

Kascade Voice Terms and Conditions

1 INTERPRETATION

The following definitions and rules of interpretation apply in this Contract.

1.1 Definitions:

Artificial Inflation of Traffic	shall have the meaning given to it in the BT standard interconnect agreement as amended from time to time and for the avoidance of doubt includes any situation where Calls other than Calls to geographic number ranges commencing with the digits 01 or 02: (a) are made, generated, stimulated, and/or prolonged for the direct or indirect benefit of any entity (including a natural person) operating, hosting or otherwise connected with a telecommunication service as a result of any activity by or on behalf of such entity; and (b) result in a calling pattern which is disproportionate to the overall amount, duration and/or extent of Calls which would be expected from a good faith usage or an acceptable and reasonable commercial practice relating to the operation of Telecommunications Systems.
Broadband Service	means the broadband service, as more particularly described in the Quotation.
Business Day	a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
Call	means a signal, message or communication which can be silent, visual (including text) or spoken.
Commencement Date	the date specified in the Quotation.
Conditions	these terms and conditions as amended from time to time in accordance with clause 14.5.
Confidential Information	all confidential information (however recorded or preserved) disclosed by a party or its Representatives to the other party or that party's Representatives which information is either labelled as such or should reasonably be considered as confidential because of its nature and the manner of its disclosure.
Contract	the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions.
Control	has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.
Customer	the person or firm who purchases Services from the Supplier.
Customer Default	has the meaning set out in clause 4.2.
Data Protection Legislation	all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications). The terms controller , personal data and processing shall be as defined in the Data Protection Legislation.
Designated Representative	has the meaning given to it in clause 13.
Dispute Fees	the fees payable by the Customer for the Gamma Services, as described in the Quotation and as may be adjusted from time to time in accordance with the terms of this Contract.
Gamma	Gamma Business Communications Limited, registered in England and Wales with company number 2998021 and whose registered office is at 5 Fleet Place, London, EC4M 7RD.
Gamma Services	the Gamma products and/or services purchased by the Customer, as further detailed in the Quotation.
Initial Term	shall be the initial term set out in the Quotation.
Intellectual Property Rights	patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and

all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

IP Assured Service

means the IP assured service, as more particularly described in the Quotation.

IP Direct Connect Service

means the IP direct connect service, as more particularly described in the Quotation.

Line Rental Service

means the line rental service as, as more particularly described in the Quotation.

Mobile Service

means the mobile service, as more particularly described in the Quotation.

Nuisance Calls

means an unwanted Call that causes annoyance, inconvenience or anxiety to the receiver of the Call, and/or is a hoax Call, and/or is of an offensive, spiteful, abusive, indecent, defamatory, obscene, or menacing nature, and/or Calls which cause the called person to experience silence when the Call is answered in circumstances where the called person has no means of establishing whether there is a person at the other end of the line, and/or Calls which are not compliant with Ofcom's statement of policy on persistent misuse published in accordance with section 131 of the Act as amended from time to time.

Number Translation Services

means inbound 08 and other non-geographic services to be provided to the Customer, as more particularly described in the Quotation.

Quotation

the Quotation to which these Conditions are attached.

Spam

means an unsolicited marketing message not permitted under the terms of the Data Protection Legislation.

Successive Term

shall have the meaning given to it in clause 3.1.

Supplier

KASCADE. Kascade is a trading name of ComputerWorld (Systems) Limited, registered in England and Wales with company number 04625112 and whose registered office is at Apex House, Turner Drive, Westerleigh Business Park, Yate, Bristol, England, BS37 5YX.

Throughout this Service Order, references to Kascade shall also include Computerworld (Systems) Limited. Computerworld (Systems) Limited and Kascade are used interchangeably to represent our business and services.

Term

the duration of the contract, as specified in clause 3.

1.2 Interpretation:

- 1.2.1 A reference to legislation or a legislative provision:
 - 1.2.1.1 is a reference to it as amended, extended or re-enacted from time to time; and
 - 1.2.1.2 shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- 1.2.2 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.2.3 A reference to **writing** or **written** includes email.

2 BASIS OF CONTRACT

- 2.1 The Quotation constitutes an irrevocable offer by the Customer to purchase the Gamma Services from the Supplier in accordance with this Contract.
- 2.2 The Quotation shall only be deemed to be accepted when the Supplier issues written acceptance of the Quotation at which point and on which date the Contract shall come into existence.
- 2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Gamma Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.4 These Conditions shall apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.5 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 15 Business Days from its date of issue.

3 TERM

- 3.1 This Contract shall commence on the Commencement Date and shall continue, unless terminated earlier in accordance with its terms, for the Initial Term. Thereafter, it shall renew automatically for successive terms equal to the duration of the Initial Term (each a **Successive Term**) commencing on the

Kascade Voice Terms and Conditions

day after the expiry of the Initial Term or relevant Successive Term (as the case may be) unless:		Authority's Statement of Application for 0871 services and the applicable provisions of the Code including, without limitation:	
3.1.1	the Customer gives to the Supplier 60 days' advance notice to terminate the Contract; or	5.1.9.1	the due diligence requirements set out at paragraph 2.3.1 of the Code and shall pass to Gamma all information collected pursuant to paragraph 2.3.1 prior to the commencement of the applicable Gamma Service;
3.1.2	the Supplier gives to the Customer 15 days' advance notice to terminate the Contract.	5.1.9.2	the responsibilities and duties of service providers set out at section 3 of the Code;
4	SUPPLY OF GAMMA SERVICES	5.1.9.3	the responsibilities and duties of information providers set out at section 4 of the Code;
4.1	Subject to the payment by the Customer of all Fees and the Customer's compliance with the terms of this Contract, the Supplier shall procure the provision of the Gamma Services to the Customer.	5.1.9.4	the provisions of section 5 of the Code in respect of any services falling within the categories of services requiring prior permission published by Phone-paid Services Authority from time to time;
4.2	The Supplier shall use reasonable endeavours to:	5.1.9.5	Phone-paid Services Authority's requirements concerning undue delay; pricing information; service content and specific categories of service;
4.2.1	procure the delivery of the Gamma Services as set out in the Quotation;	5.1.10	ensure that all apparatus which is attached (directly or indirectly) to the Gamma Services will conform with any requirements notified to the Customer from time to time.
4.2.2	procure that the Gamma Services are maintained for twenty-four (24) hours in every day on every day of the year (subject to the restrictions in this Contract); and	5.1.11	comply with all applicable laws (including, without limitation, Data Protection Legislation and laws relating to the provision of voice-over IP ("VOIP") services) and all codes of conduct, decisions, directions or recommendations issued by Ofcom and/or Phone-paid Services Authority and/or any other competent regulatory body (including in relation to VOIP services), when using the Gamma Services.
4.2.3	provide first line support to Customers and where the Supplier is unable to resolve the issue, the Supplier shall escalate the matter to Gamma for resolution.		
4.3	Where the Supplier has agreed to procure the supply of the:		
4.3.1	Broadband Services, the additional terms set out in Schedules 1 and 4 shall also apply;		
4.3.2	IP Assured Services, the additional terms set out in Schedule 1 shall also apply;		
4.3.3	IP Direct Connect Services, the additional terms set out in Schedule 2 shall also apply;		
4.3.4	Line Rental Service, the additional BT terms set out in Schedule 4 shall also apply; and		
4.3.5	Mobile Services, the additional terms set out in Schedule 3 shall also apply.		
5	CUSTOMER'S OBLIGATIONS	5.2	In the event that Gamma receives, as an internet service provider, a copyright infringement report, a request to provide a copyright infringement list, an order to impose a technical obligation or any other notice, request, report or order made under the Communications Act 2003 (as amended by the Digital Economy Act 2010), the Customer will do everything reasonably required by the Supplier and/or Gamma to ensure that Gamma will be in full compliance with both the letter and spirit of all its obligations under the Communications Act 2003, including with regard to the provision of information and cessation of service and compliance with any code adopted by Ofcom in respect of the relevant provisions.
5.1	The Customer shall:	6	WARRANTIES
5.1.1	ensure that the terms of the Quotation complete and accurate;	6.1	The Customer warrants and undertakes that:
5.1.2	co-operate with the Supplier in all matters relating to the Gamma Services;	6.1.1	in the event that the Customer will be replacing an existing telecommunications service provider with the Supplier, then prior to entering into this Contract, it has expressly agreed in writing to the termination of its contract with the relevant existing telecommunications service provider;
5.1.3	provide the Supplier, Gamma, and/or their Representatives, in a timely manner and at no charge, access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier or Gamma in connection with the provision of the Gamma Services;	6.1.2	it has full capacity and authority to enter into and perform this Contract and that this Contract is executed by a duly authorised representative of the Customer;
5.1.4	provide, in a timely manner, such information as the Supplier may reasonably require in connection with the Gamma Services, and ensure that such information is complete and accurate in all material respects;	6.1.3	it has the authority to grant any rights to be granted to the Supplier under this Contract;
5.1.5	where necessary, prepare the Customer's premises for the supply of the Gamma Services;	6.1.4	it shall use the Gamma Services in accordance with the terms of this Contract, all applicable laws and shall not do any act that shall infringe the rights of any third party;
5.1.6	obtain and maintain all necessary licences, permissions and consents which may be required for the Gamma Services before the date on which the Gamma Services are to start;	6.1.5	all valid licences, authorisations, approvals and consents as are necessary to enable the Customer to legally receive the Gamma Services as envisaged under this Contract have been obtained and will be maintained and kept up to date and it has the unimpaired right to receive the Gamma Services.
5.1.7	notify the Supplier promptly of any problems regarding technical and operational issues of the Gamma Services;	6.2	The Supplier warrants and undertakes that:
5.1.8	not use any Gamma Service:	6.2.1	it has the full capacity and authority to enter into and perform this Contract and that this Contract is executed by a duly authorised representative of the Supplier;
5.1.8.1	in a way that does not comply with the terms of any legislation or any codes of practice, regulations or any licence or authorisation applicable to the Customer, Customer or that is in any way unlawful or fraudulent or to the knowledge of the Customer has any unlawful or fraudulent purpose or effect;	6.2.2	it owns, or has obtained valid licences, consents, permissions and rights to enable the Supplier to comply with this Contract and to use any of the Intellectual Property Rights necessary for the fulfilment of all its obligations under this Contract including for the Customer's use and receipt of the Gamma Services, and the Supplier shall not breach the provisions of any such necessary licences, consents, permissions and rights or cause the same to be breached; and
5.1.8.2	in connection with (without prejudice to the generality of clause 5.1.8.1 above) the carrying out of fraud or a criminal offence against any other public telecommunications operator;	6.2.3	it shall comply with all applicable laws and regulations in performing its obligations under this Contract.
5.1.8.3	in any way that constitutes Artificial Inflation of Traffic;	6.3	The Supplier gives no warranty in relation to the Gamma Services and any warranty which may otherwise be implied to have been given by the Supplier by law, trade custom, practice or course of dealing is hereby expressly excluded.
5.1.8.4	in a way that in our reasonable opinion could materially affect the quality of any telecommunications service or other service provided by Gamma or any third party;	7	FEES AND PAYMENT
5.1.8.5	to make Nuisance Calls or Spam;	7.1	The Customer shall pay the Fees in accordance with the terms set out in the Quotation.
5.1.8.6	to threaten, harass, stalk, abuse, disrupt or otherwise violate or infringe the rights (including but not limited to copyright, rights of privacy and publicity) of others;	7.2	The Fees shall be calculated based on the Customer's estimated usage of the Gamma Services and unless otherwise specified in the Quotation, the Fees shall be payable by the Customer to the Supplier monthly in advance.
5.1.8.7	to obtain access, through whatever means, to notified restricted areas of the underlying network;	7.3	In the event that:
5.1.8.8	to send and receive data in such a way or in such amount so as to adversely affect the network (or any part of it) which underpins any Service or to adversely affect other customers of Gamma or of its suppliers;	7.3.1	the Customer exceeds its estimated usage of the Gamma Services, the Customer shall pay the additional Fees payable in respect of such excess usage at the rates specified in the Quotation or as otherwise notified by the Supplier to the Customer from time to time. Such additional Fees shall be payable in accordance with clause 7.6; or
5.1.8.9	to engage in conduct which amounts to improper or persistent misuse of a public telecommunications network or service within the meaning of sections 127 to 128 of the Communications Act 2003; or	7.3.2	the Customer's usage of the Gamma Services is less than the estimated usage, no refund of the Fees shall be payable by the
5.1.8.10	in a way which (in the reasonable opinion of Gamma) brings the name of Gamma into disrepute, or which places Gamma in breach of the Communications Act 2003.		
5.1.9	If any Number Translation Service comprises an 0871 or premium service, the Customer shall comply with the Phone-paid Services		

Kascade Voice Terms and Conditions

- Supplier to the Customer in respect of any unused quantity of Gamma Services.
- 7.4 The Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Gamma Services including for the cost of services provided by third parties and required by the Supplier for the supply of the Gamma Services, and for the cost of any materials.
- 7.5 The Supplier reserves the right to increase the Fees:
- 7.5.1 on an annual basis with effect from each anniversary of the Commencement Date (**Review Date**) by the higher of 3% and the percentage increase in the CPI over the twelve months prior to the relevant Review Date; and/or
- 7.5.2 at any time during the Term to reflect any increase in the fees, costs or charges payable by the Supplier to Gamma in respect of the Gamma Services.
- 7.6 Unless otherwise set out in the Quotation, the Customer shall pay each invoice submitted by the Supplier:
- 7.6.1 within 14 days of the date of the invoice; and
- 7.6.2 in full and in cleared funds to a bank account nominated in writing by the Supplier, and
- time for payment shall be of the essence of the Contract.
- 7.7 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Gamma Services at the same time as payment is due for the supply of the Gamma Services.
- 7.8 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 11, the Customer shall pay:
- 7.8.1 interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 7.8 will accrue each day at 4% a year above National Westminster Bank's base rate from time to time, but at 4% a year for any period when that base rate is below 0%; and
- 7.8.2 the Supplier for its reasonable and necessary costs of collection incurred, including, without limitation, reasonable legal fees and the Supplier's costs of disconnecting and reconnecting Customers for non-payment.
- 7.9 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- ## 8 CHANGE CONTROL
- 8.1 Subject to clause 8.5.1 below, if either party wishes to change the scope of the Gamma Services (including Customer requests for additional services or quantities), it shall submit details of the requested change to the other in writing.
- 8.2 If either party requests a change to the scope or execution of the Gamma Services, the Supplier shall, within a reasonable time, provide a written estimate to the Customer of:
- 8.2.1 the likely time required to implement the change;
- 8.2.2 any variations to the Fees arising from the change;
- 8.2.3 the likely effect of the change on the Gamma Services; and
- 8.2.4 any other impact of the change on this Contract.
- 8.3 If either party wishes the other party to proceed with the relevant change referred to in clause 8, the Supplier has no obligation to do so unless and until the parties have agreed in writing the necessary variations to the Fees, the Gamma Services and any other relevant terms of this Contract to take account of the change.
- 8.4 Once changes have been agreed by the parties, the parties shall sign a written agreement confirming their agreement to any changes agreed pursuant to this clause.
- 8.5 Notwithstanding the foregoing provisions of this clause 8:
- 8.5.1 the Supplier shall be entitled to change the Gamma Services from time to time provided that such changes do not have a material adverse effect on the Gamma Services (as those Gamma Services were provided immediately prior to the change);
- 8.5.2 any request by the Customer to change the Gamma Services will be subject to the Supplier's consent in writing and where such consent has been given, the parties having entered into a written agreement (in the form determined by the Supplier) setting out the terms and conditions which apply to such change; and
- 8.5.3 in the event that the Supplier and the Customer agree any changes to the Gamma Services during the Term, unless otherwise agreed by the Supplier the Gamma Services as amended by such change:
- 8.5.3.1 shall continue until the expiry of the Term; or
- 8.5.3.2 if agreed, by the Supplier the then current Initial Term or Successive Term.
- 8.6 For the avoidance of doubt, the Supplier shall be under no obligation to accept or agree to any changes to the scope or execution of the Gamma Services requested by the Customer pursuant to this clause 8 and any such decision shall be entirely at the Supplier's discretion.
- ## 9 DATA PROTECTION
- 9.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 9 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 9.2 The parties have determined that, for the purposes of the Data Protection Legislation, the Supplier shall act as controller of any personal data of the Customer which the Supplier processes in connection with this Contract.
- 9.3 By entering into this Contract, the Customer consents to all actions taken by the Supplier in connection with the processing of any personal data, provided these are in compliance with the then-current version of the Supplier's privacy policy available at <https://www.kascade.co.uk/terms/privacy-policy>. In the event of any inconsistency or conflict between the terms of the Privacy Policy and this Contract, the Contract will take precedence.
- 9.4 Without prejudice to the generality of **Error! Bookmark not defined.9.1** the Supplier shall, in relation to Customer personal data:
- 9.4.1 process that Customer personal data only on the documented instructions of the Customer, which shall be to process the Customer personal data for the purposes of the Contract and as set out in the Privacy Policy, unless the Supplier is required by applicable laws to otherwise process that Customer personal data. Where the Supplier is relying on applicable laws as the basis for processing Customer processor data, the Supplier shall notify the Customer of this before performing the processing required by the applicable laws unless those applicable laws prohibit the Supplier from so notifying the Customer;
- 9.4.2 implement the technical and organisational measures set out in [the Privacy Policy to protect against unauthorised or unlawful processing of Customer personal data and against accidental loss or destruction of, or damage to, Customer personal data, which the Customer has reviewed and confirms are appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
- 9.4.3 ensure that any personnel engaged and authorised by the Supplier to process Customer personal data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;
- 9.4.4 assist the Customer insofar as this is possible (taking into account the nature of the processing and the information available to the Supplier), and at the Customer's cost and written request, in responding to any request from a data subject and in ensuring the Customer's compliance with its obligations under Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 9.4.5 notify the Customer without undue delay on becoming aware of a personal data breach involving the Customer personal data;
- 9.4.6 at the written direction of the Customer, delete or return Customer personal data and copies thereof to the Customer on termination of the Contract unless the Supplier is required by applicable law to continue to process that Customer personal data. For the purposes of this clause 9.4.6 Customer personal data shall be considered deleted where it is put beyond further use by the Supplier; and
- 9.4.7 maintain records to demonstrate its compliance with this **Error! Bookmark not defined.9** and allow for reasonable audits by the Customer or the Customer's designated auditor, for this purpose, on reasonable written notice.
- 9.5 The Customer hereby provides its prior, general authorisation for the Supplier to:
- 9.5.1 appoint processors to process the Customer personal data, provided that the Supplier:
- 9.5.1.1 shall ensure that the terms on which it appoints such processors comply with the Data Protection Legislation, and are consistent with the obligations imposed on the Supplier in this clause 9;
- 9.5.1.2 shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of the Supplier; and
- 9.5.1.3 shall inform the Customer of any intended changes concerning the addition or replacement of the processors, thereby giving the Customer the opportunity to object to such changes provided that if the Customer objects to the changes and cannot demonstrate, to the Supplier's reasonable satisfaction, that the objection is due to an actual or likely breach of the Data Protection Legislation, the Customer shall indemnify the Supplier for any losses, damages, costs (including legal fees) and expenses suffered by the Supplier in accommodating the objection.
- 9.5.2 transfer Customer Personal Data outside of the UK as required for the purpose stated in clause 9.4.1, provided that the Supplier shall ensure that all such transfers are effected in accordance with the Data Protection Legislation. For these purposes, the Customer shall promptly comply with any reasonable request of the Supplier, including any request to enter into standard data protection clauses adopted by the EU Commission or the UK Information Commissioner from time to time as applicable to the transfer.
- ## 10 LIMITATION OF LIABILITY
- 10.1 Subject to clause 6.3, this clause 10 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its Representatives) to the Customer in respect of any and all claims which relate to or which may arise in relation to a contract, including without limitation, any claim for:
- 10.1.1 any breach of Contract;
- 10.1.2 any use made by the Customer of the Gamma Services; and

Kascade Voice Terms and Conditions

- 10.1.3 any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with this Contract.
- 10.2 Except as expressly provided in this Contract all warranties, conditions and other terms implied by statute, common law or otherwise are, to the fullest extent permitted by law, excluded from this Contract.
- 10.3 Nothing in this Contract excludes or limits the liability of the Supplier for:
- 10.3.1 death or personal injury caused by the Supplier's negligence;
- 10.3.2 fraud or fraudulent misrepresentation; or
- 10.3.3 any other liability which cannot lawfully be excluded or limited.
- 10.4 Subject to clause 10.3:
- 10.4.1 the Supplier shall not be liable whether in contract, tort (including for negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise for any loss of profits, loss of business, depletion of goodwill, loss of use or loss of data, loss of time, loss of opportunity, loss of anticipated savings, interruption of business, loss of revenue or similar losses, or for any indirect or consequential loss, costs, damages, charges or expenses however arising; and
- 10.4.2 the Supplier's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the Contract shall be limited to the lower of:
- 10.4.2.1 the amounts paid by the Customer to the Supplier under this Contract;
- 10.4.2.2 the aggregate of the Fees paid by the Customer to the Supplier over the Term; and
- 10.4.2.3 the Fees payable by the Customer to the Supplier in the first year of the Term.
- 11 TERMINATION**
- 11.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 11.1.1 the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;
- 11.1.2 the other party fails to pay any amount due under this Contract on the due date for payment and remains in default not less than 15 days after being notified to make such payment;
- 11.1.3 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986);
- 11.1.4 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 11.1.5 the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;
- 11.1.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 11.1.7 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the other party (being a company, partnership or limited liability partnership);
- 11.1.8 the holder of a qualifying floating charge over the assets of that other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;
- 11.1.9 a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;
- 11.1.10 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- 11.1.11 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 11.1.3 to clause 11.1.10 (inclusive);
- 11.1.12 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 11.1.13 the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 11.2 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:
- 11.2.1 the agreement between the Supplier and Gamma granting the Supplier the right to resell the Gamma Services to the Customer, expires or is terminated for any reason; or
- 11.2.2 there is a change of control of the Customer.
- 11.3 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Gamma Services under the Contract or any other contract between the Customer and the Supplier if:
- 11.3.1 the Customer fails to pay any amount due under the Contract on the due date for payment;
- 11.3.2 the Customer commits a material breach of any term of the Contract;
- 11.3.3 the Supplier is notified by the Customer, or becomes aware by any other means, or has reasonable suspicions that a fraud or serious illegal misuse may have taken place, or will take place;
- 11.3.4 the Customer becomes subject to any of the events listed in clause 11.1.12 or clause 11.1.13, or the Supplier reasonably believes that the Customer is about to become subject to any of them; and
- 11.3.5 the Supplier reasonably believes that the Customer is about to become subject to any of the events listed in clause 11.1.3 to clause 11.1.10 (inclusive).
- 11.4 Any request to terminate this agreement must be made in writing to cancellations@kascade.co.uk.
- 12 CONSEQUENCES OF TERMINATION**
- 12.1 On termination or expiry of the Contract:
- 12.1.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Gamma Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt; and
- 12.1.2 the Customer shall immediately discontinue all use of the Gamma Services.
- 12.2 Unless otherwise agreed, on termination of the Contract by the Customer otherwise than as a result of the Supplier's breach of this Contract and/or the expiry of the Term, (if and to the extent not already paid) the Customer shall pay to the Supplier an amount equal to Fees that would have been payable over the period commencing on the date that the Contract is terminated and ending on the date that the Term would have expired if it were not for such termination.
- 12.3 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 12.4 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- 13 DISPUTE RESOLUTION**
- 13.1 If a dispute arises under or in connection with this Contract (**Dispute**), including any Dispute arising out of any amount due to a party, then before bringing any legal proceedings or commencing any other alternative dispute resolution procedure in connection with such Dispute, a party must first give written notice (**Dispute Notice**) of the Dispute to the other party describing the Dispute and requesting that it is resolved under the dispute resolution procedure described in this clause 13.
- 13.2 If the parties are unable to resolve the Dispute within 30 days of delivery of the Dispute Notice, each party shall promptly (and in any event within five Business Days):
- 13.2.1 appoint a representative who has authority to settle the Dispute and is at a higher management level than the person with direct responsibility for the administration of this Contract (**Designated Representative**); and
- 13.2.2 notify the other party of the name and contact information of its Designated Representative.
- 13.3 Acting reasonably and in good faith the Designated Representatives shall discuss and negotiate to resolve the Dispute, including agreeing the format and frequency for such discussions and negotiations, provided that all reasonable requests for relevant information relating to the Dispute made by one party to the other party shall be complied with as soon as reasonably practicable).
- 13.4 If the parties are unable to resolve the Dispute within 30 days after the appointment of both Designated Representatives, either party may proceed with any other available remedy.
- 13.5 Notwithstanding any other provision of this Contract a party may seek interim or other equitable relief necessary (including an injunction) where damages would be an inadequate remedy.
- 14 GENERAL**
- 14.1 **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.
- 14.2 Assignment and other dealings.
- 14.2.1 The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- 14.2.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.
- 14.3 Confidentiality.
- 14.3.1 Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination or expiry

- of the Contract, disclose to any person any Confidential Information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 14.3.2.
- 14.3.2 Each party may disclose the other party's Confidential Information:
- 14.3.2.1 to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's Confidential Information comply with this clause 14.3 (**Representatives**); and
- 14.3.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 14.3.3 The provisions of this clause shall not apply to any Confidential Information that:
- 14.3.3.1 is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its Representatives in breach of this clause);
- 14.3.3.2 was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;
- 14.3.3.3 was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party; or
- 14.3.3.4 the parties agree in writing is not confidential or may be disclosed; or
- 14.3.3.5 is developed by or for the receiving party independently of the information disclosed by the disclosing party.
- 14.3.4 Neither party shall use the other party's Confidential Information for any purpose other than to perform its obligations under the Contract.
- 14.4 Entire agreement.
- 14.4.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 14.4.2 Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 14.4.3 Nothing in this clause shall limit or exclude any liability for fraud.
- 14.5 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 14.6 **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 14.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement. If any provision or part-provision of this Contract deleted under this clause 14.7 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 14.8 Notices.
- 14.8.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to the address specified in the Quotation.
- 14.8.2 Any notice shall be deemed to have been received:
- 14.8.2.1 if delivered by hand, at the time the notice is left at the proper address;
- 14.8.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- 14.8.2.3 if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 14.8.2.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

14.8.3 This clause 14.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

- 14.9 **No Partnership or Agency.** Nothing in this Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, or constitute any party the agent of another party nor authorise any party to make or enter into any commitments for or on behalf of any other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 14.10 **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 14.11 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.
- 14.12 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

Schedule 1

Broadband and IP Assured Services

1. **Supply of the Broadband Service and IP Assured Services**
- 1.1 The Broadband service will only be available to Customers who have and maintain a contract (whether with BT or a third party) for the use of a BT provided analogue direct exchange line which terminates on a master socket forming part of the BT network and requires, in the case of the SDSL service, the use of a metallic pair over which there can be no other operational service (including PSTN).
- 1.2 The Broadband Service will not be available to Customers outside BT's service availability area as published from time to time on BT's website.
- 1.3 Use of the internet (which is separate from the Broadband Service) is at the Customer's own risk and subject to any applicable laws. The Supplier will not be liable for any goods, services, information, software, or other materials that the Customer may obtain when using the internet or newsgroups, nor for any consequences resulting from viewing, downloading or any interaction whatsoever with the internet or with newsgroups.
2. **Customer's obligations**
- 2.1 The Customer shall:
- a) check and notify the Supplier if it is not able to comply with the requirements set out in this paragraph 1.1;
 - b) not knowingly make available or upload files that contain software or other material, data or information not owned by or licensed to the Customer;
 - c) not knowingly make available or upload files that contain a virus or corrupt data;
 - d) not falsify the true ownership of software or other material or information contained in a file that the Customer makes available via the Broadband Service;
 - e) not publish, post, distribute, disseminate, send, knowingly receive, upload, download, use or re-use material which is abusive, indecent, defamatory, offensive, obscene or menacing, or in breach of copyright, privacy or any other rights;
 - f) not deliberately abuse any part of a Gamma Service;
 - g) not post or send the same or similar messages in multiple use net or news groups;
 - h) not post or send off-topic items to a Usenet or news group;
 - i) not send or provide unsolicited commercial messages or communications in any form;
 - j) not falsify user information;
 - k) not act in such a way which threatens the integrity or security of any computer system;
 - l) not with a view to avoiding incurring or paying charges for such usage;
 - m) not with a view to degrading the use of services by third parties;
 - n) not violate general standards of internet conduct and usage such as denial of service attacks, web-page defacement, and port and network scanning;
 - o) not disclose passwords;
 - p) not violate any restrictions on the size of e-mails;
 - q) not forge addresses;
 - r) not share network connections in a manner enabling third parties to access and use such connections;
 - s) other than in accordance with the acceptable use policies of any connected networks;
 - t) not in a way that may pose a threat to the safety of persons or may pose a hazard which would impair or prevent the operation of equipment; or

Kascade Voice Terms and Conditions

- u) not in a way which is likely to impede the activities of authorised persons responding to an emergency.

- 2.2 Certain Broadband Services (those provided as unmetered) are governed by a fair usage policy with regard to the amount of usage permitted on an individual Broadband Circuit. The Customer shall comply with such fair usage policies as may be provided by the Supplier to the Customer from time to time.
- 2.3 The Company acknowledges that the Broadband service is subject to constraints on the number of modifications to and migrations of Customer accesses. The Customer acknowledges that there may be a temporary loss of voice and broadband service during the provision or a migration of a Broadband service which will occur when the migration takes place or the installation is being carried out.

3. Data Protection

- 3.1 The Customer hereby consents to Gamma and its suppliers using and storing information relating to any signal transmitted over a Broadband Circuit or to any Customer, without limitation, including information as to origin, destination, duration, route and time, exclusively for the purpose of collating statistics which will be of assistance to Gamma or its suppliers in their network and business planning, provided that each uses and stores such information strictly in accordance with the provisions of the Data Protection Legislation.

4. IP Assured Services

- 4.1 A router will be delivered by or on behalf of the Supplier to the Customer or a specified alternative address for all circuits using the Assured IP Service. Such router is managed by and remains the property of Gamma. If a router is not returned to the Supplier (or directly to Gamma) on termination of the circuit for which it was supplied the Supplier shall be entitled to invoice the Customer for the router at Gamma's standard charge and the Customer shall pay any such invoice in accordance with clause 7 of this Contract.
- 4.2 Where Gamma (on behalf of the Supplier) is providing a hosted solution to the Customer, the Customer shall be responsible for responsible for any security matters which are outside Gamma's direct control, for example (but not limited to), credentials used to access call management portals that could be used to set up fraudulent calls over an Assured IP Service connection.

Schedule 2

IP Direct Connect Service

1 USE OF THE IP DIRECT CONNECT SERVICE

- 1.1 The IP Telephony Services support 999/112 public emergency call services and such calls will be routed to the national emergency call handling agents. However these services do not operate in the same way as PSTN fixed line 999/112 public emergency call services and connection to such services may not be possible in the event of a service outage caused by loss of Customer connectivity to the internet for whatever reason. In such circumstances the Customer should use their PSTN line to make the emergency call. Furthermore it may on occasions not be possible for emergency services personnel to identify the Customer's location and telephone number so this information should be stated promptly and clearly by the Customer when making such a call.

Schedule 3

Mobile Services

1 DEFINITIONS

In this schedule, unless the context otherwise requires:

- 1.1 "Alternative Access Networks" means mobile networks operated on behalf of Gamma from time to time by Alternative Access Network providers other than the Primary Network Access provider;
- 1.2 "Alternative Access Network Provider Marks" means all registered and unregistered trade and service marks used and/or owned by Alternative Access Network providers or any of their affiliates;
- 1.3 "Alternative Access Network Provider Technology" means any software or technology used by Alternative Access Network providers to provide mobile services;
- 1.4 "Primary Access Network Provider Marks" means all registered and unregistered trade and service marks used and/or owned by Hutchison 3G UK Limited or any of its affiliates;

2 SUPPLY AND USE OF THE MOBILE SERVICES

- 2.1 The Customer acknowledges that at times and in locations where Gamma's network is experiencing high capacity usage, Gamma will be entitled to throttle the Customer's access to, and/or speed of, provision of the Mobile Services. Gamma will have the right to deny access to Gamma's network to the Customer, approved device or other equipment where (i) in Gamma's reasonable opinion, permitting such access will adversely affect the operation of Gamma's Network or provision of the Mobile Services or provision of the Mobile Services to any other person, or (ii) if Gamma suspects fraudulent, criminal or illegal activities are being carried out, or are likely to be carried out, by the Customer or via that equipment, whether or not such equipment has been approved or tested by Gamma.
- 2.2 The MVNO Services must not be branded or promoted under any Primary Access Network Provider or Alternative Access Network Provider Marks. The Customer will not use, modify, obstruct or alter in any way any of the Primary

Access Network Provider or Alternative Access Network Provider Marks, or act in any way or make any omission which could (in the reasonable opinion of the Primary Access Network provider or Alternative Access Network providers) bring the Primary Access Network provider or Alternative Access Network providers or the business of the Primary Access Network provider or Alternative Access Network providers into disrepute in any manner, or (in the reasonable opinion of the Primary Access Network provider or Alternative Access Network providers) otherwise damage the brand or reputation of the Primary Access Network provider or Alternative Access Network providers. All Intellectual Property Rights in the Primary Access Network Provider or Alternative Access Network Provider Marks, the Primary Access Network Provider or Alternative Access Network Provider Networks and the Primary Access Network Provider or Alternative Access Network Provider Technology are and will remain the absolute property of the Primary Access Network provider or Alternative Access Network providers and/or their licensors.

- 2.3 The Customer will:

- not use the Mobile Services or, where within the Customer's reasonable control, allow any third to use the Mobile Services for any immoral, obscene, defamatory, harmful, offensive or unlawful purpose;
- not connect or, where within the Company's reasonable control, allow any third party to connect or continue the connection of any device to Gamma's network which could generate an excessive amount of traffic in one location without Gamma's prior written consent;
- where utilising national roaming, use reasonable endeavours to ensure unique IMSIs will not permanently roam on the same UK network;
- comply with all reasonable instructions issued by the Supplier from time to time in relation to the use of the Mobile Services;
- not make any disparaging remarks about the Mobile Services, the Gamma Network, Gamma, any Gamma affiliate or the Primary Access Network provider or any Alternative Access Network provider;
- not use the Mobile Services or allow any third party to use the Mobile Services in any way that infringes any Intellectual Property Rights or in any way that is in breach of any obligation of confidence, privacy or other rights;
- comply with all reasonable instructions issued by Supplier from time to time in relation to the operational use of the Mobile Services.

Schedule 4

BT Required Conditions

1 DEFINITIONS

In this Schedule, unless the context otherwise requires:

- 1.1 "Broadband Circuit" means a connection between a Customer's Site and the underlying network, which carries data in both directions using a broadband protocol;
- 1.2 "BT Equipment" means equipment (including any software) which is owned by BT and placed by BT at a Site to provide the Line Rental Service or Broadband Service;
- 1.3 "BT Group Company" means a BT subsidiary or holding company, including without limitation a holding company of BT, or a subsidiary of that holding company, all as defined by Section 736 of the Companies Act 1985 as amended by the Companies Act 1989;
- 1.4 "BT Intellectual Property" means BT's patents, registered designs, trademarks and service marks (whether registered or not), Internet domain names, copyright, design rights, data base rights and all similar property rights (whether or not registered) and all rights or forms of similar protection or having equivalent or similar effect including those subsisting (in any part of the world) in inventions, ideas, improvements, designs, drawings, performances, computer programs, software, semiconductor topographies, plant varieties, confidential information, business names, goodwill and the style of presentation of goods or services including any improvements or refinements to any of the foregoing and in application for protection of any of the above rights;
- 1.5 "BT Social Telephony" means any one of:
 - Light User Scheme as detailed from time to time in the BT retail price list;
 - In-Contact scheme as detailed from time to time in the BT retail price list; or
 - any equivalent or replacement scheme which BT may introduce from time to time, subject to reasonable notice of BT's intention to do so;
- 1.6 "Intellectual Property Rights" means (i) patents, designs, trademarks and trade names (whether registered or unregistered), copyright and related rights, database rights, know-how and confidential information; (ii) all other intellectual property rights and similar or equivalent rights in the world which currently exist or are recognised in the future; and (iii) applications, extensions and renewals in relation to any such rights;
- 1.7 "Site" means the Customer's premises or any other place which the Gamma Services will be provided.
- 2 INTELLECTUAL PROPERTY RIGHTS
- 2.1 The Customer will not use the logo, trademark or any BT Intellectual Property of BT or any of BT's trading divisions or other BT Group Company. The Customer will not use or attempt to register as a trade mark, company name or domain name anything that is identical to, similar to or likely to be confused

Kascade Voice Terms and Conditions

with any of the BT corporate marks or use images or representations of any BT buildings in any advertising marketing or provision of the service. In addition the Customer will not use BT's name in connection with any Gamma Service. Any breach of this paragraph 2.1 of this schedule will be a material breach of this Contract for the purposes of clause 11.

3 BT EQUIPMENT

3.1 The BT Equipment remains the property of BT at all times.

3.2 If the Supplier (or Gamma on behalf of the Supplier) needs to install BT Equipment at a Site to enable the Supplier to procure the provision of a Line Rental Service, the Customer will, prior to installation:

- a) prepare the Site in accordance with the Supplier's reasonable instructions, if any;
- b) make available a suitable place and conditions for the BT equipment;
- c) provide, at no charge to the Supplier or BT, power connection points and sufficient electricity to power the BT Equipment;
- d) agree to restore the condition of the Site including any re-decorating that may be required after installation is completed; and
- e) obtain all necessary consents, including for example, consents for any necessary alterations to buildings, permission to cross other people's land or permission to put BT Equipment on their property.

3.3 The Customer is responsible for the BT Equipment and must not add to, modify, carry out any maintenance on or in any way interfere with the BT Equipment nor allow anyone else, (other than someone authorised by BT) to do so. The Customer will be liable to the Supplier for any loss of or damage to the BT Equipment, except where such loss or damage is due to fair wear and tear or is caused by BT, or anyone acting on BT's behalf.

3.4 Following termination of any service, the Supplier (or Gamma, acting on its behalf) may arrange for BT to visit the Customer's Site during working hours to recover any BT Equipment. The Supplier shall use reasonable efforts to co-ordinate such visits with the Customer.

4 ACCESS AND SITE REGULATIONS

4.1 The Customer will provide a suitable and safe working environment for BT employees and anyone acting on the Supplier's behalf.

4.2 The Supplier may terminate a Line or a Broadband Circuit or the provision of a Line Rental Service to any individual Site on 28 days' written notice to the Customer in circumstances which include but are not necessarily limited to the following:

- a) where a Site has been demolished; or
- b) where the new occupant at a Site does not wish to receive the Gamma Service.

4.3 In certain circumstances, a Site survey and/or engineering visit may be necessary and the Supplier will notify the Customer of such circumstances and any charges for such work in advance and from time to time.

4.4 Where an appointment is agreed with the Supplier for BT to work at the Customer's Site, and BT is unable to carry out the work at, or gain access to, the Customer's Site or the appointment is broken (unless due to BT's error), the Supplier will charge the Customer an abortive visit charge.

4.5 Where the Customer has failed to agree with the Supplier an installation appointment date within 30 days from the previously agreed appointment date, the Supplier may, where the Supplier (or Gamma) is not at fault, cancel any work at the Customer's Site. If the Supplier cancels the request for work at the Customer's Site in accordance with this paragraph 4.5, the Customer must pay the cancellation charges, as notified to the Customer from time to time.