



# Business Network Solutions

## Version 9

### About the way we'll work together

You probably like to know exactly where you stand when you do business with someone. We're the same. That's why we've put together this document to let you know how we'll work with you. These Business Network Solutions standard terms and conditions and the special terms referred to on your order form, and the service level agreement referred to in this document, all apply to the equipment and services we provide to you.

We've set all the legal stuff out in black and white, and we've done our very best to be fair and clear as well. If there's anything you'd like to check through, please phone our Customer Services team on 0800 052 0800.

### 1. Definitions and interpreting this document

1.1 This document contains the **standard terms and conditions** for the **agreement** between:

- 1.1.1 you, the customer named on the **order form**; and
- 1.1.2 us, Virgin Media Business Limited;

for the **equipment, the professional services** or the **support service** you buy from us, as set out in the **order form**. This document also contains **special terms** that apply if you buy certain items of **equipment** or **services**.

1.2 The **agreement** between you and us is made up of:

- 1.2.1 the **standard terms and conditions**;
- 1.2.2 the **special terms**;
- 1.2.3 the **service level agreement** for the **support service**;
- 1.2.4 the **quotation**;
- 1.2.5 the **data sheet**; and
- 1.2.6 the **order form**.

1.3 Where the following words are printed in bold in the **agreement**, they have the meanings set out below.

**agreement** has the meaning set out in clause 1.2.

**cancellation charges** means the **charges** that apply if an **order** is cancelled or the **agreement** ends, as set out in clauses 11.14 and 11.15.

**charges** means our charges from time to time (including **equipment charges, service charges** and **cancellation charges**) that apply for the **equipment** or the **service**.

**customer delivery date** means:

- (a) for supplying **equipment**, the date the **equipment** is delivered to you; and
- (b) for **professional services**, the date the **deliverables** are delivered to you.

**customer order form** means your own order form which we have accepted.

**data controller** has the meaning set out in the GDPR.

**data processor** has the meaning set out in the GDPR.

**data protection directive** means Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995.

**data protection legislation** means any applicable law relating to the processing, privacy and use of **personal data**, as applicable to the **data controller**, the **data processor** or the **service**, including the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any laws or regulations implementing the **data protection directive** or the **e-Privacy directive** and the **GDPR**.

**data sheet** means the document which describes the **service**.

**data subject** means any information relating to an identified or identifiable natural person.

**deliverables** means the products or deliverables from the **service** as set out in a **quotation** or an **order form**.

**e-Privacy directive** means the Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002.

**equipment** means any equipment (including associated software) you buy from us.

**equipment charges** means the charges you have to pay to buy the **equipment**.

**GDPR** means the regulation (EU) 2016/679 of the European Parliament and of the Council of 12 July 2002.

**group company** means, for the purposes of this **agreement**, a group undertaking (as that term is defined in sections 1161 and 1162 of the Companies Act 2006).

**intellectual property rights** means any rights and interest in patents, trademarks, service marks, trade and business names, rights in design, copyright, database rights, know-how and any other similar right (whether existing or applied for, or there is a right to apply to be registered) and any similar rights to those rights under any other jurisdiction.

**law** means any relevant law, regulation, guideline or code of conduct (whether or not they are legally binding) which applies to us or you in any jurisdiction.

**maintenance service** means our service to maintain **supported equipment** as set out in a **quotation**, and which is described in the **data sheet** or **service literature**.

**management service** means our service to manage **supported equipment** as set out in the **quotation**, and which is described further in the **data sheet** or **service literature**.

**materials** means any material, in whatever form, including **service literature**, the **data sheet**, processes, reports, manuals, drawings, information and instructions.

**model contract clauses** means the standard clauses approved by the European Union for use when **personal data** is transferred outside of the European Economic Area.

**monitoring service** means our service to monitor the **supported equipment** as set out in a **quotation**, and which is described further in the **data sheet** or **service literature**.

**order** means an order you have placed and we have accepted in line with clause 3.

**order form** means our order form.

**our website** means means [www.virginmediabusiness.co.uk](http://www.virginmediabusiness.co.uk) or any other web address we tell you about from time to time.

**personal data** has the meaning set out in the **data protection legislation**.

**price guide** means information about **charges** for the **service**.

**processing** has the meaning set out in the **data protection legislation** and **process**, **processes** and **processed** shall be construed accordingly.

**professional services** means our services which do not involve supplying **equipment** (including IOS Discovery, business network audit, wireless survey, consultancy engineering support, and IP multimedia network audit) and which are further described in the **data sheet** or **service literature**.

**quotation** means our final quotation, referred to in an **order form**, for **equipment charges** or **service charges** and which also contains details of any **support service** you have ordered.

**service** means the **professional services** or **support service** set out in an **order form**.

**service charges** means our charges for providing the **service** (these do not include any **equipment charges**).

**service level agreement** means our service level agreement which sets out the **service levels** that apply to the **support service**.

**service levels** means the levels of service set out in the **service level agreement** for the **support service**.

**service literature** means any up-to-date specifications, brochure, user guide, instructions or other information that we publish in connection with the **equipment** or the **service**.

**site** means your site where we supply **equipment** or provide the **service**.

**special terms** means any extra terms and conditions as set out in schedule 1 specific to the **equipment** or **service**.

**standard terms and conditions** means the terms and conditions set out in the main body of this document, not including the special terms in schedule 1.

**support period** means the period we provide the **support service** for, starting on the **support start date** and ending after the period set out on an **order form**.

**support service** means the **maintenance service**, the **monitoring service** or the **management service** as set out in a **quotation** or an **order form**.

**support start date** means the date we provide the **support service** from, worked out

in line with the **special terms** for the **support service**.

**supported equipment** means the equipment (whether or not you have bought it from us under this **agreement** or not) to be covered by the **support service**, as set out in the **quotation** or the **order form**.

**working day** means 9am to 5.30 pm Monday to Friday, except bank holidays and public holidays in the relevant part of the United Kingdom.

- 1.4 In the **agreement**, any reference to:
- 1.4.1 'person' includes any person, partnership, firm, company, business, government, organisation, government agency, trust, association;
  - 1.4.2 'you' includes your employees and agents, any person who takes over your business, and any person who we reasonably believe is acting for you; and
  - 1.4.3 'we' includes our employees and agents, any person acting for us, and any person who takes over our business.
- 1.5 In the **agreement** general words introduced or followed by 'other', 'including' or 'in particular' do not have a restrictive meaning because examples are also used.
- 1.6 The headings of clauses and paragraphs are for convenience only and do not affect their meaning.
- 1.7 Where in the **agreement** you agree not to do something, you must not allow any other person to do it either. You must use your reasonable efforts to prevent any other person doing it.
- 1.8 If there are any inconsistencies between the documents making up the **agreement**, unless the **agreement** states otherwise, the documents will take priority in the following order.
- 1.8.1 The **special terms**
  - 1.8.2 These **standard terms and conditions**
  - 1.8.3 The **service level agreement**
  - 1.8.4 The **order form**
  - 1.8.5 The **quotation**
  - 1.8.6 The **data sheet**

## 2. Scope of the agreement

2.1 The terms of the **agreement** apply to your **order** for, and our supply of, the **equipment**, **professional services** and **support service**.

## 3. Ordering the services and equipment

- 3.1 To order the **equipment** or **service**, or to change any of them, you must fill in our standard **order form**. However, we may accept an order placed using a **customer order form**.
- 3.2 If we deliver **equipment** or provide a **service** without receiving an acceptable **order form** from you, we will provide the **equipment** or **service** in line with the terms of the **agreement**.
- 3.3 If we accept a **customer order form**, the agreement between you and us will incorporate any information contained in that **customer order form** which would also have been in our standard **order form**. No terms and conditions set out in the **customer order form** will be incorporated into the **agreement**.
- 3.4 Unless an **order** is for a change to the **agreement** under clause 22, the **agreement** will come into force when:
- 3.4.1 you and we have both signed the **order form**, or we have accepted your **customer order form**; or
  - 3.4.2 we have sent you an email accepting an **order form** you have signed and sent to us; or
  - 3.4.3 we start to deliver the **equipment** or provide the **service**;
- whichever is earlier.
- 3.5 The quantity and description of the **equipment** we supply is as set out in the **quotation**, the **order form** or our acknowledgement of your **order**.
- 3.6 If the **equipment** set out in the **quotation** or the **order form** is based on a list you have given us, we will not have checked that:
- 3.6.1 the **equipment** you are ordering will all work together;
  - 3.6.2 you have asked for the right type of **equipment** or configuration; or
  - 3.6.3 the **quotation** or the **order form** includes all parts needed to form a complete solution.
- We can carry out these checks if you have ordered our **professional services** to do this. **Charges** apply for those **professional services**.
- 3.7 All samples, materials and advertising issued or published by us or on our behalf in

- connection with the **equipment** are only intended to give an approximate idea of the **equipment** and do not form part of the **agreement**. Clause 6 sets out the warranties that apply in connection with any **equipment** we supply.
- 3.8 You can cancel all or part of the **order** or end the **agreement** at any time by giving us written notice (which must be at least 30 days' notice for any **support service**). If you do this, you must pay us any **cancellation charges** that apply (see clauses 11.14 and 11.15). If you cancel an **order** for some or all **equipment**, any **support service** you ordered for that **equipment** will also be cancelled.
- 4. Providing the equipment and service**
- 4.1 We will only supply **equipment** and provide the **service** if:
- 4.1.1 you give us the access we need to the **site** (see clause 9);
- 4.1.2 we are satisfied with your credit status, based on the credit checks we carry out (see clause 20); and
- 4.1.3 we are satisfied with the identity checks we carry out (see clause 20).
- 4.2 If we ever reasonably believe that you are not meeting any of the requirements in clause 4.1, we may immediately cancel an **order** or end the **agreement** by giving you written notice. We will not be liable to you if we do this, and (unless you have broken clause 4.1.1) you will not have to pay **cancellation charges** if we cancel an **order** or end the **agreement** under this clause 4.2.
- 4.3 Any delivery lead times for **equipment** and estimated **customer delivery dates** are not binding on us. We are not liable to you if we do not meet those lead times or dates.
- 4.4 If on any agreed date you fail to take delivery of the **equipment** we may arrange for its storage at your risk (meaning that we will not be liable for any loss or damage while the **equipment** is in storage). You will have to pay the reasonable costs of the storage. Also, we may charge you a call-out fee and any reasonable costs arising as a result of your failure. We will store **equipment** in accordance with this clause for a maximum period of one month from the date of failed delivery (or such later time as we may agree with you in writing), after such time we may, at our discretion, return the **equipment** to our supplier(s). You will be liable to pay 100% of the **equipment charges** (or 10% of the **equipment charges** if we can cancel our order with our supplier free of charge, which we will use reasonable efforts to do) where we return **equipment** to our supplier(s) under this clause.
- 4.5 If on any agreed date you do not allow us to carry out work, we may charge you a call-out fee together with any reasonable costs arising as a result of your failure.
- 4.6 The **equipment charges** include delivering the **equipment** to the **site** within the United Kingdom but do not include installing the **equipment**.
- 4.7 Our record of the quantity of any shipment of **equipment** despatched from our place of business will be conclusive proof of the quantity you receive on delivery, unless you provide conclusive proof to the contrary.
- 4.8 We will not be liable for any equipment not being delivered to the site (even if this is a result of our negligence) unless you give us written notice of the non-delivery within seven days of the date the equipment would normally have been delivered.
- 4.9 Any liability we have for not delivering the equipment is limited to replacing the equipment within a reasonable time or issuing a credit note for the equipment charges for that equipment.
- 4.10 You are responsible for removing and disposing of all the **equipment's** packaging in a responsible and appropriate way.
- 5. Risk and ownership**
- 5.1 You will be liable for loss of or damage to the **equipment** from the time it is delivered, except for loss or damage caused by our intentional actions or negligence.
- 5.2 Ownership of the **equipment** will pass to you on the date of our invoice for the **equipment**.
- 6. Equipment warranty**
- 6.1 All warranties, guarantees, conditions, representations, undertakings, terms and promises relating to the **equipment** are excluded to the extent allowed by **law**. The manufacturer's warranty documents for the **equipment** will be included with the **equipment** when it is delivered, and you are responsible for keeping these documents in a secure place. None of our employees are authorised to make any warranty, representation or promise relating to the **equipment** unless it is in writing and signed by one of our authorised officers.
- 6.2 You are only entitled to the guarantee or warranty offered by the **equipment's** manufacturer to the extent we are able to pass it on to you. The manufacturer's standard product warranty is the only support

available for any **equipment** under the **agreement** unless you buy the **support service** from us for the **equipment**.

6.3 You are responsible for making sure the **equipment** is suitable for your needs, except where we have given you written advice on the suitability of the **equipment** and you have relied on that advice.

6.4 We can make minor changes to the specification of the **equipment** at any time if they do not substantially change the **equipment's** performance.

## 7. Accepting the equipment and service

7.1 If we are providing **professional services**, you will be considered to have accepted them when we deliver the **deliverables**.

7.2 If we are supplying **equipment** to you, you will be considered to have accepted it:

7.2.1 on the date you confirm in writing that you accept the **equipment**;  
or

7.2.2 five working days after the **customer delivery date**;

whichever is earlier.

## 8. Preparations for the equipment and service

8.1 You are entirely responsible for the security of access to your information technology systems, the integrity of information stored on those systems, and security from corruption, change and abuse of your systems and information.

## 9. Access to the site

9.1 You agree to give us access to the **site**, after we have given you reasonable notice, so that we can meet our obligations under the **agreement**. If any person who appears to be authority gives us access to the **site**, we will consider that person to have your authority to give us access.

9.2 You and we agree to follow all reasonable instructions we or you give to the other while on the **site**.

9.3 You must provide a safe and suitable working environment for us at the **site**. You must also make sure that the proper environmental conditions and an appropriate power supply are maintained at the **site** so that we can provide the **support service**.

9.4 If you find out that our access to the **supported equipment** or the **site** will be limited you must tell us as soon as possible. We will not be liable for any delay in providing, or failure to provide, some or all of the **service** if the delay or failure is caused by

us having limited access or no access to the **supported equipment** or the **site**.

9.5 We will cause as little damage as reasonably possible and will make good any damage that we cause at the **site**. We will take reasonable care to make sure we do not unreasonably interfere with your business at the site.

## 10. Service and service levels

10.1 We will provide the **service** with reasonable care and skill.

10.2 If we are providing the **support service**, we will use reasonable efforts to meet the **service levels** relating to the relevant **support service** you have bought. Our liability arising in connection with us failing to meet the **service levels** is limited as set out in the **service level agreement**, but this does not affect the general limits and exclusions of liability in clause 14.

## 11. Paying for the equipment and services

11.1 **Equipment charges** are as set out in the **order** (or as otherwise agreed in writing) unless the exchange rate between US dollar and pound sterling on the date we pay our supplier in US dollar has changed for the worse by more than 5% compared to the exchange rate we used for calculating the **equipment charges**. In that case we may increase the **equipment charges** in the **order** by an extra amount that is worked out by multiplying the excess over that 5% by the **equipment charges** set out in the **order**.

11.2 We may increase the **service charges** for the **support service** by giving you written notice at least 60 days before the date the **support term** ends or any anniversary of that date. However, if within 30 days of receiving our notice you tell us in writing that, from that end date or anniversary date you want to end the **support service** for some or all of the **supported equipment**, the increase in **service charges** will only apply to the **support service** that continues after that end date or anniversary date. It will not apply to the **support service** you have ended.

11.3 All payments you owe us under the agreement must be paid in full without you deducting or withholding any amount or setting any restriction or condition.

11.4 You must pay our **charges** by the method of payment set out in the relevant invoice. If you make a payment by a different method, we may refuse to accept it or charge an extra administration fee.

11.5 Unless we have agreed otherwise with you in writing, we (or our **group company** acting on our behalf) will invoice you for **equipment charges** and **service charges** on or after the



- customer delivery date.** If you have bought the **support service**, we will invoice you for that from the **support start date**, at the frequency set out in the **order form** for invoicing **service charges**.
- 11.6 Unless we have agreed otherwise in writing, you must pay us (or the **group company** appointed for this) all **charges** within 30 days of the date of the relevant invoice.
- 11.7 We may carry out credit checks on you. We accept no liability for the accuracy of information we receive from credit reference agencies. If, at any time before or during the term of the **agreement**, you do not meet the standard of creditworthiness we consider to be acceptable, in addition to our rights under clause 4.2, we also have the right to:
- 11.7.1 require you to pay regular instalments towards future **charges**; and
- 11.7.2 apply any other restrictions we consider appropriate.
- 11.8 If you do not make a payment when it is due, we may, without affecting our other rights and remedies, charge you:
- 11.8.1 a late-payment administration fee; and
- 11.8.2 interest, charged at 4% above Barclays Bank plc's base rate for lending, on the overdue amount from the date the payment became due until the date it is paid. Interest will continue to build up even after an **order** (or part of it) is cancelled, or after the **agreement** ends before the overdue amount is paid.
- 11.9 You must pay us all our costs and expenses (including legal costs) of collecting any overdue amounts. Our costs and expenses will continue to build up until you have paid us all overdue amounts you owe us, even if an **order** (or part of it) is cancelled, or the **agreement** ends, before the overdue amount is paid.
- 11.10 All **charges** set out in the **agreement** do not include VAT or any other tax that applies. You must pay any such taxes we include in our invoice.
- 11.11 If you ask us to, or make us, delay the planned **customer delivery date**, or if that date is delayed because you have failed to meet your obligations under the **agreement**, you must pay:
- 11.11.1 any **equipment charges** and **service charges** that depended on the delayed date; and
- 11.11.2 any **charges** that depended on any other delivery of **equipment** or **service** subsequently delayed as a direct result;
- no later than the original planned **customer delivery date**. If the delay extends longer than one month from the planned **customer delivery date**, we may cancel the **order** at our discretion immediately on giving you written notice. You will be liable to pay 100% of the **equipment charges** on any cancellation under this clause (or 10% of the **equipment charges** if we can cancel our order with our supplier(s) free of charge, which we will use reasonable efforts to do).
- 11.12 If at any time you ask us to carry out any work or deliver **equipment** at a time which is not entirely during a **working day**, you must pay our **charges** based on our standard hourly rate that applies for the time of day the work is carried out or **equipment** delivered, as set out in our price guide or otherwise communicated to you. This does not apply to the **support service** if the support option you have bought includes out-of- hours support.
- 11.13 We may issue either a single invoice or several invoices for the total of the **charges** due under the **agreement** (including for any extra amount worked out under clause 11.1).
- 11.14 If you pay the **charges** by direct debit we may alter your direct debit instruction to reflect the **charges** for the **service** at that time. When the **agreement** ends, you are responsible for cancelling any direct debit instruction or other payment arrangement. If you cancel any direct debit instructions in any circumstance other than when the **agreement** ends, you must tell us immediately. If you cancel any direct debit instructions without telling us we may suspend the **service** or end the **agreement** by giving you written notice.
- 11.15 Our **cancellation charges** for you cancelling all or part of an **order**, or ending the **agreement** before the **customer delivery date** or the **support start date**, will be the total of the following:
- 11.15.1 All unpaid **charges** due at the date the **order** is cancelled or the **agreement** ends.
- 11.15.2 100% of the **equipment charges** (or 10% of the **equipment charges** if we can cancel our order with our supplier free of charge, which we will use reasonable efforts to do).
- 11.15.3 A proportion of the **service charges** for **professional services** based on an amount that is reasonable for the work done, as specified by us.

- 11.15.4 100% of the **support charges** you would have had to pay for the first 12 months of the **support period** if you had not cancelled the **order** or ended the **agreement**, less any **support charges** you have already paid (or 50% of such **support charges** if we can cancel our order for the relevant **equipment** from our supplier free of charge).
- 11.15.5 Any other cancellation or termination **charges** referred to in the relevant **special terms** or the **quotation**, or as otherwise agreed by you and us in writing.
- 11.16 Our **cancellation charges** for you ending the agreement after the **customer delivery date** or the **support start date** will be the total of the following.
- 11.16.1 All unpaid **charges** due at the date the **order** is cancelled or the **agreement** ends.
- 11.16.2 100% of the **equipment charges** that have not yet been paid or invoiced on the date you cancel the **order** or end the **agreement**.
- 11.16.3 100% of the **service charges** for **professional services** that have not yet been paid or invoiced on the date you cancel the **order** or end the **agreement**.
- 11.16.4 The relevant proportion of the **support charges** (as set out in the table below) that you would have had to pay during the **support period** if you had not cancelled the **order** or ended the **agreement**, less any **support charges** you have already paid.
- 11.16.5 Any other cancellation or termination **charges** referred to in the relevant **special terms** or the **quotation**, or as otherwise agreed by you and us in writing.

<b>Remainder of the support period after the date the order is cancelled or the agreement ends</b>	<b>Cancellation charges as a percentage of annual support charges</b>
During months 1 to 12 after that date	100%
During months 13 to 24 after that date	50%
From month 25 onwards	25%

- 11.17 If you ask us to carry out billing administration work (including changing how and when we invoice you and providing extra invoice details, reports or copies of bills) and we agree to your request, you must pay our **charges** for the work, as set out in the **price guide** or specified by us.
- 11.18 If, as part of the **service**, we provide you with an electronic invoice, we may charge you for providing a paper invoice, as set out in the **order form** or in the **price guide**.

## 12. Intellectual property rights

- 12.1 If, as a result of any **equipment** or **service** we provide to you, we or any of our employees or agents create any **materials**, we will own all legal and beneficial rights to them. This includes **intellectual property rights**. If we provide **materials** to help you use the **equipment** or **service**, we grant you a non-exclusive licence to use the **materials** for that purpose only. You cannot transfer the licence.
- 12.2 **Intellectual property rights** in all software (in whatever form) we provide you with in connection with the **equipment** or the **service** will remain our property, or the property of our licensor (the person who has granted us a licence for that software). We grant you a non-exclusive licence to use the software for the purpose of using the **equipment** or **service** and for no other purpose. You cannot transfer the licence. You agree to keep to our licensor's terms and conditions relating to your use of the software.
- 12.3 You must:
- 12.3.1 treat the **material** described in clause 12.1 and software referred to in clause 12.2 as confidential information (as described in clause 19);
- 12.3.2 keep to clause 19 in connection with any **materials** and software; and
- 12.3.3 if an **order** is cancelled or the **agreement** ends for any reason, immediately return all copies of the **materials** and software to us and delete any copies from any computer, word processor or other storage device you have control over.
- 12.4 You must not:
- 12.4.1 reproduce the software, except for archiving or back-up purposes (and in those circumstances you must make sure that each copy contains all of the original software's proprietary notices);

- 12.4.2 adapt, modify, translate, reverse engineer, decompile, alter or otherwise tamper or interfere with the software (except where the **law** allows this); or
- 12.4.3 create work derived from or based on any of the software or any document accompanying it.
- 12.5 Except where clause 12.7 applies or clause 12.8 limits the amount, we will indemnify (fully compensate) you against any damages (including costs) awarded against you or which you agree to pay, in connection with any claim or action against you as a result of us providing the **service** to you or supplying the **equipment** to you infringing (breaking, limiting or undermining) the **intellectual property rights** of a third party (an **intellectual property claim against you**), as long as you do the following.
- 12.5.1 Give us notice of any such claim or action as soon as possible after you become aware of it (and in any event no later than seven days after becoming aware of it).
- 12.5.2 Give us, and only us, authority to defend the claim or action, and at no time admit liability or otherwise try to settle the claim or action (unless we have given you written instructions to do so).
- 12.5.3 Follow our reasonable instructions and give us any help we may reasonably need with the defence, including completing and filing court papers and providing relevant documents.
- 12.6 We will refund reasonable costs you have to pay in order to keep to clause 12.5.
- 12.7 We will have no liability to you in connection with an **intellectual property claim against you** if it has resulted from:
- 12.7.1 your negligence or misconduct;
- 12.7.2 you failing to meet any of your obligations under the **agreement**;
- 12.7.3 you combining, operating or using the **equipment** or the **service** with services, content, designs, specifications, software, devices or equipment we have not supplied or authorised;
- 12.7.4 you using the **equipment** or the **service** for a purpose other than that which the **equipment** or the **service** were provided for;
- 12.7.5 any alteration or adjustment to the **equipment** or the **service** if the alteration or adjustment was not made or authorised by us; or
- 12.7.6 you breaking the **law**.
- 12.8 Without affecting the general limits and exclusions of liability in clause 14, our liability to you in connection with any **intellectual property claim against you** relating to the **equipment** or the **service**, whether under the indemnity in clause 12.5 or otherwise, is limited to any amounts we have recovered relating to the **intellectual property claim against you** from the **equipment** manufacturer (or its licensor), or from the supplier (or its licensor) of any service or equipment we use to provide the **service** to you.
- 12.9 If an **intellectual property rights** claim is made against you, we will be entitled, at our own expense, to:
- 12.9.1 gain the right for you to continue using the **equipment** or the **service**;
- 12.9.2 alter or adjust the **equipment** or the **service** so it no longer infringes the third party's **intellectual property rights**, as long as the alteration or adjustment does not significantly reduce the features or performance of the **equipment** or **service**;
- 12.9.3 replace the **equipment** or **service** with substitutes that do not infringe the third party's **intellectual property rights**, as long as the substitutes do not significantly reduce the features or performance of the **equipment** or **service**; or
- 12.9.4 if none of the actions above are commercially feasible, take back the **equipment** and refund an amount worked out as the **equipment charges** you have paid for it, less 20% of those **equipment charges** for each year you have had the **equipment**.
- 12.10 If we reasonably believe that we cannot exercise any of the options set out in clause 12.9, we have the right to either give you notice in writing to immediately cancel the part of the **order** we have not fulfilled yet, or to end the **agreement** by giving you 30 days' notice in writing.
- 12.11 We will not have to supply any **equipment** or provide any **service** to you (even if we have accepted your **order** for it) if we know, or reasonably believe, that if we did so that will



- (or is likely to) result in an **intellectual property claim against you**. In such case we would have the right to immediately cancel the **order** or end the **agreement** (as appropriate) without liability to you.
- 12.12 You must indemnify us against any damages (including costs) awarded against us, or which we agree to pay, in connection with any claim or action against us as a result of us supplying the **equipment** or providing the **service** infringing the **intellectual property rights** of a third party (an **intellectual property claim against us**) if that claim or action arises from:
- 12.12.1 work we carried out in line with instructions or specifications you gave us; or
- 12.12.2 you connecting or using your own equipment or software with the **equipment** or the **service**.
- 12.13 We will contact you within seven days of us becoming aware of an **intellectual property claim against us** which you are liable for under clause 12.12, and we will:
- 12.13.1 not admit anything relating to the **intellectual property claim against us**;
- 12.13.2 allow you to conduct or settle all negotiations and proceedings, as long as you provide us with reasonable security for all associated costs and damages; and
- 12.13.3 give you all reasonable help in handling the **intellectual property claim against us**.
- 12.14 You must refund reasonable costs we have to pay in order to keep to clause 12.13.
- 12.15 The **equipment** and the **service** may involve software, services, technical information, training materials or other technical data which the United States of America Export Control Regulations, or the **laws** or regulations of another country, apply to. You must not download or export the software, or any underlying information or technology except in keeping with all United States **laws** and other **laws** that apply.
- 13. Preventing bribery**
- 13.1 You and we must not pay, offer, promise to pay or authorise the payment of any money or other advantage which breaks anti-corruption **laws**, including the UK Bribery Act 2010, the US Foreign Corrupt Practices Act 1977 and any **laws** intended to bring into force the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Also, you and we must not take any action that would cause either you or us to break anti-corruption **laws**.
- 14. Limits of liability**
- 14.1 Nothing in the **agreement** will limit or exclude your or our liability for:
- 14.1.1 fraud or fraudulent misrepresentation;
- 14.1.2 death or personal injury resulting from your or our own negligence (as defined in section 1 of the Unfair Contract Terms Act 1977);
- 14.1.3 not meeting the requirements of section 12 of the Sale of Goods Act 1979; or
- 14.1.4 matters which cannot, by **law**, be restricted or excluded.
- 14.2 Except where the **agreement** states otherwise, all warranties, guarantees, assurances, conditions, undertakings and terms (whether expressed or implied) relating to the **equipment** or the **service** (including any software used in them) are excluded to the fullest extent allowed by **law**.
- 14.3 Except as set out in clauses 14.4 and 14.5, we accept liability for direct physical damage to your property and the **site** only where the damage arises solely and directly from our negligence or the negligence of our employees, agents or contractors acting in the course of their employment.
- 14.4 Except in connection with indemnifying us for any amounts under clause 12.12 or paragraph 3.6 of part A of schedule 1, and except where clause 14.1 applies, during any agreement year (the 12-month period starting on the date of the **agreement** and each anniversary of it) your or our total liability to the other (except for charges), whatever the type of claim (including in respect of contract, negligence or otherwise) for that **agreement year** will be limited to:
- 14.4.1 125% of the total **charges** you have paid us during that agreement year; or
- 14.4.2 £25,000;
- whichever is more.
- 14.5 Despite the above, you and we will not have any liability (except under clause 14.1) arising out of or in connection with the **agreement**, for the following:
- 14.5.1 Any direct or indirect loss of or damage to:
- (a) business, production, working time, data or expected savings;

	(b) goodwill, opportunity or contracts;		to do so within 30 days of us instructing you to.
	(c) revenue; or	15.1.3	You have:
	(d) profits;		(a) had a liquidator, administrative receiver, administrator, receiver, bankruptcy trustee or similar officer appointed over all or some of your assets or business (other than for the purposes of a genuine amalgamation, reorganisation or reconstruction);
	whether or not that loss or damage could have been anticipated.		(b) entered into an arrangement with your creditors; or
14.5.2	Any direct or indirect loss or damage arising from:		(c) become unable to pay your debts, as described in s123 of the Insolvency Act 1986.
	(a) data being destroyed or corrupted;		
	(b) business interruption;	15.1.4	Any event similar to those set out in clause 15.1.3.
	(c) increased staff time;	15.1.5	The details you gave us to enable us to supply the <b>equipment</b> or provide the <b>service</b> were significantly wrong or incomplete.
	(d) wasted expense; or		
	(e) liability to third parties;	15.1.6	You have broken or may be breaking, or we reasonably believe that you have broken or may be breaking, any <b>law</b> in connection with the <b>equipment</b> or the <b>service</b> .
	whether or not that loss or damage could have been anticipated.		
14.5.3	Any indirect, special or consequential loss or damage whatsoever, whether or not that loss or damage could have been anticipated.	15.1.7	You have committed or may be committing, or we reasonably believe that you have committed or may be committing, any fraud against us.
14.6	If a number of claims give rise to what is essentially the same loss, they will be considered together as only one claim under the <b>agreement</b> .	15.1.8	All or part of any contract between us and a third party ends (through no fault of <b>ours</b> ) and this affects the provision of the <b>equipment</b> or the <b>service</b> .
14.7	Unless the relevant <b>special terms</b> state otherwise, clauses 14.1 to 14.7 set out your and our entire liability to the other in connection with the <b>agreement</b> .		
14.8	You agree that the limits of our liability under the <b>agreement</b> are reasonable.		
14.9	This clause 14 will stay in force after the <b>agreement</b> ends, or an <b>order</b> is cancelled, for any reason.		
<b>15.</b>	<b>Ending the agreement</b>		
15.1	Without affecting any other rights we have to cancel an <b>order</b> or end the <b>agreement</b> (whether set out in other parts of the <b>agreement</b> or otherwise), we may cancel an <b>order</b> or end the <b>agreement</b> immediately, by giving you written notice, if any of the following has happened.	15.2	You may cancel an <b>order</b> or end the <b>agreement</b> immediately, by giving us written notice, if any of the following has happened.
15.1.1	You have failed to meet a material obligation (a significant requirement) of the <b>agreement</b> and the matter cannot be put right.	15.2.1	We have failed to meet a material obligation of the <b>agreement</b> and the matter cannot be put right.
15.1.2	You have failed to meet a material obligation of the <b>agreement</b> and the matter could have been put right but you failed	15.2.2	We have failed to meet a material obligation of the <b>agreement</b> and the matter could have been put right but we failed to do so within 30 days of you instructing you to.
		15.2.3	We have:
			(a) had a liquidator, administrative receiver,

- administrator or receiver appointed over all or some of our assets or business (other than for the purposes of a genuine amalgamation, reorganisation or reconstruction);
- (b) entered into an arrangement with our creditors; or
- (c) become unable to pay our debts, as described in section 123 of the Insolvency Act 1986.
- 15.2.4 Any event similar to those set out in clause 15.2.3.
- 15.3 If you cancel an **order** or end the **agreement** under clause 15.2 you must send written notice of this to us at the address set out in clause 18.1.
- 15.4 If we cancel an **order** or end the **agreement** because you have not met your obligations under it, you must pay our **cancellation charges**. Your obligation to pay these does not affect any of our other rights or remedies. We will send you an invoice for the **cancellation charges** when we cancel an **order** or end the **agreement**, and you must pay that invoice in line with clause 11.2. We do not have to refund any **charges** you have paid in advance.
- 15.5 Cancelling an **order** or ending the **agreement** does not affect our or your rights, obligations or liabilities that arose before the **order** was cancelled or the **agreement** ended.
- 15.6 The **agreement** will end when you have accepted the **equipment** or the **deliverables**, except where we also provide the **support service** to you. In this case, the **agreement** will stay in force for the **support period** and then continue until you or we end it by giving the other at least 30 days' notice in writing. If you or we do not want the **agreement** to continue beyond the **support period**, written notice must be given at least 30 days before the end of the **support period**.
- 16. Assignment and subcontracting**
- 16.1 You must not assign (transfer), delegate or otherwise pass on any or all of your rights or obligations under the **agreement** without our permission in writing (which we will not unreasonably refuse to give, or delay in giving).
- 16.2 We may subcontract our obligations under the **agreement**. This will not release us from our obligations under the **agreement**, and we will still be responsible for making sure the obligations are met.
- 16.3 If you give us written permission (which you must not unreasonably refuse to give, or delay in giving), we may assign, transfer, delegate or otherwise pass on of any or all of our rights and obligations under the **agreement**. When asked, you must fill in and sign all necessary paperwork.
- 16.4 We do not need your written permission to assign, transfer, delegate or otherwise pass on of any or all of our rights and obligations under the **agreement** to:
- 16.4.1 any of our **group companies** at the time; or
- 16.4.2 any person buying all or substantially all of our business which the **agreement** relates to.
- 17. Events outside your or our reasonable control**
- 17.1 You or we will not be liable to the other for any failure or delay in meeting the obligations under the **agreement** (other than paying any amounts owed) if this is due to any circumstance outside your or our reasonable control. If the circumstance beyond your or our control continues for more than three months, you or we may cancel an **order** or end the **agreement**, without any additional liability, by giving the other notice in writing.
- 17.2 Circumstances beyond your or our control include extreme weather conditions, power failures, natural disaster, fire, subsidence, epidemic, strike or labour disturbance, the actions or (failure to act) of local, regional or central government, highway authorities or other official authorities, legal or regulatory restrictions, terrorism, war, civil disturbance, and a third party's delay in supplying, or failure to supply, any equipment or service (where its actions or failures resulted from circumstances beyond its reasonable control).
- 18. Written notices**
- 18.1 Any written notice you send us must be delivered by hand or sent by post to:
- Head of Customer Services  
Virgin Media Business  
Business Customer Services  
PO Box 1787  
Sheffield  
S9 3UH
- or any other address we give you in writing.
- 18.2 Any written notice we send you will be:
- 18.2.1 delivered by hand or posted to your billing address shown on the **order form** or to your registered office;

- 18.2.2 faxed to your fax number shown on the **order form** or given to us in writing;
- 18.2.3 emailed to your email address shown on the **order form** or given to us in writing; or
- 18.2.4 sent by text message to your mobile phone number shown on the **order form** or given to us in writing.
- 18.3 Written notice:
- 18.3.1 delivered by hand will be considered to have been received on that day;
- 18.3.2 sent by post will be considered to have been received three days after the date it was posted;
- 18.3.3 sent by fax will be considered to have been received when it is sent, as long as the sender receives a transmission report confirming that the fax has been sent correctly;
- 18.3.4 sent by email will be considered to have been received on the **working day** it is first stored in the email inbox of the person the notice was emailed to; and
- 18.3.5 sent by text message will be considered to have been received on the **working day** the notice is first stored in the message inbox of the person the notice was texted to.
- 18.4 If you send us written notice to cancel an **order** or end the **agreement** you must make sure that you keep a copy of the notice and proof of delivery.
- 19. Confidentiality**
- 19.1 When you or we provide confidential information (information which you or we mark as confidential or which is clearly confidential) to the other, the person receiving the confidential information (the receiver) gives the person providing the confidential information (the provider) the following assurances.
- 19.1.1 The receiver will keep confidential information the provider gives in discussions leading to the **agreement**, and then in connection with the **agreement**, private.
- 19.1.2 The receiver can give the provider's confidential information, to the extent necessary but in strict confidence, to its employees, agents and contractors involved in supplying or using the **equipment** or the **service**, as the case may be. The receiver will not release all or some of the provider's confidential information to any other person without the provider's permission in writing.
- 19.1.3 The receiver will only use the provider's confidential information in connection with us supplying or you using the **equipment** or the **service**, and not for its own benefit or the benefit of anyone else.
- 19.2 You must not reveal the terms of the **agreement** to any third party, or make any announcements about its contents, without our permission in writing. We may tell others that you are a customer of ours and issue agreed press releases, promotional material and case studies in line with clause 21.14, but we will not otherwise reveal the terms of the **agreement** to any third party without your permission in writing.
- 19.3 The confidentiality obligations in clauses 19.1 and 19.2 will not apply if any court, government or regulator requires the receiver to reveal the confidential information (but only to the extent required by **law**). Unless the **law** does not allow this, the receiver will give the provider written notice, as soon as reasonably possible, about its confidential information being released.
- 19.4 The confidentiality obligations in clauses 19.1 and 19.2 will not extend to confidential information which:
- 19.4.1 became available to the public in a way other than through the receiver's negligence or failure to meet an obligation under the **agreement**;
- 19.4.2 the receiver already knew before the provider gave it the confidential information; or
- 19.4.3 was given to the receiver by a third party who did not receive it in confidence.
- 19.5 Clause 19 will stay in force after all or any part of an **order** is cancelled or the **agreement** ends.
- 20. Data protection**
- 20.1 This clause will apply to the extent that we **process personal data** on your behalf in the course of providing the **equipment** or **service** under this **agreement**.

- 20.2 You will be the **data controller** of the **personal data** that is provided to us for **processing** under this **agreement** and we will act as a **data processor** on your behalf.
- 20.3 Under this **agreement**, you will be responsible for:
- 20.3.1 complying with all **data protection legislation** in respect of your use of our services, your **processing** of the **personal data** and any **processing** instructions you give us.
- 20.3.2 ensuring you have the right to collect, provide access to or transfer the **personal data** to us for **processing** under this **agreement**.
- 20.3.3 ensuring that you will not disclose (or permit any **data subject** to disclose) any special categories of data to us for **processing**.
- 20.4 We will **process** the **personal data** to the extent necessary to provide you with the **equipment** or **service** and in accordance with your reasonable instructions (including the reasonable instructions of any users accessing the **service** on your behalf) as set out in the **agreement** or otherwise in writing, and in doing so we will comply with the **data protection legislation**.
- 20.5 We will ensure that any of our personnel authorised to **process** the **personal data** will be subject to a duty of confidentiality.
- 20.6 We will take the following security measures:
- 20.6.1 implement appropriate technical and organisational measures to protect the **personal data** from accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access (a **data breach**).
- 20.6.2 Upon becoming aware of a data breach, we will notify you without undue delay. We will make reasonable efforts to identify the cause of the **data breach** and to take such steps as we deem necessary and reasonable to mitigate the effects of such **data breach**, to the extent that such steps are within our reasonable control.
- 20.6.3 We will make reasonable efforts to provide such information as you may reasonably require to enable you to fulfil any **data breach** reporting obligations under the **GDPR**.
- 20.7 You agree that we may engage our **group companies** and third party sub-processors (collectively **sub-processors**) to **process personal data** on our behalf, provided that:
- 20.7.1 We maintain an up-to-date list of **sub-processors** which will be available on request.
- 20.7.2 We impose on such **sub-processors** data protection terms that require them to protect the **personal data** to the standard required by **data protection legislation**.
- 20.7.3 We remain liable for any breach of the **data protection legislation** caused by our **sub-processor** when **processing personal data** under this **agreement**.
- 20.8 We will not **process** or otherwise transfer any **personal data** outside the European Economic Area or to any international organisations unless we have appropriate assurances from that third party that the **personal data** will only be **processed** in compliance with **data protection legislation** (which will be satisfied and evidenced by us entering into a contract with that third party which contains the **model contract clauses**).
- 20.9 Taking into account the nature of the **processing** and information available to us, we will provide reasonable assistance to you to allow you to comply with your obligations in relation to: (i) security measures; (ii) notifying **data breaches**; and data privacy assessments.
- We will be entitled to recover our reasonable costs of providing such assistance to you.
- 20.10 We will make available to you all information reasonably requested by you in writing to demonstrate our compliance with the obligations set out in this clause 20, and we will contribute to audits, including inspections, to verify compliance with such obligations conducted by you or an independent third party auditor acting under your direction. Such audits or inspections may take place no more than once per calendar year and will be at your cost. You will give us not less than 30 days' prior written notice of any such audit or inspection, and such audit or inspection will be carried out during our normal working hours with minimal disruption to our business.
- 20.11 Upon expiry or termination of this **agreement**, we will, at your request, delete or return to you the **personal data processed** under this **agreement**, unless storage is required by law.



## 21. Marketing and your information

- 21.1 When you want to buy **equipment** or a **service** from us, we will check the following records about you, your **group companies** and your business partners.
- 21.1.1 Our own records.
- 21.1.2 Personal and business records at credit-reference agencies. When credit-reference agencies receive a search from us they will note this on your business credit file, and this may be seen by other companies. The credit-reference agencies will give us both public records (including the electoral register) and shared credit and fraud prevention information.
- 21.1.3 Records held by fraud-prevention agencies.
- 21.2 If you are a director, we will get confirmation from credit reference agencies that the residential address you have given us is the same as that shown on the restricted register of directors' usual addresses at Companies House.
- 21.3 We will make checks such as assessing your offer to buy **equipment** or a **service** and confirming identities to prevent and detect crime and money laundering. We may also make occasional searches with credit-reference agencies and fraud prevention agencies to manage your account with us.
- 21.4 We will send credit-reference agencies information you give us, including information on your business and its owners. The credit-reference agencies will record the information and may create a record of the name and address of your business and its owners (if there is not one already). We will give credit-reference agencies details of your accounts with us and how you manage them.
- 21.5 If you do not pay amounts you owe us, in full and on time, credit-reference agencies will record the debt. Credit-reference agencies and fraud-prevention agencies may supply this information to other organisations so they can carry out checks, trace where you are and recover debts that you owe. Such records stay on file for six years after the relevant account is closed, whether or not you have cleared the debt. If you do not make payments that you owe us, we will trace you to recover the debt.
- 21.6 We will carry out a search to check your identity. This involves checking the details you give us against those held on databases which credit-reference agencies and fraud-prevention agencies have access to, including the electoral register. A record of this search will be kept, and other companies may use it to help them check your identity. We may also pass information to financial institutions and other organisations involved in preventing fraud, to protect us and our customers from theft and fraud.
- 21.7 If you give us false or inaccurate information and we suspect or identify fraud, we will record this and may pass this information to fraud prevention agencies and other organisations involved in investigating crime and preventing fraud. We and organisations from other countries can see and use, in other countries, the information recorded by fraud-prevention agencies.
- 21.8 We may monitor and record our telephone conversations with you in order to maintain the quality of our customer services and for training purposes.
- 21.9 We can pass on information that describes the habits, usage patterns and characteristics of all or groups of our customers (including you). However, the information is anonymous and does not describe or reveal the identity of any particular customer.
- 21.10 Unless you have ticked the relevant boxes on the **order form**, or have told us otherwise in writing, we may:
- 21.10.1 use your information to send you information about other products or services we or a our **group companies** have available; and
- 21.10.2 provide your information to third parties so they can give you information about their products or services.
- 21.11 For the purpose of providing **equipment** or a **service** under the **agreement**, you give us permission to use your personal information, together with other information from you, for the purposes of:
- 21.11.1 providing you with the **equipment** or the **service**, service information and updates;
- 21.11.2 administration;
- 21.11.3 credit scoring;
- 21.11.4 carrying out identity checks;
- 21.11.5 preventing fraud;
- 21.11.6 monitoring and improving customer services;
- 21.11.7 training; and
- 21.11.8 tracking and assessing the use of our services;

- for as long as we need to for these specified purposes, which may be after an **order** is cancelled or the **agreement** ends.
- 21.12 Occasionally, we may use third parties to process your personal information in the ways set out above. These third parties can only use the information in line with our instructions.
- 21.13 We may use any information you provide for the purposes set out in this clause 20, for other purposes you give permission for, or for any other purpose required by **law**. We can pass your information to any of our **group companies**, debt-collection agencies, credit-reference agencies, credit- or fraud-monitoring schemes, security agencies or credit providers.
- 21.14 Unless you have ticked the relevant box on the **order form**, or you have told us otherwise in writing, you agree to be involved in any press release, promotional material or case studies relating to the **agreement** which we reasonably request.
- 22. Changing the equipment and service**
- 22.1 You can ask us, in writing, to:
- 22.1.1 change a **service** (including extending and upgrading the **support service**); or
- 22.1.2 change the **equipment** (including buying extra **equipment** or moving the **equipment** on the **site** to a new location).
- 22.2 If you ask us to make a change under clause 22.1, we will try to meet your request and, where appropriate, provide a **quotation**. You must then follow the steps we tell you are needed to agree and make the change.
- 22.3 You must pay any **charges** as agreed in writing between you and us, or set out in the **quotation** or **order form**. You may have to pay these before we make the change.
- 22.4 If we instruct you to carry out any work necessary in connection with a change you have asked for, you must carry out that work strictly in line with our instructions.
- 22.5 Any change under this clause 22 may result in the **charges** increasing.
- 22.6 Except where you and we enter into a new agreement to give effect to any change, the terms and conditions of the **agreement** will apply to the agreed change to it.
- 22.7 If you ask us to start providing the **monitoring service** or **management service** for **supported equipment**, you and we will have discussions, in good faith, in order to enter into a new agreement under which:
- 22.7.1 the **monitoring service** or **management service** will be supplied; and
- 22.7.2 the remainder of the **support period** for any **maintenance service** will be included (extended or upgraded as appropriate) so that the **support period** for the **maintenance service** ends when the **support period** for the **monitoring service** or **management service** ends.
- 22.8 If the remainder of the **support period** for the **maintenance service** under the existing **agreement** is included in the new agreement on substantially the same terms and conditions as under the existing **agreement**, you will not have to pay any **cancellation charges** for ending the existing **agreement** early or cancelling the **maintenance service** under the existing **agreement**.
- 23. Entire agreement**
- 23.1 The **agreement** between you and us, together with any document referred to in it, is the whole **agreement** between you and us and replaces any previous drafts, agreements, and arrangements relating to the **equipment** or the **service**.
- 23.2 You and we agree that neither you or we have been encouraged to enter into the **agreement** by any representation or promise other than those contained in the **agreement**, and cannot take any action in respect of any other representation or promise, except in the case of fraud or a representation or promise that is central to the **agreement**. However, clauses 14.4 and 14.5 will apply to any representation or promise that is central to the **agreement**.
- 24. Miscellaneous**
- 24.1 Except where the **agreement** states otherwise, the rights and remedies under the **agreement** are in addition to, and do not overrule or exclude, any rights or remedies available under the **law** or otherwise.
- 24.2 If we or you do not exercise, or delay in exercising, any right or remedy we or you have under the **agreement**, this does not mean that we or you have given up that right or remedy or any other (whether before, at the same time or after), and so we or you may exercise that right or remedy or any other in the future.
- 24.3 If we or you exercise all or part of any right or remedy we or you have under the **agreement**, this will not prevent us or you from exercising that or any other right or remedy in the future.

24.4 If any court or other relevant authority finds that any part of the **agreement** is illegal or cannot be enforced, this will not affect the rest of the **agreement**. In these circumstances, you and we will discuss the affected part of the **agreement** to find a substitute that, as far as possible, results in the same economic effects and is legally binding and able to be enforced.

24.5 If any part of the **agreement** is intended to stay in force after an **order** is cancelled or the **agreement** ends, that part will stay in force after the **order** is cancelled or the **agreement** ends for any reason.

24.6 Unless there are any relevant restrictions in the **agreement**, at any time after the date of this **agreement**, you or we may ask the other to complete any necessary paperwork, and take any action reasonably necessary, for the purpose of giving you or us (as appropriate) the full benefit of your or our rights under the **agreement**. The one asking for the paperwork to be completed, or action carried out, will pay the reasonable costs that result from completing the paperwork or carrying out the action.

24.7 Nothing in the **agreement** forms a partnership between you and us, or makes you an agent of **ours** (or vice versa).

24.8 You and we agree that the **agreement** cannot be enforced by anyone (other than you and us) under the Contracts (Rights of Third Parties) Act 1999.

## 25. Disputes

25.1 If there is a dispute between you and us in connection with the **agreement**, and you and we cannot settle the dispute by discussion between ourselves within 30 days of giving the other notice of the dispute, you or we may refer the dispute for arbitration, or to the courts of England, in line with clause 26.

25.2 While the procedure set out in this clause 25 is being followed, and during any legal proceedings which may be ongoing or pending, you and we will both continue to meet **your** and our obligations under the **agreement**, but nothing in this clause prevents you or us from ending the **agreement** in line with these **standard terms and conditions** or any **special terms** that apply.

25.3 Nothing in this clause 25 prevents you or us from applying to a court for equitable relief (a range of remedies that a court has the power to grant) if damages alone would not be an adequate remedy for breaking the **agreement**.

## 26. Governing law and jurisdiction

26.1 The **agreement** and any obligations arising from or connected with it will be governed by, and interpreted according to, English law.

26.2 Any dispute arising under the **agreement** which does not involve:

26.2.1 a complicated issue of **law**; or

26.2.2 an amount of more than £5,000;

may be referred to arbitration or other appropriate method of dispute resolution.

26.3 If any legal action or proceedings arise in connection with the **agreement** (whether arising out of contractual or non-contractual obligations), you and we accept that only the English courts have the power to decide on such action or proceedings.

26.4 We are fully committed to dealing with all complaints, fully and fairly, and within a reasonable time. If you'd like to find out how we deal with complaints, please see Our Complaint Resolution Code of Practice. This is in the 'Code of Practice' section on our website at [www.virginmediabusiness.co.uk](http://www.virginmediabusiness.co.uk), or you can phone our Customer Services team on 0800 052 0800 to ask us for a copy.

**SCHEDULE 1**

Parts A to D of this schedule 1 set out **special terms** that apply to certain **equipment** or **services** we provide in addition to the **standard terms and conditions**.

**Part A**

**Cisco Technology Migration Programme**

**1. Special terms**

1.1 The terms and conditions in this part A apply to you taking part in the Cisco Technology Migration Programme under the **agreement**.

**2. Definitions and interpreting these special terms**

2.1 Where the following words are printed in bold in these **special terms**, they have the meanings set out below.

**Cisco** means Cisco International Limited.

**discount** means the total discount we agree to give you, when you return the **trade-in equipment**, against **new equipment** you buy from us.

**new equipment** means **Cisco** hardware and software which you buy under the **programme** and which you will get a **discount** for.

**programme** means the Cisco Technology Migration Programme.

**trade-in equipment** means hardware, licensed software, documents, developed products, supplies, accessories and similar related items that you put through the **programme** and that are approved by **Cisco** to take part in the **programme**.

**3. Cisco Technology Migration Programme**

3.1 You confirm that all the information you provide in connection with you taking part in the **programme** will be complete, accurate and true.

3.2 You must make sure that you own the **trade-in equipment**, and that no other person has any rights in or claim over it (even partly) and you are therefore fully entitled to return the **trade-in equipment**.

3.3 You agree that when you have accepted the **discount** we will from that time own the **trade-in equipment** and that you will return it to us (or allow us to collect it) within the period set out in paragraph 3.8.

3.4 You agree that you will keep to all relevant laws when you do the things to return the **trade-in equipment** to us and make us its owner.

3.5 You will be responsible for all costs relating to the transfer, including any kinds of taxes or fees, whether arising in connection with the transfer of the **trade-in equipment** itself or with any services related to the transfer.

3.6 You must indemnify us for any liability, loss, damages and claims (including third party claims), whatever the type of claim (including in respect of contract, negligence or otherwise), and for related costs, legal fees, and expenses arising at any time if you have not kept to paragraph 3.3, 3.4 or 3.5.

3.7 You confirm that:

3.7.1 you will only return **trade-in equipment** to us that has been used in your network within the 90-day period before you entered into the **agreement** to buy the **new equipment**; and

3.7.2 the **trade-in equipment** is sent to us in the same working condition it was in when it was removed from your network, with all its parts, and properly packaged to prevent damage while being transported, and that it has not been taken apart in any way.

3.8 You must:

3.8.1 have the **trade-in equipment** available at one location ready for us or **Cisco** to collect it; or

3.8.2 deliver the **trade-in equipment** to us or to **Cisco** (as we tell you);

as agreed with us.

3.9 If the **trade-in equipment** is not ready to be collected, or you do not deliver it to us or **Cisco** by the date we give you (which will be no later than 150 days from the date **Cisco** ships the **new equipment**), we will withdraw the **discount**. If by that date you have already received the **discount** when you paid the invoice for the **new equipment**, you must pay the **discount** back to us.

3.10 You must return only the **trade-in equipment** agreed with us. We are not responsible for keeping, returning or having care or control of any **trade-in equipment** that is not specifically included in the **programme**. Also, you must not return any **trade-in equipment** that is or may be contaminated with chemicals, biological agents or other substances which do not belong in the manufacture of the **trade-in equipment**.

3.11 We may charge you for any costs associated with handling and disposing of **trade-in equipment** that does not meet the terms of the **programme**, including shipping the **trade-in equipment** back to you.

3.12 You must delete any proprietary or confidential information from the **trade-in equipment**. We are not responsible for protecting such information and will not be liable for any loss caused to you or a third party if the information is not deleted.

3.13 You agree that if we find out that you have broken the terms and conditions in this part A, the following will apply to the extent allowed by **law**.

- 3.13.1 We may, without affecting any other rights or remedies we may have by **law**:
- (a) send you an invoice for the full amount of the **discount** relating to the **trade-in equipment** which is not returned, or for the difference between the price **Cisco** charged us for the **new equipment**; and
  - (b) immediately stop you from using the **programme**.

3.13.2 You must pay all costs of any audit which found evidence of you not keeping to the terms and conditions of the **programme**, as well as all our costs of collecting this amount from you. You agree that we may invoice you for these costs and you agree to pay our invoice for them within 15 days of the date of the invoice.

3.14 We may change, add to or withdraw all or part of the **programme** without giving you notice. The supply of all **new equipment** depends on its availability, and all prices may change without notice.

### **Part B**

#### **Cisco IOS Discovery**

#### **4. Special terms**

4.1 The terms and conditions in this part B apply to any Cisco IOS Discovery **service** that we provide to you under the **agreement**.

#### **5. Definitions and interpreting these special terms**

5.1 Where **Cisco** is used in this part B it means Cisco International Limited.

#### **6. Cisco IOS Discovery**

6.1 **Cisco** will treat the personal data which you provide or make available through the **Cisco** software used to collect information from your network in line with **Cisco's** privacy policy. This privacy policy is on the website at

[www.cisco.com/web/siteassets/legal/privacy.html](http://www.cisco.com/web/siteassets/legal/privacy.html).

6.2 Despite clause 19 of our **standard terms and conditions**, we are authorised to give your **confidential information** to **Cisco**, our contractors, and our **group companies** so that we can deliver the Cisco IOS Discovery **service**.

### **Part C**

#### **Cisco Certified Refurbished Equipment Programme**

#### **7. Special terms**

7.1 The terms and conditions in this part C apply to you taking part in the Cisco Certified Refurbished Equipment Programme under the **agreement**.

#### **8. Definitions and interpreting these special terms**

8.1 Where the following words are printed in bold in these **special terms**, they have the meanings set out below.

**authorised channel** means:

- (a) a distributor authorised by **Cisco** to sell **Cisco** products and services within its agreed area;
- (b) a reseller authorised by any such distributor in line with the distributor's agreement with **Cisco** to sell the **Cisco** products and services within its agreed area; and
- (c) a systems integrator authorised by **Cisco** to sell **Cisco** products and services within the agreed area.

**Cisco** means Cisco International Limited.

**Cisco-certified refurbished equipment** means hardware, licensed software, documents, developed products, supplies, accessories, and goods relating to these with 'RF' at the end of the product identity label, or any items refurbished by **Cisco** and approved by **Cisco** to be included in the **programme** on a case-by-case basis.

**programme** means the Cisco Certified Refurbished Equipment Programme.

#### **9. Cisco Certified Refurbished Equipment Programme**

9.1 You accept that Cisco **certified refurbished equipment** made available under the **programme** may have been used previously.



You agree that if you ever sell any **Cisco certified refurbished equipment**, you will:

- 9.1.1 not remove any identity label or other markings which **Cisco** has provided with the **equipment** and that refer to the **Cisco certified refurbished equipment** as used or refurbished, or as being part of the 'Cisco Remarketing Programme';
- 9.1.2 never suggest that **Cisco certified refurbished equipment** is new, or create a situation where an **authorised channel** or a buyer of it might reasonably believe that the **Cisco certified refurbished equipment** is new; and
- 9.1.3 immediately tell us if you find out that any **authorised channel**, or any other person who has bought **Cisco certified refurbished equipment** from an **authorised channel**, has:
  - (a) removed any identity label or other markings which **Cisco** has provided with the **equipment** and that refer to the **Cisco certified refurbished equipment** as used or refurbished; or
  - (b) advertised, promoted or resold any **Cisco certified refurbished equipment** as new or unused.
- 9.2 We may reject any **order** placed by you if some or all of the **Cisco certified refurbished equipment** is not available from refurbished stock within a reasonable time after we accepted your **order**. The **programme** has a limited pool of **Cisco certified refurbished equipment** that is sold on a first-come, first-served basis. This means that the supply of such equipment is not guaranteed.
- 9.3 If we accept your **order**, we use reasonable efforts to provide the **Cisco certified refurbished equipment** you have ordered. However, if we cannot supply all or part of the **Cisco certified refurbished equipment**, the part of the **order** relating to the item that is not available is not binding on us and we do not have to provide the relevant item.
- 9.4 You agree that any sale of **Cisco certified refurbished equipment** to you is final and that you cannot return **Cisco certified refurbished equipment** to us or **Cisco**.

## Part D

### Support Service (Maintain, Monitor, Manage)

#### 10. Special terms

- 10.1 The terms and conditions in this part D apply to any **support service** we provide to you under the **agreement**.
- 10.2 If we provide the **maintenance service** without the **monitoring service** or **management service**, only paragraphs 10 to 12 in this part D apply.
- 10.3 If we provide the **maintenance service** along with:
  - 10.3.1 the **monitoring service**; or
  - 10.3.2 the **monitoring service** and the **management service**;
 all the paragraphs in this part D apply.

#### 11. Definitions and interpreting these special terms

- 11.1 Where the following words are printed in bold in these **special terms** or in the **service level agreement** for the **support service**, they have the meanings shown below.

**communications network** means the communications network which we and our **group companies** run.

**connected site** means a **site** connected using **support connectivity**.

**current release** means the latest release of any software needed to use the **supported equipment**, an earlier version which is still currently supported by the OEM (Original Equipment Manufacturer), or a release agreed between you and us.

**customer connectivity** means the connectivity described in paragraph 13.2 below.

**end-of-support equipment** means **supported equipment** that is at the end of its technical or economic service life.

**minor change** means a minor change made, at your request, to the configuration of **supported equipment** and which we carry out remotely, as described in the **service literature**.

**support connectivity** means IPVPN connectivity we or our **group companies** provide and which is between our **communications network** and your network at one or more of the **sites** where the **supported equipment** is.

## 12. Maintenance service only

- 12.1 You must:
- 12.1.1 be responsible for the conditions at the **site** and make sure that the mains power supply, temperature, humidity and other conditions stay within the specifications published by the manufacturer of the **supported equipment**;
  - 12.1.2 where possible, carry out basic checks on the **supported equipment** (including making sure there are secure power connections) before reporting a fault. When you have reported a fault, you must carry out the reasonable diagnostics we instruct you to carry out before an engineer comes out to visit the **site**;
  - 12.1.3 agree to all reasonable scheduled downtime that may be necessary to bring the **supported equipment** back into service; and
  - 12.1.4 use only the **current release** of any software needed for running the **supported equipment**.
- 12.2 You must not:
- 12.2.1 alter the **current release** of any software or combine it with any other programmes; or
  - 12.2.2 add or fix any indelible identification, which would make it impossible for us to use the **supported equipment** as a spare item.
- 12.3 The **support service** does not cover any maintenance which is needed as a result of the following.
- 12.3.1 Your neglect or you breaking the **agreement**.
  - 12.3.2 You failing to keep to paragraphs 12.1 or 12.2 of this part D.
  - 12.3.3 An interruption to, disruption of or surge in the electrical supply, which causes the failure of or damage to the **supported equipment**.
  - 12.3.4 You not treating or using the **supported equipment** properly.
  - 12.3.5 Modifications to the **supported equipment** which have not been approved by the manufacturer of the **supported equipment**.
  - 12.3.6 Virus damage to any of the software contained in, or running on, the **supported equipment** (unless the damage is caused by us).
  - 12.3.7 Damage caused to the **supported equipment** while it was being transported by anyone other than us or a transporter appointed by us.
  - 12.3.8 Damage caused to the **supported equipment** by:
    - (a) accident, negligence, malicious acts or sabotage;
    - (b) strikes, riots or war;
    - (c) water or fire;
    - (d) mishandling; or
    - (e) any accident or disaster;
  - 12.3.9 Faults or errors resulting from modifications people other than us have made to the **current release**.
  - 12.3.10 Using any versions of the software other than the **current release**.
- 12.4 We may charge extra for any work we carry out which is not covered by the **support service**. The following applies to these extra **charges**.
- 12.5 If, after we have carried out the work, we find out that it is not covered by the **support service**, we may charge the full amount worked out based on our standard hourly rate at the time, as set out in the **price guide** or otherwise communicated to you.
- 12.6 If, before we start to carry out the work, we know that it is not covered by the **support service**, we will tell you the extra **charges** before we carry it out. If we expect that the extra **charges** will be £500 or more, we will not carry out the work until you have agreed the **charges** in writing.
- 12.7 We will send you an invoice for our extra **charges** under paragraph 12.4 when we have completed the work. You must pay our invoice as set out in clause 11 of our **standard terms and conditions**.
- 12.8 At any time during the **support period** we may declare that the **supported equipment** has become **end-of-support equipment**. We will stop providing the **support service** for that **end-of-support equipment** from the date specified in our declaration. You are responsible for replacing any **end-of-support equipment**.

- 12.9 We will adjust the **service charges** for any **supported equipment** we have declared **end-of-support equipment**, from the date specified in our declaration. We will work out how much to reduce the **service charges** by using the proportion of the **support period** that falls after that date.
- 12.10 If as part of the **support service** we replace hardware items (including parts) of **supported equipment**, the replacement items become the property of the owner of the **supported equipment** at that time. Any removed part or parts become our property. You must pay extra **charges** if extra costs arise as a result of you refusing to give us permission, or delaying in giving us permission, to remove **supported equipment** or items. Also, in this situation we will not be liable for our delay in providing, or failure to provide, the **support service**.
- 12.11 You and we may add items to the **supported equipment** covered by the **agreement**, in line with clause 22 of our **standard terms and conditions**. Those items must, in our reasonable opinion, be suitable for use with the **supported equipment** already covered, and they will be covered by the **support service** from the date they are installed, or from any other date you and we agree. You must pay the agreed **extra service charges** for these extra items. We do not have to agree to add items to the **supported equipment** if no audit under paragraph 12.13 has been carried out or if our audit has found that the **supported equipment** is not in good working order.
- 12.12 You agree to accept changes we make to the **support service** generally from time to time to reflect changes in technology and any resulting changes in our working practices, as long as the changes we make to the **support service** are reasonable and do not result in you receiving a reduced **service**.
- 12.13 Unless you and we agree a different **support start date** in writing, the **support start date** will be:
- 12.13.1 if you order **support service** separately from **equipment**, 30 days after the date we accept your **order** for the **support service**; and
- 12.13.2 if you order **support service** for **equipment** you buy under the **agreement**:
- (a) the **customer delivery date** for the equipment; or
- (b) 30 days after the date we accept your **order** for the **equipment**;
- 12.14 If our delivery of **equipment** for which you order **support service** cover happens in stages, there may be more than one **support start date**. In this case, there will be more than one **support period**. Each **support period** will start on the **support start date** of the **supported equipment** concerned.
- 12.15 We may carry out an audit of the **supported equipment**, or items you ask us to add to it, before the **support service** starts. You must give us full and safe access (both physical and remote) to the **supported equipment**, and the system it is part of, for the purpose of carrying out the audit.
- 12.16 If our audit finds that any of the **supported equipment**, or any item you ask us to add to it, is not in good working condition, we may:
- 12.16.1 refuse to supply the **support service** for that **supported equipment**; or
- 12.16.2 replace all or part of the **supported equipment**. In this case, you must pay the **equipment charges** for the replacement **equipment** before the **support service** starts.
- 12.17 If you do not allow us to enter the **site** or to have access to the **supported equipment** to provide the **support service** on any date and time we have agreed or arranged with you, we may charge you a call-out fee.
- 13. Maintenance service, monitoring service and management service**
- 13.1 You must, at your own expense, have full and continuous **support connectivity**. You must keep that **support connectivity** in place for the full **support period** for us to be able to provide the **support service**. You must make sure that the **support connectivity** has at least the bandwidth and resilience we have told you is needed for us to provide the **support service**.
- 13.2 If the **support connectivity** referred to in paragraph 13.1 is only in place at one or some of the **sites** where there is **supported equipment**, but not at all of them, then for the full **support period**, the **sites** that do not have **support connectivity** must be connected to the **connected sites** by full and continuous connectivity that you provide yourself or buy from someone else (**customer connectivity**). That **customer connectivity** must be acceptable to us (meaning that it must meet the same criteria as mentioned in paragraph 13.1) in order for us to provide the **support service** for **supported equipment** at those other **sites**.

- 13.3 We will not be liable for any delay or failure in providing the **support service** as a result of the **support connectivity** or **customer connectivity** not being suitable, available, sufficient or uninterrupted.
- 13.4 You must:
- 13.4.1 give us full and continuous physical access to your network for carrying out diagnostics and repairing faults; and
  - 13.4.2 give us remote access to your network and allow us to monitor your network for diagnostics and repairing faults.
- 13.5 You agree that we may alter the settings or configurations of the **supported equipment** if this is necessary to provide the **support service**.
- 13.6 Where, in connection with the **support service**, we regulate or restrict your configuration of, control of or access to the **supported equipment**, you agree:

- 13.6.1 to exercise the authorised control and access you have only through our servers; and
- 13.6.2 not to bypass, or try to bypass, any such regulation or restriction.

#### **14. Service levels**

- 14.1 Although the **service level agreement** states that the **monitoring service** and the **management service** are available 24 hours a day, seven days a week, the actual availability of the **support service** for any item of **supported equipment** will be limited so that it will not be greater than the availability of the **support connectivity** or the **customer connectivity** which it depends on, as appropriate.

#### **15. Minor changes**

- 15.1 Unless the **order form** states otherwise, we do not have to carry out more than 10 **minor changes** in any calendar month.

*Thanks for your business – we're looking forward to working with you. If you have any questions, we'd love to hear from you. Please call our Customer Services team on 0800 052 0800.*