

## TELEOSTEC LIMITED – STANDARD TERMS AND CONDITIONS

### 1 Definitions and interpretation

1.1 In these Terms and Conditions (except where the context otherwise requires) the following words shall have the following meanings:

“**Acceptance Date**” means the date on which the Equipment is accepted pursuant to clause 3.2;

“**Additional Support Fees**” means the additional support fees specified in clause 5.3;

“**Agreement**” means these Terms and Conditions together with the Order Form;

“**Confidential Information**” means any information in whatever form which is marked as confidential or which, by its nature or the circumstances of its disclosure, ought to be treated as confidential and which is disclosed, directly or indirectly, by one party to the other under or in connection with this Agreement;

“**Equipment**” means the equipment listed in the Order Form;

“**Estimated Delivery Date**” means the estimated delivery date specified in the Order Form;

“**Installation Fees**” means the licence fees specified in the Order Form;

“**Location**” means the location specified in the Order Form;

“**Service**” means the internet service provided by or on behalf of the Internet Service Provider to the Customer in relation to which Teleostec is supplying the Equipment under this Agreement;

“**Support Fees**” means the support fees specified in the Order Form;

“**Support Services**” means the support services described in clause 4.1;

“**Wireless Internet Service Provider**” means the internet service provider specified in the Order Form; and

“**Working Day**” means any day between the hours of 9am and 5pm except for Saturdays, Sundays and public holidays in the United Kingdom.

1.2 In the event of any conflict between the provisions of these Terms and Conditions and the provisions of the Order Form, the provisions of these Terms and Conditions shall prevail.

### 2 Supply of Equipment

2.1 Following receipt by Teleostec of the Order Form signed by the Customer, Teleostec shall confirm to the Customer the actual delivery date (“**Delivery Date**”).

2.2 For the avoidance of doubt, the Estimated Delivery Date is provided for information only and Teleostec shall have no obligation or liability under this Agreement in relation to the Estimated Delivery Date.

2.3 Subject to clauses 2.6 and 2.7, Teleostec shall:

2.3.1 deliver the Equipment to the Location on the Delivery Date;

2.3.2 install the Equipment at the Location;

2.3.3 configure the Equipment to enable its use in relation to the Service; and

2.3.4 if requested by Customer before or at the time of installation, customise the Service’s introductory webpage using the tools and options provided by the Internet Service Provider as part of the Service only.

2.4 The delivery, installation and configuration of the Equipment and any customisation pursuant to clause 2.3.4 shall be undertaken during normal business hours. Teleostec shall be entitled to charge the Customer an additional fee for any work undertaken outside of such hours at the Customer’s request.

2.5 Teleostec shall comply with all reasonable security requirements of the Customer.

2.6 The Customer shall make all necessary preparations for the delivery, installation and configuration of the Equipment and any customisation pursuant to clause 2.3.4 including ensuring suitable environmental conditions for the Equipment.

2.7 The Customer shall provide such access to and around the Location and such further information, assistance and facilities as are reasonably required by Teleostec in connection with the delivery, installation and configuration of the Equipment and any customisation pursuant to clause 2.3.4.

2.8 In the event that the Customer fails to comply with the requirements of clauses 2.6 or 2.7 and such failure results in additional work and/or expense for Teleostec to carry out its obligations under clause 2.3, Teleostec shall be entitled to charge the Customer for such additional work and/or expense at Teleostec’s standard consultancy rates from time to time.

2.9 Time is not of the essence in relation to the delivery, installation and configuration of the Equipment or any customisation pursuant to clause 2.3.4.

### 3 Testing

3.1 Following the installation and configuration of the Equipment and any customisation pursuant to clause 2.3.4, Teleostec shall conduct tests in order to determine whether the Service is accessible at that time via the Equipment. In the event that the Service is not accessible, Teleostec shall replace, re-install or re-configure the Equipment as appropriate and re-test to establish whether the problem has been solved.

3.2 The Customer shall be deemed to have accepted the Equipment upon successful completion of all tests by Teleostec.

### 4 Support

4.1 Where the Customer has ordered Support Services, Teleostec shall provide to the Customer the following support services subject to the terms of this Agreement:

4.1.1 a telephone helpdesk facility (“**Helpdesk**”) for advice and assistance in relation to the Equipment. Teleostec shall use reasonable endeavours to make the Helpdesk available for the times specified in the order form; and

4.1.2 a call out service to the Location on Working Days for the purposes of assessing and, at Teleostec’s discretion, repairing or replacing any part of the Equipment as appropriate.

4.2 The Customer shall submit all requests for Support Services to the Helpdesk in the first instance. Teleostec may escalate any fault to the Internet Service Provider or to the Customer’s IT provider or the Customer’s internet service provider at Teleostec’s sole discretion before escalating to the call out service described in clause 4.1.2.

### 5 Acceptable Usage Policy

5.1 In the event that: the aggregate length of calls by the Customer to the Helpdesk exceeds the Acceptable Limit of time in any month; or the time spent on-site at the Location is more than the Acceptable Limit of time in any month, then Support Services shall be reviewed by Teleostec who, at its sole discretion, reserve the right to suspend them for the remainder of such month (“**Suspension of Services**”). Teleostec shall have no obligation to provide Support Services during any Suspension of Services.

5.2 The Acceptable Limits are 4 hrs per month total support telephone hours and 4 hrs per month total time on-site.

5.3 If the Acceptable Limits are reached on more than two occasions within a 12 month period Teleostec reserves the right, at its sole discretion, to cap the Support Services to 1 hour per month total support telephone hours and 1 hour per month total time on-site for the remaining duration of the support period.

5.4 During any Suspension of Services or period of capped support the Customer shall be entitled to:

5.4.1 request Support Services subject to payment to Teleostec of the appropriate Additional Support Fees for all calls or call outs over the Acceptable Limit.

5.4.2 pay for an upgrade to their Support Services to a higher level of support offered by Teleostec

5.5 Where the Customer requests, and Teleostec in its sole discretion agrees, to provide Additional Support Services:

5.5.1 in respect of any of the circumstances specified in clause 5.3; or

5.5.2 outside of Working Days,

Teleostec shall be entitled to charge the Customer for such Support Services at Teleostec’s standard consultancy rates from time to time.

5.6 Teleostec shall have no obligation to provide Support Services in relation to problems or issues with the Equipment which result from or are connected with:

5.6.1 any improper use, operation or neglect of the Equipment;

5.6.2 the subjection of the Equipment to unusual physical or electrical stress or any failure or fluctuation in electrical power, air-conditioning or humidity controls;

5.6.3 the Customer’s failure to implement recommendations in respect of or solutions to problems previously advised by Teleostec; or

5.6.4 any repair, adjustment, alteration or modification of the Equipment or its installation or configuration by any person other than Teleostec without Teleostec’s consent.

5.7 For the avoidance of doubt, Support Services are intended to be provided to the Customer only. Teleostec shall have no obligation to provide Support Services to any third party including any user of the Service, however Teleostec will endeavour to support users of the Service at Teleostec’s sole discretion.

### 6 Payment and Payment Terms

6.1 The Customer shall pay the Installation Fees to Teleostec on the Acceptance Date. Terms – 15 Days unless otherwise stated on the order form.

6.2 If the Customer cancels an order for any equipment or services which has been placed with Teleostec then Teleostec shall be entitled to a cancellation fee as stated in the order form. For the avoidance of doubt, an order is deemed as placed with receipt by Teleostec or any agent or person acting on behalf of Teleostec of an instruction or purchase order or purchase order number either electronically or in writing from the Customer.

6.3 If the Order Form indicates that the Support Fees are accepted, the Customer shall pay the Support Fees and any Additional Support Fees to Teleostec monthly in arrears from the Acceptance Date by standing order.

6.4 The Support shall operate for the minimum term identified on the order form, after which the Support shall run indefinitely until terminated by either party.

- 6.5 Teleostec may increase the Support Fees and/or the Additional Support Fees on any anniversary of the Acceptance Date upon not less than 30 days written notice to the Customer. Following the minimum support term, the Customer shall be entitled to terminate the support following receipt of one month's written notice to Teleostec.
- 6.6 All amounts payable under this Agreement are exclusive of Value Added Tax or any other applicable sales, use or similar taxes arising out of or in connection with this Agreement and the Customer shall be responsible for all such taxes other than taxes imposed based on Teleostec's income.
- 6.7 If the Customer fails to pay the Licence Fees, Support Fees, any Additional Support Fees or any other sums due under this Agreement by the relevant due date, Teleostec reserves the right to charge interest at a daily rate on all sums outstanding until payment in full is received whether before or after judgment at a rate of 4% above the base rate of Barclays Bank plc from time to time. Teleostec reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 7 Risk and Title**
- 7.1 Risk in the Equipment shall pass to the Customer upon delivery of the Equipment to the Location.
- 7.2 Title to the Equipment shall pass to the Customer upon the later of delivery of the Equipment to the Location and payment by the Customer of the Fees.
- 8 Broadband Service**
- 8.1 Teleostec is a reseller of Eclipse Internet. Where the Customer has ordered a Broadband Service from Teleostec, the Broadband Service shall be subject to the terms & conditions for the use of Eclipse Internet Services. Details are available on the Eclipse website: <http://www.eclipse.net.uk/legal/>
- 9 Warranties**
- 9.1 Teleostec shall use reasonable endeavours to transfer to the Customer the benefit of any manufacturer's warranty in relation to the Equipment.
- 9.2 Teleostec warrants that it will carry out the installation and configuration of the Equipment and any customisation pursuant to clause 2.3.4 and, if applicable, provide the Support Services, with reasonable skill and care.
- 9.3 During the period of 90 days from the Acceptance Date, if the Customer notifies Teleostec in writing of any failure of the Equipment to operate correctly which results from a demonstrable fault or failure of Teleostec in relation to the installation or configuration of the Equipment or any customisation pursuant to clause 2.3.4, Teleostec shall at its own expense re-install and/or re-configure the Equipment and/or repeat such customisation as appropriate within a reasonable time. Such re-installation, reconfiguration and/or re-customisation shall be the Customer's sole remedy against Teleostec in relation to any such fault or failure.
- 9.4 EXCEPT AS EXPRESSLY SET OUT IN THIS AGREEMENT, ALL CONDITIONS, WARRANTIES, TERMS AND UNDERTAKINGS, EXPRESS OR IMPLIED, WHETHER BY STATUTE, COMMON LAW, TRADE PRACTICE, CUSTOM, COURSE OF DEALING OR OTHERWISE (INCLUDING WITHOUT LIMITATION AS TO QUALITY, PERFORMANCE OR FITNESS OR SUITABILITY FOR PURPOSE) IN RESPECT OF THE EQUIPMENT, ITS INSTALLATION AND CONFIGURATION, ANY CUSTOMISATION PURSUANT TO CLAUSE 2.3.4 AND THE SUPPORT SERVICES ARE HEREBY EXCLUDED TO THE FULLEST EXTENT PERMISSIBLE BY LAW.
- 10 Limitation of liability**
- 10.1 Nothing in this Agreement shall exclude or restrict the liability of either party to the other for death or personal injury resulting from the negligent act of one party or for liability for any fraudulent misrepresentation by a party to this Agreement.
- 10.2 SUBJECT TO CLAUSES 8.1, 8.3, 8.4 AND 8.5 THE LIABILITY OF TELEOSTEC TO THE CUSTOMER FOR DIRECT LOSS IN CONTRACT, TORT OR OTHERWISE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE CUSTOMER'S USE OF THE EQUIPMENT OR THE PROVISION OF THE SUPPORT SERVICES SHALL BE LIMITED FOR ANY ONE INCIDENT OR SERIES OF CONNECTED INCIDENTS TO THE GREATER OF EITHER £500 OR THE SUMS PAID BY THE CUSTOMER TO TELEOSTEC UNDER THIS AGREEMENT.
- 10.3 SUBJECT TO CLAUSE 8.1, IN NO CIRCUMSTANCES SHALL TELEOSTEC BE LIABLE TO THE CUSTOMER WHETHER IN CONTRACT, TORT, NEGLIGENCE, BREACH OF STATUTORY DUTY OR OTHERWISE IN RESPECT OF LOSS OF PROFITS, REVENUE, GOODWILL, BUSINESS OPPORTUNITY, LOSS OF OR COST OF RESTORATION OF DATA OR FOR USE OF ANY RESULTS OBTAINED BY USE OF THE SOFTWARE OR ANY OTHER INDIRECT, CONSEQUENTIAL, FINANCIAL OR ECONOMIC LOSS OR DAMAGE COSTS OR EXPENSES WHATEVER OR HOWEVER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE CUSTOMER'S USE OF THE EQUIPMENT OR THE PROVISION OF THE SUPPORT SERVICES.
- 10.4 SUBJECT TO CLAUSE 8.1, IN NO CIRCUMSTANCES SHALL TELEOSTEC BE LIABLE TO THE CUSTOMER IN RESPECT OF ANY FAILURE OF OR INABILITY TO USE THE SERVICE WHERE SUCH FAILURE OR INABILITY DOES NOT RESULT DIRECTLY FROM ANY FAILURE OF TELEOSTEC TO FULFIL ITS OBLIGATIONS UNDER THIS AGREEMENT.
- 10.5 SUBJECT TO CLAUSE 8.1, IN NO CIRCUMSTANCES SHALL TELEOSTEC BE LIABLE TO THE CUSTOMER IN RESPECT OF ANY CONTENT ON OR LINKED TO ANY WEBPAGE OF THE SERVICE ACCESSIBLE VIA THE EQUIPMENT OR ANY CUSTOMISATION OF SUCH CONTENT BY TELEOSTEC OR OTHERWISE.
- 11 Term and termination**
- 11.1 This Agreement may be terminated by either party:
- 11.1.1 on three months' written notice to expire on any anniversary of the Acceptance Date;
- 11.1.2 immediately on written notice if the other commits a material or persistent breach of any term of this Agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within 30 days of a written request to remedy the same; or
- 11.1.3 immediately on written notice if an interim order is made, or a voluntary arrangement approved, or if a petition for bankruptcy order is presented or a bankruptcy order is made against the other party or if a receiver or trustee is appointed of the other party's estate or a voluntary arrangement is approved or a notice is served of intention to appoint and administrator or an administrator is appointed by Court order or by any other means, or a receiver or administrative receiver is appointed over any of the other party's assets or undertaking or a resolution or petition to wind up the other party is passed or presented (otherwise than for the purposes of reconstruction or amalgamation), or if any circumstances arise which entitle the Court or a creditor to appoint a receiver, administrative receiver or administrator or to present a winding up petition or make a winding up order.
- 11.2 The Customer may terminate this Agreement in accordance with clause 6.3.
- 11.3 Upon termination of this Agreement for any reason, all amounts then owed to Teleostec shall immediately become due and payable.
- 11.4 Any termination of this Agreement shall be without prejudice to any other rights or remedies either party may be entitled to under this Agreement or at law.
- 12 Confidentiality**
- 12.1 Neither party shall at any time after the date of this Agreement (including after termination):
- 12.1.1 divulge or communicate to any person, company, business entity or other organisation;
- 12.1.2 use for its own purposes (save for the purposes of carrying out its obligations or exercising its express rights under this Agreement) or for any purposes other than those of the other party; or
- 12.1.3 through any failure to exercise due care and diligence, cause any unauthorised disclosure of
- any trade secrets or Confidential Information relating to the other party provided that these restrictions shall cease to apply to any such information which shall become available to the public generally otherwise than through a breach of a duty of confidentiality owed to the other party and further provided that neither party shall be restricted from disclosing the Confidential Information or any part of it pursuant to a judicial or other lawful government order, but only to the extent required by such order and subject to the party obliged to comply with such order giving the other party as much notice of the terms of the order as may be reasonably practicable.
- 13 General**
- 13.1 The failure or delay of Teleostec to exercise or enforce any right under this Agreement shall not operate as a waiver of that right or preclude the exercise or enforcement of it at any time or times thereafter.
- 13.2 Neither party shall be liable for any delay in or for failure to perform its obligations under this Agreement, other than an obligation to make any payment due to the other party, if that delay or failure is caused by circumstances beyond the reasonable control of that party including, without limitation, fires, strikes, insurrection, riots, embargoes, or regulations of any civil or military authority.
- 13.3 This Agreement constitutes the entire understanding between the parties with respect to its subject matter and supersedes and replaces all prior agreements, negotiations and discussions between the parties relating to it. The Customer confirms and acknowledges that it has not been induced to enter into this Agreement by any representation, warranty, or undertaking not expressly incorporated into it. However, nothing in this Agreement purports to exclude liability for any fraudulent statement or act.
- 13.4 No variation of this Agreement shall be valid unless it is in writing and signed by an authorised representative of each of the parties save that Teleostec may amend this Agreement in respect of the Support Services upon 3 months' written notice to the Customer.
- 13.5 The Customer shall not be entitled to assign or sub-contract this Agreement or any of its rights or obligations hereunder.
- 13.6 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement, and nothing in this Agreement shall confer or purport to confer on any third party any benefit or any right to enforce any term of this Agreement.
- 13.7 If any provision of this Agreement shall be held to be unlawful, invalid or unenforceable, in whole or in part, under any enactment or rule of law, such provision or part shall to that extent be severed from this Agreement and rendered ineffective as far as possible without modifying or affecting the legality, validity or enforceability of the remaining provisions of this Agreement which will remain in full force and effect.
- 13.8 Any notice to be given under this Agreement shall be in writing and shall be delivered by hand, sent by first class post or sent by fax (such notice to be confirmed by letter posted within 12 hours) to the address of the other party set out in this Agreement or to the fax number or such other address may be notified by the other party from time to time. Any such notice or other document shall be deemed to have been served: if delivered by hand - at the time of delivery; if sent by post - upon the expiration of 48 hours after posting; and if sent by fax - at 9.00 am on the next business day after the fax was dispatched.
- 13.9 This Agreement shall be governed by and construed in accordance with English law and each party hereby irrevocably submits to the non-exclusive jurisdiction of the English Courts.