

VOICE SOLUTIONS PRODUCT AGREEMENT TERMS & CONDITIONS VSPATC 06/09

1. Definitions

Capitalised terms used in these terms and conditions shall have the following meanings, or otherwise the meanings stated in the MSA:

"Agreement Date" means the date that AN notifies the Customer of AN's acceptance of the relevant Customer order;

"BT" means British Telecommunications plc and its associated companies;

"Carrier" means the telecommunications network operator providing to the Customer, on AN's behalf, a physical telephone line and/or access to a telecommunications network as part of the Product;

"CLI" means caller line identity;

"Indirect Access" means a method that allows the Carrier to identify call traffic as being routed by AN, normally obtained by means of carrier pre-selection, auto dialler equipment or identifying call traffic on a least cost routing basis;

"MSA" means the master services agreement between the parties, or the version of the master services agreement terms and conditions, that is referenced on the order form of the Product Agreement;

"Minimum Monthly Call Spend" means the minimum contracted monthly call spend figure (excluding line rental charges, connection charges and VAT) agreed between AN and the Customer for a Product and as set out in the Product Agreement;

"Minimum Term" means the minimum period set out in the Product Agreement for a Product, but in any event not less than twelve (12) months from either: (i) the date of connection, installation or transfer to AN of the Product; (ii) the date of expiry of the relevant previous minimum term under a Product Agreement; or (iii) the date of the Product Agreement, whichever is the later;

"Previous Service Provider" means BT or another service provider that provides the Customer with telecommunications services prior to connection with AN via any CLI specified in the Product Agreement;

"Product Agreement" means the agreement between AN and the Customer on these terms and conditions, and including the terms and conditions of the MSA that are incorporated by clause 2.1, including the pricing schedule, the order form, any continuation sheets, any addendums, and any Additional Orders accepted by AN; and

"Product" means the provision of voice telecommunications services via the CLIs indicated on the order form of the Product Agreement or in any Additional Order which enable the Customer to make calls to local, national, international, mobile and non-geographic telephone numbers by means of Indirect Access, and/or (where applicable) line rental services. A Product may also include the installation of the "Advance Classic" or "Advance Classic L-E" call logger.

2. Product Agreement

2.1 The Product Agreement shall be deemed to incorporate the terms and conditions of the MSA. In the event of any conflict, the terms and conditions of the Product Agreement prior to such incorporation shall prevail.

3. Use of the Product

3.1 The Customer agrees to use the Product until expiry of the Minimum Term and to achieve the Minimum Monthly Call Spend for the Product to be spent on average over the duration of the Minimum Term.

3.2 The Customer's obligations (including to meet the Minimum Monthly Call Spend) shall not be affected by any delay or failure in the transfer to AN of any part of the Product whether caused by the Customer, the Previous Service Provider, any third party or any event set out in clause 9.5 of the MSA.

3.3 In return, AN agrees to provide the Product at the agreed rates and costs in accordance with the pricing schedule of the Product Agreement.

Line rental

3.4 The Customer agrees to the Previous Service Provider disclosing to AN any information relating to the transfer or removal of equipment and select services that exist on any line at the time of connection or transfer to AN.

3.5 The Customer agrees to AN charging the Customer for any select services or equipment transferred to AN from the Previous Service Provider.

3.6 The Customer warrants that it has terminated its contract with the Previous Service Provider for the Product prior to entering into the Product Agreement. If AN is unable to provide all or any part of the Product as a result of the Customer's failure to terminate its existing contract, then without prejudice to AN's other rights the Customer shall repay to AN immediately on demand any volume-based discount, subsidy or other benefit given to the Customer up to that date, and any ongoing pricing will be subject to immediate review.

Indirect Access

3.7 The Customer shall permit an engineer of AN or its sub-contractor to attend the Customer's site to program the least cost routing service in the Customer's telephone system to access the Carrier's telephone network.

3.8 The Customer shall be responsible for ensuring that its equipment maintenance is not jeopardised in any way as result of requesting and/or receiving the Product.

3.9 If the Customer supplies AN with incorrect information that results in the rejection of the Customer's order for the Product by the Carrier, the Customer will incur a rejected transaction charge not exceeding five pounds sterling (£5) per CLI.

Call logger

3.10 The call logger Product includes software, installation, and training for up to five (5) people, and except in respect of the "Advance Classic L-E" call logger, the first year's maintenance and the first year's rate changes. AN shall ensure that the correct tariffs are sent to the Carrier at the time of ordering, and the Customer shall ensure that these are programmed correctly during installation.

3.11 AN or the Carrier will require access to the Customer's compatible computer to load the call logger software. The Customer acknowledges that the computer should be used for this sole purpose and that it will retain sole responsibility for the computer.

4. Duration

4.1 The Product Agreement shall commence on the Agreement Date, and shall continue unless and until terminated in accordance with clause 8 of the Product Agreement and/or clause 11 of the MSA.

5. Charges

5.1 The Customer shall pay line rental charges in advance, and all other charges one (1) month in arrears, in accordance with the pricing schedule of the Product Agreement or otherwise as varied from time to time in accordance with the Product Agreement.

5.2 AN reserves the right to charge the Customer for any costs incurred, and for any necessary equipment, used to rectify a fault where the cause or problem does not lie within the Product.

5.3 AN may vary charges for calls to destinations not stated on the pricing schedule of the Product Agreement from time to time without notice.

6. Limitation of Liability

6.1 AN does not warrant, represent or undertake that the Customer's call traffic will always be conveyed via the Indirect Access Product, nor that the Customer will not be charged by another carrier for the conveyance of any call. AN will not be responsible for that carrier's charges.

6.2 The Customer acknowledges that the Product is made available via the Carrier. The Customer agrees to indemnify AN against all costs and/or expenses which are imposed on AN by the Carrier that are related to any act or omission of the Customer.

6.3 Neither AN nor its supplier can accept liability for any loss of performance of, corruption of, or damage to software or hardware arising directly or indirectly as a result of loading the call logger software onto the Customer's computer. The Customer shall be responsible for ensuring that the call logger Product is compatible with its telephone system.

7. Suspension of Services

7.1 If BT or the Carrier suspends or terminates carrier pre-selection for the Product, AN shall have no obligation to notify the Customer or to continue to provide the Product to the Customer.

7.2 AN may without liability or notice to the Customer suspend the Product in relation to a line if no call traffic is carried by that line for a period of sixty (60) consecutive days.

8. Termination

8.1 If the Customer wishes to cancel a Product in whole or in part prior to connection, AN may agree (at its absolute discretion) to accept such cancellation upon the basis that the Customer shall reimburse to AN any circuit cancellation charges levied on AN by the Carrier and the Customer shall pay to AN an administration fee of £500 within fourteen (14) days of such cancellation.

8.2 AN reserves the right to cancel an order where BT or the Carrier rejects the order after the site survey has been completed, and to invoice the Customer for all costs levied on AN related to the order.

8.3 Either party may disconnect a Product or terminate this Product Agreement by giving to the other party not less than one (1) month's prior written notice, to expire at any time following expiry of the relevant Minimum Term.

8.4 AN may terminate a Product or this Product Agreement forthwith at any time in accordance with clause 11 of the MSA.

8.5 Without prejudice to any of AN's rights, if the Customer ceases to route its calls over the Carrier without providing written notice of cancellation under clause 8.3, the Customer shall remain liable for the cost of any calls made via its equipment or premises (including without limitation made fraudulently by third parties).

9. Consequences of termination and minimum spend

9.1 If a Product is disconnected or the Product Agreement is terminated before the end of the relevant Minimum Term, the Customer shall pay to AN:

9.1.1 the line rental charges which would otherwise be due for the remainder of the Minimum Term;

9.1.2 the Minimum Monthly Call Spend for the remainder of the Minimum Term;

9.1.3 any sums due in accordance with clause 9.2; and

9.1.4 any termination charge imposed on AN by the Carrier.

9.2 If, at any point during, or upon expiry of, a Minimum Term (the "Relevant Date"), the actual monthly call spend for the Product has fallen below the Minimum Monthly Call Spend (pro-rata to the Relevant Date), AN reserves the right to charge the Customer the difference between them (multiplied by the number of months pro-rata to the Relevant Date), and/or to adjust the pricing schedule of the Product Agreement. At the end of all Minimum Terms, if the Customer's actual monthly call spend has met the Minimum Monthly Call Spend, any such sums paid shall be credited to the Customer.

9.3 Upon termination of the Product Agreement the licence for the use of the call logger software shall be transferred from AN to the Customer. AN reserves the right to charge the Customer the full recommended retail price of the call logger software licence, minus any payments made by the Customer relating to the call logger, in the event that the terms of the Product Agreement and/or the MSA have been breached.