

Infinity (Incorporating):
Infinity System Solutions Ltd
Infinity Network Solutions Ltd

Network Contract Terms and conditions relating to 'customer agreement'

1. Support

1.1 Unless agreed otherwise in writing, Support shall only be available to the Customer during Working Hours.

2. Service Levels and Service Credits

2.1 The Service Schedule will set out the Service Levels (if any) which apply to Infinity supply and the availability of the relevant Services and Support provided to the customer.

2.2 The Customer shall promptly notify Infinity of any Service Fault and provide such information as Infinity may require to investigate the problem and any other assistance. Infinity shall have no liability for any faults, down-time or interruptions to Services which originate from Customer Premises Equipment.

2.3 All Service Faults that are logged with Infinity will be investigated. If it is discovered that no fault can be found or such fault originates from Customer Premises Equipment, Infinity reserves the right to charge the Customer for the time, materials and expenses incurred in relation to the investigation (including for any site visits).

2.4 Where a Service Level is not met the Customer may be entitled to claim, and Infinity shall pay, Service Credits in accordance with the relevant Service Schedule. The Customer acknowledges that such Service Credits are a genuine pre-estimate of the loss likely to be suffered by the Customer where the applicable Service Level is not achieved.

2.5 Entitlement to Service Credits shall be the Customer's sole and exclusive remedy in respect of any loss arising from or relating to a failure to achieve the Service Level to which such Service Credits relate.

2.6 Where a Service Fault is not notified in accordance with the procedures as set out in the customer Services Guide then this may result in the Customer losing its entitlement to such Service Credits. Loss of entitlement to Service Credits shall not entitle the Customer to any other remedy in respect of such Service Fault.

2.7 Unless otherwise stated in a Service Schedule, the Customer's entitlement to Service Credits in respect of any particular Services in any particular month shall in no event exceed the total level of Charges paid in respect of such Services in that month.

3. Changes to Services and Charges

3.1 Infinity shall be entitled, by giving the Customer such advance notice as is reasonably practicable, to:

(a) change, modify, enhance, replace or make additions to any of the Services (or any part of them) in any way whatsoever as Infinity sees fit in its absolute discretion for any reason at any time; and

(b) alter the way in which any Services are delivered.

3.2 Infinity may vary the Charges for all existing and future Orders:

(a) on as much notice as is reasonably practicable to reflect any changes made in accordance with clause 16.1, to reflect any change in arrangement with a Supplier or any change in Applicable Law; and

(b) in all other circumstances on thirty (30) days' written notice.

4. Charges, Invoicing and Payment

4.1 The Charges shall be payable in respect of each of the Services and Additional Services in accordance with the payment frequencies and timings specified in the relevant Service Schedule or Additional Service Schedule.

4.2 Each month Infinity shall submit an invoice to the Customer of the aggregate Charges payable by the Reseller to Infinity in respect of the Services and Additional Services for that relevant month.

4.3 Unless otherwise specified in any Service Schedule or Additional Service Schedule, the Customer shall pay all Charges:

(a) by monthly Direct Debit to the account notified to the Customer from time to time. Payment by Direct Debit will be taken within thirty (30) days of the date of invoice; or

(b) any other method agreed with us within fifteen (15) days of the date of invoice.

Where payments are made by Direct Debit, a Direct Debit instruction form must be completed. This will give the Reseller the protection of the Direct Debit Guarantee.

5. Termination for Convenience

5.1 Prior to the expiry of the Initial Period, the Parties shall conduct a review of the terms and operation of this Agreement. Subject to the provisions for early termination in accordance with this Agreement, either Party may terminate this Agreement at any time by at least ninety (90) days' written notice to the other Party, provided that no such termination shall have effect until the expiry of the Initial Period.

5.2 Either party may terminate a Service Schedule or Additional Service Schedule individually at any time in accordance with the terms of that Service Schedule or Additional Service Schedule. Where a Customer terminates a Service Schedule or an Additional Service Schedule, Infinity reserves the right to terminate any other Service Schedules and Additional Service Schedules then in force.

5.3 On termination of this Agreement all Service Schedules and Additional Service Schedules shall terminate forthwith. Notwithstanding the termination of a Service Schedule each Order in force at the date of such termination shall nevertheless continue in full force and effect in accordance with the terms of the applicable Service Schedule.

5.4 The Customer may terminate an Order at any time where a Customer has served notice to terminate or has terminated its contract with the Reseller in relation to the provision of the Services under any particular Order upon giving not less than the Minimum Notice in writing in accordance with and subject to the terms of the applicable Service Schedule.

6. Other Termination Rights

6.1 Without prejudice to any right or remedy either Party may have against the other for breach or non-performance of this Agreement, either Party (the Terminating Party) shall have the right, with immediate effect by notice in writing to the other Party (the Defaulting Party) to terminate this Agreement, any Service Schedule, any

Additional Service Schedule and/or (in the case of termination by Customer only) any Order in whole or in part on or at any time where:

(a) the Defaulting Party commits a material breach of any of the terms of this Agreement provided that where such breach is capable of remedy the Defaulting Party has not rectified it within twenty (20) Working Days of receipt of written notice from the Terminating Party giving details of the breach and requiring the Defaulting Party to remedy the breach.

(b) there is a failure to pay a sum which is due and payable under this Agreement:

(i) which has not been rectified by the Defaulting Party within fifteen (15) Working Days of receipt of written notice requiring payment; or

(ii) on three (3) or more occasions in separate payment months in a twenty-four (24) month period providing notices are served on the Defaulting Party upon the first two (2) occasions in accordance with clause 27.1(b)(i);

(c) the Defaulting Party passing a resolution for its winding up or a court of competent jurisdiction making an order for the Defaulting Party to be wound up or dissolved or the Defaulting Party being otherwise dissolved;

(d) any meeting of creditors of the Defaulting Party is held, or any steps are taken or any arrangement, compromise or composition with or for the benefit of its creditors (including any voluntary arrangement as defined in the Insolvency Act 1986) is formally proposed or entered into by or in relation to the Defaulting Party;

(e) a supervisor, receiver, administrator, administrative receiver or other encumbrancer takes possession of or is appointed over or any distress, execution or other process is levied or enforced (and not discharged within five (5) Working Days) upon the whole or a substantial part of the undertaking or assets of the Defaulting Party, or any steps are taken to do the same;

(f) a petition is presented or a meeting is convened or any other step is taken for the purpose of considering a resolution for the making of an administration order against, or for the appointment of an administrator in respect of, or for, the winding-up, bankruptcy or dissolution of the Defaulting Party (otherwise than in the course of a reorganisation or restructuring previously approved in writing by the Defaulting Party), and such action or step is not withdrawn or revoked within twenty (20) Working Days;

(g) the Defaulting Party threatens to or ceases to carry on any part of its business which has a material effect on its ability to perform its obligations under this Agreement or any steps are taken to do any of the same, or it becomes unable to pay its debts when they become due or becomes insolvent within the meaning of Section 123 of the Insolvency Act 1986, or any creditor of the Defaulting Party becomes

entitled to declare any debt due and payable prior to its stated maturity, or any mortgage, charge, licence or other security interest which may for the time being affect any of the assets of the Defaulting Party becomes enforceable; or

(h) the Defaulting Party is affected by a Force Majeure Event for three (3) months or more.