



TERMS AND CONDITIONS

1. INTERPRETATION

1.1 In these Conditions the following words have the following meanings:

“Agreement”	means the Service Agreement and these Conditions;
“Broadband Charge”	means the charge detailed in Transglobal’s published price list;
“BT”	means British Telecommunications Plc;
“Call Charge”	means the charge detailed in Transglobal’s published price list;
“Charges”	means the Broadband Charge, Call Charge, Installation Charge and / or Line Rental or any of them as varied from time to time in accordance with Condition 5.4;
“Commencement Date”	means the date specified in the Service Agreement;
“Connection Date”	means date specified in the Service Agreement as varied in accordance with Condition 3.1;
“Customer”	means the person(s), firm or company named in the Service Agreement for whom Transglobal has agreed to provide the Service;
“Customer Equipment”	means equipment that is neither Equipment nor part of BT’s network which the Customer uses or intends to use with the Service;
“Equipment”	means the equipment specified in the Service Agreement and such other equipment as may be supplied to the Customer during the period of the Agreement;
“Installation Charge”	means the charge for installation and / or connection detailed in Transglobal’s published price list;
“Intellectual Property Rights”	means all design, copyright, patent, database rights, domain names, trade marks and all other intellectual or industrial property rights recorded or embodied in the Equipment and or Service in each case in any part of the world and whether or not registered or registrable;
“Line Rental”	means the charge detailed in Transglobal’s published price list;
“Minimum Period”	means 12 months or as stated on reverse;
“Service”	means the Equipment, parts, hardware, software or technical and professional services specified in the Service Agreement;
“Transglobal”	means Transglobal UK Limited Co. No. 4666729 whose registered office is situated at Suite IR10, Elstree Business Centre, Elstree Way, Borehamwood, Hertfordshire, WD6 1RX

1.2 In these Conditions references to any statute or statutory provision shall, unless the context otherwise requires, be construed as reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-acted or replaced.

1.3 In these Conditions references to the masculine include the feminine and the neuter and to the singular includes the plural and vice versa as the context admits or requires.

1.4 In these Conditions headings will not affect the construction of these Conditions.

2. TERM OF AGREEMENT

2.1 Subject to Condition 10, the Agreement shall commence on the Commencement Date and shall continue in force for the Minimum Period [and thereafter it shall be deemed automatically renewed for successive periods of 12 months (each successive period of 12 months being a “Renewal Period”) unless either party serves written notice of at least 3 months upon the other, such notice to expire at the end of the Minimum Period and any Renewal Period.

3. SUPPLY OF THE SERVICE

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3.1 Transglobal shall provide the Service with effect from the Connection Date in accordance with the Service Agreement and these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order or other document). Transglobal reserves the right to vary the Connection Date to take account of unanticipated installation or connection issues to the Transglobal network.

3.2 Transglobal reserves the right to control, direct and establish technical procedures for the use of the Service and the Customer agrees to follow the reasonable instructions of Transglobal with respect to the use of the same.

3.3 Transglobal also reserves the right to make operational changes to the Service, including but not limited to the Customer's identification procedures, system programming languages, administrative and operational algorithms, apparatus comprised in any network used to deliver the Service and designation of particular addresses, provided that in the exercise of its rights under this Condition Transglobal shall use reasonable endeavours to carry out operational changes at times which will cause minimum business interruption to the Customer and not cause the Customer to incur increased charges without first being given reasonable notice.

3.4 Transglobal warrants that it has obtained and shall ensure that it retains all necessary consents, licences or agreements required for the provision of the Service in the UK and that it will deliver the Service in accordance with all applicable telecommunications, data protection and other laws, licences and regulations in the UK.

3.5 In the event that the Service does not comply with the Service requirements set out in the Service Agreement, Transglobal shall upon notification from the Customer:-

- 3.5.1 investigate the causes of any problem and discuss investigation results with the Customer;
- 3.5.2 undertake to correct the problem and its underlying cause as soon as reasonably practicable;
- and
- 3.5.3 advise the Customer of the status of all remedial efforts.

4. CUSTOMER OBLIGATIONS

4.1 The Customer shall ensure at all times that its use of the Service, including its connection of any apparatus to any network used to deliver the Service is in accordance with all applicable telecommunications, data protection and other laws, licences and regulations. The Customer shall not use the Service for any improper or unlawful purposes or in an offensive manner or allow others to do so.

4.2 The Customer shall only use Customer Equipment approved by Transglobal.

4.3 The Customer shall be responsible for obtaining and maintaining Customer Equipment. Transglobal shall have no responsibility for or liability with respect to the Customer Equipment.

4.4 The Customer agrees not to modify, alter, repair, attempt to repair, or in any way to tamper with the Service without the express consent of Transglobal. In the absence of such consent, Transglobal shall be completely released from any liability or obligation (including any warranty or indemnity obligation) to the Customer. In addition, the Customer shall be liable to Transglobal for any costs or damages incurred by Transglobal (including damage to the Transglobal network) caused by any unauthorised use, modification, alteration, repair or tampering.

4.5 The Customer shall at all times comply with these Conditions and any reasonable instructions which Transglobal may issue from time to time in relation to the Service.



4.6 The Customer shall, at its own expense, provide all necessary site alterations, electric current and circuits, air conditioning and other preparations required to comply with Transglobal's installation and maintenance specifications.

4.7 The Customer will permit reasonable access to the Customer's premises, during its normal business hours by employees, designees, or authorised representatives of Transglobal, for the purpose of installation, inspection, maintenance, service, repair, replacement, relocation and removal of the Service.

4.8 The Customer shall pay Transglobal at its published rates for visits required by Transglobal where the fault does not lie with Transglobal or the Equipment or when damage is sustained to the Service or Transglobal's Equipment though no fault of Transglobal.

4.9 The Customer shall indemnify Transglobal fully against all losses, liabilities, costs (including legal costs) and expenses which Transglobal may incur as a result of the Customer's breach of any of these Conditions or the Customer's or third parties misuse of the Service.

5. TRANSGLOBAL'S CHARGES

5.1 Transglobal shall invoice the Installation Charge within 30 days of the Commencement Date.

5.2 Transglobal shall invoice the Line Rental and Broadband Charge monthly in arrears effective from the Connection Date.

5.3 Transglobal will measure the Customers monthly usage of the Service from the Connection Date and shall invoice Call Charges monthly in arrears.

5.4 Transglobal shall be entitled to vary Transglobal's Charges from time to time by giving not less than one months' written notice to the Customer.

5.5 Transglobal shall be entitled to add a minimum call charge and connection charge in accordance with the customer's tariff plan.

5.6 Transglobal shall be entitled to round up Customers' monthly invoice value to £5.00 exclusive of VAT in the event that any invoice value excluding VAT should otherwise fall below £5.00

5.7 Transglobal's Charges are exclusive of any Valued Added Tax, for which the Customer shall be additionally liable at the applicable rate from time to time.

5.8 Transglobal shall invoice the Customer in accordance with the provisions of this Condition 5, whether or not the use was authorised by the Customer.

5.9 Transglobal's Charges and any additional sums payable shall be paid by the Customer (together with any applicable Value Added Tax, and without any set-off or other deduction) within 14 days of the date of Transglobal's invoice.

5.10 If payment is not made on the due date, Transglobal shall be entitled, without limiting any other rights it may have, to charge interest on the outstanding amount (both before and after any judgment) at the rate of 4% above the base rate from time to time of Barclays Bank plc from the due date until the outstanding amount is paid in full.

6. EQUIPMENT AND SOFTWARE

6.1 If the Customer's telephone system has least cost routing software it will have to be reprogrammed to access the Transglobal network.



If the Customer's telephone system does not have least cost routing software, Transglobal will supply, install, and connect the Customer's telephone systems to the Transglobal network.

6.2 The Customer agrees that title in any Equipment shall at all times remain with Transglobal. Whilst the Equipment is in the Customer's premises the Customer shall ensure that it is kept safe and secure and is not interfered with by any other person. Upon termination of this Agreement (howsoever arising) the Customer shall ensure that Transglobal is allowed prompt access to Customer's premises to remove the Equipment.

6.3 Transglobal shall be responsible for and maintain the Equipment and services to the point of interconnection with Transglobal's network.

6.4 The Customer may not, nor may it permit others to, rearrange, disconnect, modify, remove, or attempt to repair the Service or any Equipment except with Transglobal's prior written consent.

6.5 The Service is provided subject to the condition that there will be no abuse or fraudulent use thereof. Abuse and fraudulent use of the Equipment and or Service shall include (without limitation):

6.5.1 obtaining, or attempting to obtain, service by rearranging, tampering with or making connection with any facilities of Transglobal, or by any trick, scheme, false representation or false credit device, or by or through any other fraudulent means or devices whatsoever, with intent to avoid payment, in whole or in part, of the Standard Charges for the Equipment and Service.

6.5.2 attempting to, or actually obtaining, accessing, altering, or destroying the data files, programs, software, procedures and or information of another customer of Transglobal by rearranging, tampering with or making connection to any facilities of Transglobal, or by any trick, scheme, false representation or false credit device or through any other fraudulent means or devices whatsoever.

7. TRANSGLOBAL WARRANTIES AND LIMITATIONS OF LIABILITY

7.1 Transglobal warrants that the Service provided will be in good working order on the day installed, and certified by Transglobal ready for commercial use. Thereafter, Transglobal will make such adjustments, repairs and parts replacement necessary to maintain the Service in working order pursuant to the Service specification and these Conditions.

7.2 The foregoing warranties are in lieu of all other warranties, express or implied, including, but not limited to, the implied warranties of satisfactory quality and fitness for a particular purpose. All other warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement save that nothing in these Conditions excludes or limits the liability of Transglobal for death or personal injury caused by Transglobal's negligence or fraudulent misrepresentation.

7.3 In all circumstances involving performance or non-performance of the Equipment and or Service furnished under the Agreement, the Customer's sole remedy is adjustment or repair of the Service. For any other claim concerning performance or non-performance by Transglobal, the Customer's damages, if any, shall be limited to those actually proven as directly attributable to Transglobal and subject to the remainder of these Conditions.

7.4 Subject to Condition 7.2, Transglobal's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the provision or contemplated provision of the Service shall be limited to the Standard Charges paid under this Agreement, but in no event more than 6 months of said charges averaged over the duration of this Agreement immediately prior to breach for the specific Equipment or Service that allegedly causes the said damage.

7.5 Transglobal shall not be liable to the Customer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill, loss of anticipated savings or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with this Agreement.

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7.6 In no event will Transglobal be liable for damages caused by the Customer's failure to perform the Customer's obligations under the Agreement, or for any lost profits, anticipated savings or other consequential damages, even if Transglobal has been advised of the possibility of such damages, or for any claim against the Customer by any other party.

7.7 Transglobal is not liable to the Customer or any of the Customer's users for any act or omission of any other entity furnishing products or services which are required by the Customer to use the Service. Nor will Transglobal be liable for any damage or losses due to the fault or negligence of the Customer, or for the failure of any products or services provided by the Customer.

7.8 Transglobal is not liable for any defacement of, damage to, the premises of the Customer resulting from the furnishing of channels or equipment to the attachment of instruments, apparatus and associated wiring furnished by Transglobal or any carrier on such premises or the installation or removal thereof, when such defacement or damage is not the result of negligence of Transglobal's agents or employees.

7.9 Transglobal is not responsible in contract or in tort for the unauthorised access to, or alteration, theft or destruction of data files, programs, procedures and or information of the Customer or authorised user of the Customer by any person through accident or by fraudulent means or devices, even if such access occurs as a result of Transglobal's own negligence.

7.10 Transglobal shall not be responsible to the Customer or to any user if changes in any of Transglobal's facilities, operations, procedures, products, equipment of services:

7.10.1 render obsolete any equipment or software provided by the Customer (unless certified by Transglobal);

7.10.2 require modification or alteration to such equipment or software; or

7.10.3 otherwise affect performance.

8. INTELLECTUAL PROPERTY RIGHTS

8.1 All Intellectual Property Rights in the Service (and contained in any media whatsoever) supplied to the Customer by or on behalf of Transglobal will remain vested in Transglobal or any third party which owns the Intellectual Property Rights and licences to Transglobal and the Customer shall not acquire any Intellectual Property Rights in the Service by virtue of this Agreement or otherwise.

9. FORCE MAJEURE

9.1 Transglobal shall not be responsible for any delay in, or failure of, supply or delivery or other obligations in these Conditions due to any occurrence commonly known as force majeure, including (without limitation) war, riot, embargo, strike or other concerted acts of workmen (whether of Transglobal or others) casualties or accidents or any other cause, circumstance or contingency beyond Transglobal's control which prevents or hinders the performance of Transglobal of any of its obligations under the Agreement.

10. DURATION AND TERMINATION

10.1 Without prejudice to any other rights and remedies it may possess, Transglobal shall be entitled at any time during the Agreement to immediately to suspend or terminate this Agreement upon the happening of any of the following events:

10.1.1 The Customer committing any breach of this Agreement;

10.1.2 The Customer or where applicable any director or partner thereof (i) suffering any distress or process of execution to be levied on its goods; (ii) committing any act of bankruptcy or having a bankruptcy order made against him/her; (iii) entering into (whether an individual or body corporate) any arrangement, agreement of composition with and for the benefit of its creditors (including a voluntary arrangement under the provisions of the Insolvency Act 1986); (iv) having a winding-up order made or

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(except for the purpose of amalgamations or reconstruction) a resolution passed for voluntary winding-up, or having an application made from the appointment of an administrator, administrative receiver or receiver, or an administrator, administrative receiver or receiver having been appointed, over the whole or any part of his business and/or assets; (v) having a provisional liquidator, receiver or manager of the whole or any part of his business appointed; or (vi) having possession taken of any of its property comprised in a floating charge by or on behalf of the holders of any debentures secured by the floating charge;

10.1.3 Transglobal, in its sole opinion, suspects that any fraudulent act is being, or may be perpetrated in respect of the Service;

10.1.4 The Customer fails to pay Transglobal's Charges in accordance with Condition 5; or

10.1.5 Transglobal, in its sole opinion, suspects the Customer of having made a material misrepresentation prior to or during this Agreement.

10.2 On expiry or termination (for whatever reason) of the Agreement, Transglobal shall retake and hold possession of any Equipment and the Customer shall permit Transglobal's agents or employees immediate access to the Customer's premises for the purpose of removing the Equipment.

10.3 In the event of termination of the Agreement by Transglobal under Condition 10.1 Transglobal may retain all payments made under the Agreement and recover any unpaid Charges or other costs applicable to the then current term of any Equipment and or Service then used by the Customer, as well as any damages Transglobal may have sustained as the result of the Customer's default. Neither the recovery of judgment in such action nor the collection of any portion of such unpaid balance shall be deemed inconsistent with a waiver or prevention of any other right or remedy of Transglobal under the Agreement or otherwise. In the event of default, the Customer shall also pay to Transglobal all reasonable expenses incurred by Transglobal in connection with the enforcement of any of Transglobal's rights under the Agreement, including legal costs.

10.4 In the event of early termination by the Customer, whether in writing or not and if the required notice period has not been adhered to, Transglobal shall be entitled to charge the customer the monthly services charges or line rental multiplied by the number of months outstanding to the anniversary date of the contract as well as charging for calls not made based on a calculation of the average monthly call spend for the last three months call charges multiplied by the number of months outstanding to the anniversary date of the contract.

10.5 Where the customer has submitted written notice of at least 3 months notice in accordance with clause 2.1, the customer shall have 30 days from the end of the notice period to transfer the services away from Transglobal. In the event that services are not transferred away within 30 days the agreement will be deemed automatically renewed for a successive period of 12 months and subsequent periods in accordance with condition 2.1.

11. GUARANTEE

11.1 Where Transglobal is instructed by a corporate entity, including but not limited to a public limited company, limited company or limited liability partnership, as a condition Transglobal requires the person signing the Service Agreement on that corporate entity's behalf to personally guarantee payment of all sums due to Transglobal under the Agreement. Such signature amounts to confirmation of that person assuming this personal responsibility and of giving of such guarantee. This means that if and to the extent that the corporate entity does not meet any outstanding liabilities to us or in respect of costs the person signing the Service Agreement will be liable as a primary obligor, for payment of those liabilities.

12. GENERAL

12.1 The Customer shall not be entitled to assign this Agreement or any part of it to anyone else without Transglobal's prior written consent.

12.2 Transglobal may assign this Agreement or any part at any time to any person, firm or company.

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12.3 Each right or remedy of Transglobal under this Agreement is without prejudice to any other right or remedy of Transglobal whether under this Agreement or not.

12.4 If any provision of this Agreement is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of this Agreement and the remainder of such provision shall continue in full force and effect.

12.5 Failure or delay by Transglobal in enforcing or partially enforcing any provision of this Agreement will not be construed as a waiver of any of its rights under the Agreement.

12.6 Any waiver by Transglobal of any breach of, or any default under, any provision of this Agreement by the Customer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other Conditions of this Agreement.

12.7 The formation, existence, construction, performance, validity and all aspects of this Agreement shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

13. COMMUNICATIONS

13.1 All communications between the parties about this Agreement must be in writing and delivered by email or by hand or sent by pre-paid first class post or sent by facsimile transmission:

13.1.1 (in case of communications to Transglobal) to its registered office or such changed address as shall be notified to the Customer by Transglobal; or

13.1.2 (in the case of the communications to the Customer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of this Agreement or such other address as shall be notified to Transglobal by the Customer.

13.2 Communications shall be deemed to have been received:

13.2.1 if sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting);

13.2.2 if delivered by email or by hand, on the day of delivery;

13.2.3 if sent by facsimile transmission on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.