all reasonable times in order to rectify any fault with a Service as reported to Us by You;
- (f) only use Type Approved Equipment for the purpose of utilising a Service and allow Us full and convenient access at all reasonable times to inspect any equipment used in connection with a Service to ensure that it is Type Approved Equipment and that it conforms with necessary standards, codes or licensing requirements;
- (g) use Your Equipment in accordance with the manufacturer's and/or Our recommendations;
- (h) keep any login code and/or password and/or PIN assigned by Us or otherwise for use of a Service secure and not disclose the same to any unauthorised person;
- (i) immediately notify Us should You know or suspect that:
  - (i) a login code and/or password and/or PIN has been obtained by any unauthorised person;
  - (ii) unauthorised access to Your Equipment, either physical or otherwise is being or has been made;
- (j) be responsible for all and any charges of any nature that may be incurred by Us as a result of any use, authorised or not, of the login code and/or password and/or PIN;
- (k) be responsible for all damage or loss caused to Us or third parties by misuse of a Service other than due to the acts or omissions of Us, Our employees, agents and/or subcontractors;
- (l) take all necessary steps to warn all persons at the Premises of the dangers associated with provision of a Service and shall take proper and sufficient care in training personnel in the handling of the Telecommunications Apparatus where such handling is necessary;
- (m) take all reasonable and proper precautions to protect the health and safety of Our personnel while at the Premises;
- (n) take all appropriate measures to safeguard the security of data sent by means of a Service;
- (o) promptly advise Us in writing of any change of billing address, contact address or contact number;
- (p) provide suitable premises and conditions for the Telecommunications Apparatus in accordance with Our instructions;
- (q) be responsible for any remedial and/or decorative works after installation of the Telecommunications Apparatus, NTU and/or ONT; and
- (r) provide, if necessary and at Your own cost, a suitable power supply, connection points and/or earthing point, acceptable to Us, for use with a Service.

## 7.2 You **shall not** on Your own or otherwise:

- (a) tamper with, move, modify, or interfere with the Telecommunications Apparatus without Our written consent;
- (b) use a Service in breach of any terms of any licence applicable to You;
- (c) use a Service fraudulently or in connection with a criminal offence or to send messages or communications which are offensive, abusive, menacing, obscene, annoying, incite hatred, panic or anxiety or which are otherwise unlawful;
- (d) use a Service to access, transmit, publish, display, advertise or make available material which infringes copyright or any other intellectual property right held in any country, is obscene or pornographic, contains threats of any kind, is defamatory in any way or breaches confidence, which is illegal or infringes any third party's legal rights of whatever nature under the laws of any jurisdiction for any reason;
- (e) apply direct current signals to the Telecommunications Apparatus or attempt to send such signals between the Premises; or
- (f) use a Service for any purpose which may result in the illegal access to or collection of data whilst in transit, illegal access to computers or networks, spamming, flooding or other such broadcasts together with any other activity which may adversely affect Us or any third party.

## 8. ASSIGNMENT

8.1 You may not assign the Contract without Our prior written consent.

8.2 We reserve the right to assign all or part of the Contract to any person and/or to subcontract any of Our obligations hereunder upon giving You at least 28 days' prior notice save that JT may subcontract the provision or repair of Telecommunications Apparatus without prior notice.

## 9. EXCLUSION AND LIMITATION OF LIABILITY

The following provisions set out Our entire liability (including any liability for the acts and omissions of Our employees, agents and subcontractors) to You in respect of any breach of contract, misrepresentation, tortious act or omission including

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negligence or otherwise arising under or in connection with the provision of a Service. **Your attention is in particular drawn to these provisions.**

- 9.1 We do not exclude or restrict liability for death or personal injury resulting from Our own negligence.
- 9.2 Unless otherwise expressly agreed in writing by You and Us (in a service level agreement or otherwise), We shall not be liable to You or to any other person for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with the provision of a Service except as provided in clause 9.1 above. Whilst We will use Our reasonable endeavours to maintain the quality of a Service and to ensure that a Service is available at all times We make no representation or warranty in relation thereto.
- 9.3 Without prejudice to the generality of clauses 9.1 or 9.2, We shall not be liable to You or to any other person for:
- (a) any defect in, poor quality of, unavailability, interruption or discontinuance of a Service or any website or email address (and without prejudice to the generality of the foregoing and clause 9.1 and 9.2, We shall in no circumstances be liable for any defect in, poor quality of, unavailability or interruption lasting less than 3 days);
  - (b) any loss of profits, business revenue, goodwill or anticipated savings, or any type of special, indirect or consequential loss (including but not limited to loss or damage to data, equipment or property even if in Our care, custody or control) whether direct, indirect, foreseeable or unforeseeable; or
  - (c) Your use of a Service and/or Your activities, including but not limited to, any acts which under the laws of any jurisdiction infringe any third party's intellectual property rights (including the use of any domain name) infringe obscenity laws, constitute threats, are in any way defamatory or are illegal or give rise to any liability in any way.
- 9.4 We are not responsible for maintaining any insurance cover of any nature to cover any loss by You or any other party arising from the provision or unavailability of a Service or otherwise and any such insurance cover shall be Your responsibility.
- 9.5 If any exclusion or limitation of liability contained in this clause is invalid and We become liable for any loss or damage, You (acknowledging that We are not able to evaluate any potential loss to You) agree that Our liability for any 1 event or series of events shall in any event be limited to the Service Charges payable by You for the Minimum Contract Period.
- 9.6 Each provision of this clause shall operate independently of each other provision of this clause.
- 9.7 You agree to indemnify Us and hold Us harmless in respect of all costs, damages, awards and expenses and professional fees of any kind (without limit) arising from or in connection with any claim brought against Us by any third party located in any jurisdiction arising from any use of a Service provided to You (by either You or any other party) constituting any unlawful act or otherwise giving rise to any liability. You shall immediately notify Us in writing of any such claims of which You become aware. You further agrees to offer all reasonable assistance to Us in defending such claims at Your sole expense.

## 10. FORCE MAJEURE

We shall not be liable in respect of any breach of the Contract due to any cause beyond Our reasonable control including (but without limitation): act of God, pandemic, inclement weather, lightning, flood or fire; industrial action or lockouts; the act or omission of Government, highway authorities, or any other competent authority; war or armed conflict, military operations, vandalism or riot; the act or omission of any other party (including any other party that provides any part of a Service or upon which We rely in order to provide any part of a Service) and national and/or civil emergencies.

## 11. ENTIRE AGREEMENT

The Conditions supersede all prior oral or written communications regarding a Service and contain the whole agreement between You and Us relating to a Service, unless specifically otherwise agreed in writing.

## 12. NOTICES

- 12.1 Any notice or other communication required to be given or served for the purposes of the Contract except where otherwise provided shall be in writing and shall be deemed to have been duly given and served if sent by post, email or delivered by hand. Notices shall be deemed received 48 hours after posting or transmitting.
- 12.2 Your address for correspondence shall be the contact address as specified in the Application Form or an address notified to Us by You in writing as an address to which bills may be sent or Your usual or last known place of abode or business or if You are a limited company, Your registered office.
- 12.3 Our address for correspondence shall be East Wing, Trafalgar Court Les Banques, St Peter Port, Guernsey, GY1 3PP.

## 13. TERMINATION

- 13.1 The Contract may be terminated immediately by Us without penalty to Us if You:



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- (a) fail to satisfy Us with regard to any credit check undertaken in respect of You;
- (b) fail to pay when due any sum payable under the Contract or any other agreement or contract made between You and Us;
- (c) are declared *en désastre* or pass any special resolution to enter into voluntary liquidation or are placed into compulsory liquidation by act of the Royal Court of Guernsey or a summons or process is served upon You with the intent of obtaining any such order or You become bankrupt or otherwise commit any act indicative of or analogous to insolvency under the law of any jurisdiction or enter into any composition with Your creditors in the Bailiwick of Guernsey or elsewhere;
- (d) fail to observe or perform the Conditions or the conditions of any other agreement or contract made between You and Us and fail to remedy such breach as soon as possible and in any event within 28 days after the date that We serve written notice on You in relation to such breach;
- (e) use a Service in a manner which is unsafe or which has not been approved by Us;
- (f) use a Service fraudulently or in connection with a criminal offence;
- (g) make improper use, within the meaning of Article 16(1) of the Telecommunications (Bailiwick of Guernsey) Law 2001, or any amendment or supervening law thereto, of a Service;
- (h) do or allow to be done anything which in Our opinion will or may have the effect of jeopardising the operation of the telecommunications system provided by Us to any of Our customers;
- (i) connect equipment other than Type Approved Equipment to a Service; or
- (j) enter into a contract with another telecommunications provider for part of a Service and such contract is suspended or terminated.

13.2 The Contract may be terminated by You if:

- (a) We unreasonably exercise Our rights of variation or suspension under the Contract, by You giving written notice to JT within 14 days of the notice of variation or suspension;
- (b) We exercise Our rights of variation of the technical specification of a Service such that performance of the same is materially degraded, such termination to be on 14 days' written notice without further obligation; or
- (c) We fail to observe or perform Our obligations under the Contract and fail to remedy such breach as soon as possible and in any event within 28 days after the date that You serves written notice on Us in relation to such breach, by giving Us written notice of such termination.

13.3 If We notify a Relevant Subscriber of an increase in the Service Charges pursuant to clause 2.5 the Relevant Subscriber may terminate its Contract immediately without penalty provided that the Relevant Subscriber gives Us written notice of its intention to terminate before the expiry of the 2-calendar month notice period.

13.4 Subject to clauses 1.2, 13.1, 13.2 and 13.3 We or You may terminate the Contract provided always that the party wishing to terminate the Contract gives to the other party written notice of its intention to do so; in the case of either party 1 calendar month's notice prior to the effective date of the purported termination of the Contract will be sufficient and such termination shall not affect any rights of either You or Us to enforce any term hereof which right has accrued prior to the effective date of termination.

## 14. SEVERANCE

If any provision of the Contract is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Contract and the remainder of the provisions in question shall not be affected.

## 15. GOVERNING LAW

The Contract shall be governed by and construed and interpreted in accordance with the law of the Island of Guernsey and both We and You hereby submit to the exclusive jurisdiction of the Royal Court of Guernsey.

## 16. DATA PROTECTION

16.1 For the purposes of complying with the Data Protection (Bailiwick of Guernsey) Law 2017, We have prepared a privacy policy in relation to personal information to be collected by Us in relation to the Contract, a copy of which can be found On-line at <https://www.itglobal.com/global/privacy-policy/>.

16.2 You acknowledge receipt of such policy and agree that a copy of the policy shall be made available to any natural person in relation to whom We receive personal information in relation to the Contract.