



BROADBAND & INTERNET SERVICES (OLA)

Service Standards

1 INTRODUCTION

These Service Standards define the commitments we make to you.

Any changes, modifications, additions or deletions to these Service Standards will be provided to you in writing 30 days prior to such change coming into effect. In certain circumstances You may have the right to terminate Your Contract if we make a change, We will always let You know if this right applies.

2 BROADBAND SERVICES

2.1 Service Categories

The Services provided by us to you are Broadband services which are divided into service categories with appropriate Service Standards.

Table 1 shows the different categories of Services available.

Table 1 Service Categories

Table 1 Service Categories	
Category 1 (On-Net)	Category 2 (LLU)
Directly connected service provided over the KCOM Network.	Directly connected service provided indirectly over the KCOM Network via LLU in Lincolnshire.

2.2 Service Features

We offer a range of different Broadband Services. They are defined in Table 2 below.

Table 2 KCOM Broadband						
Service	Teleworker Plus 20	Teleworker Plus 50	Bronze Plus	Silver Plus	Gold Plus	Platinum Plus
Method of Connection	Category 1 (On-net) or Category 2 (LLU)	Category 1 (On-net) or Category 2 (LLU)	Category 1 (On-net) or Category 2 (LLU)	Category 1 (On-net) or Category 2 (LLU)	Category 1 (On-net) or Category 2 (LLU)	Category 1 (On-net) or Category 2 (LLU)
Monthly Download Allowance	20GB	50GB	50GB	unlimited	unlimited	unlimited
Monthly Upload Allowance	unlimited	unlimited	unlimited	unlimited	unlimited	unlimited
Additional Usage	£0.85 ex. VAT for every GB or part thereof	£0.85 ex. VAT for every GB or part thereof	£0.85 ex. VAT for every GB or part thereof	n/a	n/a	n/a
Inclusive Hardware ²	1-port router	1-port router	4-port wired router	4-port wired or wireless router	Managed Cisco 857 router – including free lifetime replacement ¹	Managed Cisco 857 router – including free lifetime replacement ¹
Downstream Speed	Up to 24Mbps	Up to 24Mbps	Up to 24Mbps	Up to 24Mbps	Up to 24Mbps	Up to 24Mbps
Upstream Speed ²	Up to 1Mbps	Up to 1Mbps	Up to 1Mbps	Up to 1Mbps	Up to 1Mbps	Up to 1Mbps
IP Address	dynamic or 1 static included	dynamic or 1 static included	dynamic or multiple static IP addresses available free	dynamic or multiple static IP addresses available free	multiple static IP addresses available free	multiple static IP addresses available free
Email	5 POP mailboxes, each with 10 email aliases and 50MB storage	5 POP mailboxes, each with 10 email aliases and 50MB storage	SMTP feed or 5 POP mailboxes, each with 10 email aliases and 50MB storage	SMTP feed or 5 POP mailboxes, each with 10 email aliases and 50MB storage	SMTP feed or 5 POP mailboxes, each with 10 email aliases and 50MB storage	SMTP feed or 5 POP mailboxes, each with 10 email aliases and 50MB storage



Included Services	Email anti-spam and anti-virus protection (including end-user controls)	Email anti-spam and anti-virus protection (including end-user controls)	Email anti-spam and anti-virus protection (including end-user controls)	Email anti-spam and anti-virus protection (including end-user controls) Free .co.uk domain	Email anti-spam and anti-virus protection (including end-user controls) (POP only) Free .co.uk and .com domain	Email anti-spam and anti-virus protection (including end-user controls) (POP only) Free .co.uk and .com domain
Managed Service	No	No	No	No	Yes - includes remote monitoring and fixing and lifetime free replacement router	Yes - includes remote monitoring and fixing and lifetime free replacement router
Webpace	50MB	50MB	100MB	250MB	500MB	1GB
Lead Time	5-10 working days	5-10 working days	5-10 working days	5-10 working days	Up to 10 working days	Up to 10 working days

¹ Free lifetime replacement router available whilst the customer remains a Gold or Platinum customer.

² 12 month contracts only and subject to payment of a delivery charge.

3 SERVICE RESTRICTIONS

- 3.1 In respect of Category 2 Services, You must provide the BT telephone number of the line that is to be enabled for the Service on the Data Capture Form. The following BT telephone lines cannot support an ADSL service: Subscriber private metering; 30k loop, Private Circuits; ISDN (all types); Home Highway or Business Highway; Red ABC; RedCare; FeatureNet 5000 services; meter pulse facility; PBX and AUX lines. Additionally, certain equipment connected to the telephone line, such as indirect access diallers, may interfere with the correct functioning of the Service and may have to be disconnected. If You have ISDN 2/2E or Business Highway, You will have to have your lines ceased and converted to a normal BT analogue telephone line in order to take the KCOM Broadband Service. If You have ISDN 30/30E, You will also need an additional analogue line in order to receive KCOM Broadband Services.
- 3.2 You must test all security alarm systems connected to the telephone line after any of the Services have been installed, to ensure that they have not been affected by the installation. Our Service may affect the performance of some other equipment at your Site. Voice band modems used by fax machines and by personal computers may operate at a lower speed due to the connection of the Service.
- 3.3 Some caller display equipment may interfere with Our Broadband Services. To check whether or not Your caller display units or telephone is compatible with Our Broadband Services, please refer Your query to the relevant manufacturer or supplier.
- 3.4 Customers who receive Services within the KCOM Original Licence Area or Lincolnshire (via KCOM LLU) will receive downstream line speeds of up to 24Mbps and up to 1Mbps upstream. Customers situated within the East Yorkshire Expansion Area will receive downstream line speeds of up to up to 8Mbps and up to 448kbps (Teleworker Plus, Bronze Plus and Gold Plus) or 832kbps (Silver Plus and Platinum Plus) upstream.

4 HARDWARE SPECIFICATION

- 4.1 You are responsible for the set-up of your computer(s) and LAN (for multiple user applications) and for connecting to the Router or Modem. We will provide instructions on the IP addresses to be used and how they should be deployed, but we do not provide PC or LAN support nor any technical support for your computer or LAN equipment as part of this Contract.

The managed router provided with KCOM Gold and Platinum Services does not include any configuration that may be required by you. We may agree to provide additional services to you for the configuration of the router. The provision of such services shall be subject to an additional charge.

- 4.2 Minimum recommended specification - for PC users

The following minimum PC configuration is required to access the Our Broadband Services:

- (a) Pentium II, 200MHz;
- (b) 32MB RAM;
- (c) 16 bit sound card (optional);
- (d) Minimum 4 speed CD Rom player;
- (e) Video card/display capable of 800 x 600, 256 colours SUGA monitor;



- (f) 150MB available on the hard drive;
- (g) Operating systems: Windows 2000, Professional, XP or Vista;
- (h) Internet Explorer, Netscape Navigator or other suitable application software required to access the required Internet applications.

4.3 Not all broadband hardware is compatible with Our ADSL Plus services. For instance, USB modems are not compliant, nor are the earlier ADSL routers. These types of hardware will still work with Our ADSL Plus Services, but will only provide a maximum of up to 8Mbps connection speed. We recommend that You upgrade Your broadband hardware to the advantage of Our ADSL Plus Services.

4.4 You are responsible for ensuring the security of any hardware You use with the Service. We recommend that You use current anti-virus software and firewall protection. Email anti-virus protection is provided as part of Our Services with all email POP accounts.

5 LINE SPEEDS

5.1 The range of line speeds you can expect to receive for all of our broadband services are as quoted on our website. The speed you actually receive will be dependent on a number of factors including the quality of the line and the distance from the exchange.

5.2 The range of speed you can expect to receive for the broadband service you are taking will also be confirmed to you when you take the Service. These will also be the maximum speeds for Your Service. The minimum download and upload speeds for your broadband Service will be 50% of the amounts quoted. If You consistently experience either download or upload speeds that are below these minimum speeds and We are unable to remedy this within 30 days of You telling us about it, You will be able to cancel Your Contract.

5.3 For further information, please contact The Business Team.

6 USAGE ALLOWANCE

6.1 Usage Periods

Some of Our broadband products have a Monthly Usage Allowance.

The Monthly Usage Allowance commences on the Service Start Date. The Monthly Usage Allowance will normally run for the same duration as the calendar month. However, the Monthly Usage Allowance in Your first month of Service may run for up to 6 weeks.

You can view and monitor Your Monthly Usage Allowance and check the applicable dates of the Usage period for the particular month, through KCOMOnline.

6.2 Additional Usage

Any Usage above Your Monthly Usage Allowance will be chargeable at a rate per each GB.

We will send email notifications to the email address You provide for this purpose. When Your monthly Usage reaches 80% of Your Monthly Usage Allowance and then again when Your monthly Usage reaches 100% of Your Monthly Usage Allowance.

7 EMAIL SERVICES

Some of Our Services include anti-virus protection and anti-spam protection, as detailed under "Service Features" above.

The specifications for these Services are as follows:

7.1 The Anti-Virus Scanning Service

7.1.1 Description of the service:

- We will carry out anti-virus scanning on all inbound and outbound mail.
- The scanning is integrated into Our messaging service and delays will normally be in the order of a few minutes.
- We will update Our virus profiles automatically and frequently.

7.1.2 Procedure:

- Where a virus is detected in an incoming message to You, the message will be quarantined and a virus detection notification will be sent to the original sender. You will not be notified, as the sender of the virus will be false or the message generated automatically and deemed noise.



- If an outgoing message contains a virus, the message will be quarantined and You will be notified.

7.1.3 Limitations:

- This service scans Your email, checking for known viruses. There is always a risk that a virus is new and will not be detected or that Our system is circumvented by a virus. Accordingly, We do not promise to trap all viruses and You should employ Your own firewall and virus protection.
- This service does not protect You from viruses downloaded from websites or loaded from floppy disc or CD Rom.
- We will scan zipped or archived files such as .zip, .tar, .gz, .gz2, .arj, .rar, .arc, .zoo and .lha files.
- We are unable to scan protected files and these will be passed through without being scanned. Accordingly you should always take extra precautions with encrypted or password protected files.

We reserve the right to withdraw our email service at any time. We will always send you notice of any changes at least 30 days in advance.

7.2 The Anti-Spam Service

7.2.1 Description of the Service:

- We carry out anti-spam scanning on all inbound and outgoing mail.
- The scanning is integrated into Our messaging service and delays will normally be in the order of a few minutes.
- We will update Our spam profiles automatically and frequently.

7.2.2 Procedure:

- Where spam is detected in an incoming message to You, the message will be quarantined and You will be notified. You will then have a limit of period of time in which You can retrieve the relevant message from quarantine.

7.2.3 Limitations:

- This service scans Your email looking for spam. There is always a risk that spam from certain senders will not be detected or that Our system will be circumvented. Accordingly, We do not promise to prevent all spam and You may wish to employ Your own firewall and spam protection.

8 FAULT MANAGEMENT

In the event that you become aware of any Fault or a breakdown in the operation of the Services, you should notify us immediately by contacting the KCOM Network Support team.

Faults can be reported to us either:

- on-line, 24 hours a day, throughout the year; or
- telephone the KCOM Network Support team as detailed in the Table 3 below.

Please ensure when contacting the KCOM Network Support team you have the following relevant details to hand.

1. Organisation name & address.
2. Details of the Services provided to you by us.
3. Contact name and relevant security details.
4. The nature of the fault.

Table 3 Network Support Availability and Service Standards

Service	TeleworkerPlus	Bronze Plus	Silver Plus	Gold Plus	Platinum Plus
Technical Support	UK-based 0845 (local rate) 24 x 7 online fault logging	UK-based 0845 (local rate) 24 x 7 online fault logging	UK-based 0845 (local rate) 24 x 7 online fault logging	UK-based 0800 (freephone) 24 x 7 online and telephone fault logging, with priority fix Fully managed by the KCOM Network Support team, including daily monitoring and	UK-based 0800 (freephone) 24 x 7 online and telephone fault logging, with priority fix Fully managed by the KCOM Network Support team, including daily monitoring



				diagnostics, and remote fixes - minimising disruption to your business	and diagnostics, and remote fixes - minimising disruption to your business
Contact hours	Mon to Fri 0800 to 1800, Saturday 0800 to 1600, Sunday and bank holiday (closed)				
TTRF – Category 1 (On-net) Services	As Head Office, or 2 working days	2 working days	1 working day	1 working day	Same day fix
The KCOM Promise	85% of calls answered in <60 sec 95% of emails replied to within 1 working day 75% of issues fixed at first point of contact	85% of calls answered in <60 sec 95% of emails replied to within 1 working day 75% of issues fixed at first point of contact	85% of calls answered in <60 sec 95% of emails replied to within 1 working day 75% of issues fixed at first point of contact	90% of calls answered in <30 sec 95% of emails replied to within 1 working day 85% of issues fixed at first point of contact	90% of calls answered in <30 sec 95% of emails replied to within 1 working day 85% of issues fixed at first point of contact

We aim to provide a TTRF for Category 2 (LLU) Services, in accordance with the TTRF for Category 1 (On-net) Services as detailed in Table 3 above. However, we cannot guarantee the TTRF to the extent that we need to refer the matter through to BT.

Faults Procedure

The following processes outline Our faults procedure:

1. You contact the KCOM Network Support team to report a fault on the appropriate Support telephone number you have been given.
2. The KCOM Network Support team will log details of the fault on Our Faults system and issue You with a unique Fault Reference Number.
3. The KCOM Network Support team will determine whether the fault is a Service Affecting Fault and, if required, contact You for further information.
4. The fault is diagnosed and if a Service engineer is required to carry out a Customer Site visit this will be arranged with You.
5. The fault is resolved and passed back to the KCOM Network Support team to confirm the Service has been restored to close.

8.1 Our Obligations

The Time to Resolve Faults (TTRF) obligations for Service Affecting Faults are shown in Table 3.

Table 3 also details the KCOM Promise. The KCOM Promise states the levels of service You can expect to receive from Us if You raise a fault,

8.2 Restrictions

We will not be responsible for rectifying any fault which is caused by:

1. Your fault or negligence (including without limitation where You have attempted to affect repairs to any Equipment or the Service unless such repairs have been expressly approved by Us);
2. The fault or negligence of another Network Operator;
3. Any failure by You to carry out Your obligations under this Contract;
4. The connection of any KCOM Equipment to any other telecommunications networks or to any Customer Equipment, including any building distribution wiring, not approved by Us; or
5. The use of any Customer Equipment or any other Equipment or software not supplied by Us.

You may request Us to rectify any faults caused by circumstances described in paragraphs 1 to 5 (above) but We reserve the right to charge You for such services at our standard rates in force from time to time. Further to the above, We reserve the right to charge You Our standard abortive visit Charge whenever:

1. One of Our engineers attends an incorrect Site address as provided by You;
2. You have not complied with any of the requirements set out in this Service Standard;



3. Entry is refused to any Site or no access can be gained at the appointed time, as agreed between the parties;
4. One of Our engineers attends a Site and discovers that the fault is not caused by the KCOM Equipment or Our Services; or
5. You report a fault which cannot be verified or confirmed by Us.

8.3 TTRF

Any TTRF obligation expressed in “working hours” refers to elapsed time measured during our standard service hours Monday to Friday, Bank Holidays excepted.

Any TTRF obligation providing for a same day fix, requires the fault to be reported before 12:00 (midday) Monday to Friday during working hours.

The TTRF period shall begin once You notify the KCOM Network Support team of the fault and this being logged as a fault and a Fault Reference Number being allocated.

The TTRF period shall cease upon notice to You by the KCOM Network Support team of fault resolution. We will record the duration of the TTRF period for all Service Affecting Faults.

For non-Service Affecting Faults, we will ensure that there is effective management of faults by the use of an internal automatic escalation procedure.

The TTRF shall not apply in respect of Customer Responsible Faults, Planned Outages, Third Party Responsible Faults or any events of Force Majeure.

8.4 Faults Logged by Us

We may raise faults against alarms on the KCOM Network. If a fault affects the Services then We will use reasonable endeavours to promptly inform the named contact(s). If You wish to change these arrangements You must contact a representative.

The start time of a fault is the time it is detected by us We will allocate a Fault Reference Number.

8.5 Fault Reference Numbers

When You report a fault, the KCOM Network Support team will give You a unique Fault Reference Number. You must quote this number in subsequent communications.

8.6 Progress Reports

We will contact you if we have any relevant updates or when the fault is cleared. You may request additional updates at any time by contacting the KCOM Network Support team on your usual Support telephone number and quote your Fault Reference Number.

8.7 Confirmation of Fault Clearance

We will contact You as soon as possible and not more than 15 (fifteen) minutes after notification from Our engineering staff that Service has been restored. In the event You contact us to report that the fault has disappeared or been traced to a third party's infrastructure, We will cancel processes in action.

8.8 Faults Not Involving KCOM Network

If the fault cannot be traced to Our Services, network or equipment, and appears to be a problem with resources or equipment for which We are not responsible, We will provide You with a report of tests that have been carried out and an explanation of how the fault was traced. This report will be supplied in writing to You if requested.

8.9 Fault Escalation

Fault escalation procedures can be invoked in the following situation:

- If a reported Fault exceeds the TTRF
- Where an individual Fault condition is particularly sensitive and is deemed to be business affecting and a quicker resolution may be necessary.

You may at any time during the Fault request immediate escalation. Escalation may be via the appropriate KCOM Group contact or on a direct peer to peer level. All requests are to clearly state the reason for escalation and any subsequent actions will be recorded on the KCOM Group Fault management system. We will use our best endeavours to respond as promptly and quickly as possible.



9 CONTACTING US

For support or complaints, please contact Business Care on 0800 9155 777 or email at businesscare@kcom.com. Or visit <https://www.kcom.com/business/contact-us/> for other ways to contact us.

We are required to have and comply with procedures that conform to the OFCOM Approved Complaints Code when handling complaints. Our Complaints Code of Practice tells you how to make a complaint. This is available at <https://www.kcom.com/business/legal/>.

10 DEFINITIONS

10.1 The following words/acronyms shall have the following meanings for the purposes of this Contract:

Service Affecting Fault (SAF) - Any failure of Service which, in Our reasonable opinion, causes a material loss of signals in one or both transmission directions. In all such cases the Service shall be deemed unavailable and the length of downtime recorded by Us from when the fault is registered by Us and a fault reference number allocated.

Time To Resolve Fault (TTRF) - The length of time from the issue of the Fault Reference Number to restoration of the Service and/or associated equipment, measured in accordance with this Service Standard

Customer Responsible Faults - In the event that a Service Affecting or Non-Service Affecting Fault is identified as being attributable to Customer Equipment, customer network, software, content, any actions or omissions of you or your employees or agents the fault shall be deemed your responsibility. Further Customer Responsible Faults are detailed elsewhere in this Contract (including, without limitation, section 8.3 above).

Fault Reference Number - The unique number issued when logging a fault with us.

Non-Service Affecting Fault - A fault or condition which is not a Service Affecting Fault.

Planned Outage - All necessary equipment maintenance or network upgrades will, wherever possible, be planned to avoid any interruption to the provided Service. In general planned work would be scheduled at low traffic periods to minimise any disruption.

Except in an emergency, or when events outside our control do not allow, We will provide 24 hours' notice to You of any planned works that will affect the availability of the service via the Status Page on the portal All maintenance operations are controlled by internal procedures. All notifications will be notified to you via the Status Page on the portal.

Third Party Attributable Faults - A Service Affecting Fault that is identified as being attributable to a third party (i.e. neither you nor us). In such circumstances, We will try to rectify such Third Party Attributable Faults as soon as reasonably practicable.



STANDARD TERMS AND CONDITIONS

The following Terms and Conditions apply to the provision of broadband services. In the event of any conflict between the Contract Summary and these Terms and Conditions, the Contract Summary will prevail:

1 TERM

- 1.1 This Contract will come into effect on the Commencement Date and shall continue until the expiry of all of the Unit Agreements.
- 1.2 Each Unit Agreement will commence on its Service Start Date and continue for its Initial Term. Following the expiry of its Initial Term each Unit Agreement will continue unless and until terminated by either party giving the other no less than 30 days prior written notice, such notice to expire on or after the expiry of the Initial Term.
- 1.3 If You have requested a free trial, We agree to provide the Services to You for a period of 30 days without any charge (the "Trial Period"). The terms of this Contract, as applicable, shall apply to You during the Trial Period. At any time during the Trial Period, You may terminate the Services without any liability and You shall cease to use the Service. Any Charges You have paid in advance will be refunded to You.
- 1.4 Except as set out in clause 12.4 or 13.2, where termination of the Contract or a Unit Agreement, or part thereof, falls within the Initial Term, You will be subject to an Early Termination Fee (ETF).

2 PROVISION OF THE SERVICE

- 2.1 Provision of the Service is subject to availability and Our survey of Your Site. We shall use reasonable endeavours to provide the Services in accordance with this Contract and will use reasonable skill and care in the provision of the same. However, You acknowledge that the Services cannot be provided fault free and We do not warrant error free or uninterrupted use of the Services. We will use Our reasonable endeavours to repair any faults in accordance with the Service Standard.
- 2.2 We shall use reasonable endeavours to make each Service available for use by You from its Proposed Start Date provided the Proposed Start Date allows for Our standard lead time for the Service, as detailed in the Service Standard, and unless We are unable to do so as the result of: (a) a failure by You to fulfil Your obligations under this Contract (including the correct completion of the Data Capture Form); (b) any delay caused by a nominated third party (including, without limitation, other Network Operators); (c) delays caused by planning permission and/or OFCOM approvals that may be required and/or (d) any technical issues that may arise during installation.
- 2.3 We may need to:
- (a) change the technical specification of the Services where necessary for operational reasons, subject to such change not materially adversely affecting the performance of the Service (except where it is reasonable to do so);
- (b) suspend the Services for operational reasons (including, without limitation, any suspension imposed on Us by BT) or in case of emergency; or
- (c) give You instructions which We believe to be necessary for health and safety reasons or for maintaining the quality of the Services or other services,
- but before doing any of these things, We will give You as much notice as possible.
- 2.4 Where Your DNS records are to be transferred to Us We shall not be liable for any loss or damage suffered by You:
- (a) due to Your inability to receive or send any e-mails;
- (b) for any website unavailability where the same is caused by any act or omission on the part of the ISP from whom Your e-mail (or other application) or DNS address is to be transferred from any relevant registration authority; or
- (c) by Your failure to give consent to the originating ISP to carry out such transfer.
- 2.5 You acknowledge that We may be dependent upon third parties (including, without limitation, other Network Operators) to provide the Services. Notwithstanding any other provisions of this Contract but subject to clause 15 We will not be liable to You in contract, tort (including negligence) or otherwise for the actions of any Network Operator (or other third parties) that affect or otherwise impact upon the provision of the Service.
- 2.6 You must obtain the necessary consents (at Your own expense) in order for You to receive the Service in advance of installation, including but not limited to consents to building alterations at the Site and any landlord or neighbour's permissions to enable Us, BT or Our subcontractors to install or maintain the Equipment. In the event that either party is not able to procure any necessary consent(s) to provide the Services within 3 months of the Proposed Start Date of a Unit Agreement, We will be able to terminate that Unit Agreement without any liability to You. You must provide an appropriate environment for the installation of the Equipment in accordance with any requirements advised to You in advance.

- 2.7 If We discover that We are not able to provide the Service for any technical reason (including, without limitation, the fact that the exchange line over which any Service is to be provided is unsuitable for use with the Services) and We cannot resolve the issue within 3 weeks of the Proposed Start Date of a Unit Agreement, We may terminate that Unit Agreement without liability to You.
- 2.8 If You are migrating to Our Service from another ISP You must ask that ISP to port Your service to Us and inform Us that You have done so. In the event that the ISP fails to reply to Your request or refuses to comply with Your request within 14 days of that request, We may terminate that Unit Agreement without liability to You.
- 2.9 Where in order to provide You the Service, We consider it necessary in the circumstances to provide the Service, wholly or in part, by non-standard or exceptionally expensive methods or at a substantially greater cost than usually incurred so as to render Our standard tariff inappropriate, We may decide to make further charges in addition to the standard connection charge. If We decide to do so, We will inform You and You may then terminate that Unit Agreement within 7 days of Us notifying You of the increased Charge.
- 2.10 You acknowledge that:
- (a) some technical limitations within the Our or BT's network may not become apparent until after the Service has been installed and working for some time. In such instances, We may terminate that Unit Agreement on notice to You. In such circumstances, We will notify You of any alternative services We can provide to You, if any; and
- (b) following activation of Your Communications Line You may suffer a temporary loss of telephone service. This will be reinstated following installation as soon as reasonably possible.
- 2.11 If You select one of Our Managed Services, We will supply You with Equipment for use with the Service. Title to the Equipment will remain with Us and it will be KCOM Equipment for the purposes of this Contract. For the purpose of providing You with Our Managed Services, You acknowledge that We will access the Equipment supplied to You, remotely through Our network, in order for You to receive the Services, and You expressly grant a right to Us to (i) access the Equipment through such means; and (ii) monitor the traffic flowing through the Equipment to enable us to provide the Managed Services to You in accordance with Our Service Standards.
- 2.12 If You have not selected one of Our Managed Services, You will need to either purchase Equipment from Us or else arrange for the supply of Your own. Any Equipment You use must be compatible with Our Service. Title to any Equipment You purchase from Us will pass to You as soon as You have paid Us for it in full. If We provide the Equipment for one of Our non-Managed Services free of charge as part of a promotional offer, title to the Equipment will pass to You at the end of the Initial Term. Up until the point that title passes, the Equipment will be KCOM Equipment for the purposes of this Contract. Following the passing of title, such Equipment will be Customer Equipment for the purposes of this Contract. We will use Our best endeavours to pass onto You the benefit of any manufacturer's warranty for any such Equipment.
- 2.13 You acknowledge that in respect of certain Services, We may implement an additional element to the Service, which will:
- (a) scan all incoming and outgoing e-mails for viruses. If We detect a virus, We will not deliver the infected e-mail and/or
- (b) scan all incoming e-mails to see if they are unsolicited bulk commercial e-mails ("Spam"). If We detect a Spam e-mail, We will deliver it to a separate folder, which You may access using Your password. Spam e-mails will be deleted from this folder after 30 days. If You choose to have Spam e-mails delivered straight into Your inbox, We will identify them as being Spam.
- 2.14 If You use the Service to send or receive emails, We reserve the right to delete any unread emails two months after receipt.
- ### 3 ORDERS FOR SERVICE
- 3.1 At any time after the Commencement Date You will be entitled to:
- (a) order further services under further Unit Agreements; and
- (b) request a move to the position of the Equipment (where provided by Us as part of a Managed Service), subject to such move not placing the Equipment more than 30 metres from the master socket.
- 3.2 We will respond to any orders pursuant to clause 3.1 within 10 Working Days. We will confirm the availability of the requested Service; the Charges for that Service along with a Contract Summary that will include; the Initial Term for that Service; the likely Proposed Service Start Date of that

Service and any other relevant details. Such details shall not constitute an offer and You must confirm to Us in writing if You wish to contract with Us for such Services. No order pursuant to this clause 3 shall be accepted unless and until We confirm it in writing to You. Once accepted by Us, any order made under this clause 3 shall be a Unit Agreement for the purposes of this Contract. We are not obliged to respond to, process or accept any such order submitted by You. If required, You will complete a Data Capture Form in respect of the Service You are ordering.

- 3.3 Unless otherwise agreed by the parties in writing all Unit Agreements shall be governed by the terms of this Contract only.

4 USAGE ALLOWANCE

- 4.1 If the Service You receive is subject to a Monthly Usage Allowance, You shall have sole responsibility for the monitoring of Your Usage and shall pay any Charges for each gigabyte or part thereof, of Usage over and above the Monthly Usage Allowance for the Service as detailed in the Service Standard. We do not accept any liability or responsibility for the Charges that You may incur as a result of Usage of the Service, whether made innocently or with, or without, Your consent or knowledge.
- 4.2 We will send regular warnings to You by email to the email address You provide for this purpose. We will send email warnings to You when You reach and/or exceed a set proportion of Your Monthly Usage Allowance, depending on the Service You take and as detailed in the Service Standard. You must ensure that You access Your email account regularly in order to receive such notices.

5 YOUR OBLIGATIONS IN RESPECT OF THE SERVICES

- 5.1 In order to enable Us to fulfil Our obligations under this Contract You shall, at Your own cost, provide Us or Our nominated third party with such access to the Site and facilities as We may reasonably require in order to install, inspect, test, adjust, maintain, modify, repair or replace any Equipment, provide the Services or otherwise perform Our obligations under this Contract.
- 5.2 You shall accurately complete the Data Capture Form and return it to Us. In the event that the information You provide is incomplete or inaccurate, You will submit the complete accurate information to Us upon request.
- 5.3 You shall advise Us in writing of all health and safety at work rules and regulations, of all dangerous objects and substances, and any other reasonable security requirements or rules applicable at the Site, which We agree to observe.
- 5.4 You will provide Us with a suitable and safe working environment whilst at the Site.
- 5.5 You shall not move, add to, modify or interfere with or attempt to repair, or cause to be repaired or serviced by any person any KCOM Equipment other than by Us or Our nominated third party.
- 5.6 You will at all times ensure that the Equipment is kept in a good and proper state of repair, is secure whilst on the Site and maintain the necessary environmental and other conditions for any Equipment as may be specified by Us from time to time.
- 5.7 We will be entitled to modify and/or replace any KCOM Equipment or the Services from time to time if We consider such modification and/or replacement reasonably necessary for the continued provision of the Services.
- 5.8 You must maintain a contract for the use of an analogue direct exchange line in respect of each Unit Agreement if required for the provision of the relevant Service. In the event that You fail to maintain such a line, We may terminate that Unit Agreement immediately on notice.
- 5.9 You will provide any electricity and connection points We may require in the provision of the Service. In the event that You fail to do so, We may terminate that Unit Agreement immediately on notice.
- 5.10 If You receive a telephony service from Us, You must be the account holder for the telephone line that You intend to use with the Broadband Services.
- 5.11 You will, if so requested by Us, promptly provide such information as We may reasonably require in order to fulfil Our obligations pursuant to this Contract.
- 5.12 It is Your responsibility to correctly configure Your LAN and all connected devices and to protect Yourself adequately from virus and other system attacks (using up-to date software). The consequence of inadequate anti-virus or firewall systems could be that You unintentionally cause interference or damage to other Internet connected devices. We may have to suspend Your Service if such interference occurs.
- 5.13 You will be responsible for restoring the condition of the Site after any of Our installation or de-installation work, including any redecorating that may be necessary.



- 5.14 We will usually carry out the Services during Our normal working hours but may agree, exceptionally, to carry out work outside Our usual working hours subject to Your agreement to pay an Additional Charge.
- 5.15 Further, We may raise an Additional Charge if:
- Our approved engineer is called out because of faults that are found upon examination not to be faults with Our Equipment (including without limitation, power supply fluctuations or faults on another network system or apparatus to which Our Equipment is connected) or the Network; or
 - We arrange an appointment for Our approved engineer to attend Your Site but You (i) fail to provide access to the Site, or (ii) cancel the appointment for any reason; or
 - if You report the Equipment faulty and We consider (acting reasonably) that it is not, or the fault is not covered by Our warranty with the relevant third party manufacturer.
- 6 RATE ADAPTATION AND STABILISATION**
- 6.1 You acknowledge and agree that the speed and the stability of the operation of the Service is determined by:
- the characteristics of Your Communications Line, which includes its physical length, quality and susceptibility to interference from other Communication Lines;
 - the specific IP application protocol used;
 - electrical, electromagnetic or radio frequency interference;
 - Rate Adaptation and the Line Rate of the Customer Equipment;
 - the capacity available within Our and/or BT's network or the internet generally; and/or
 - the management of Our network traffic and the priority that may be applied to the Service that You have purchased from Us.
- 6.2 If, for any reason, BT should be required to visit Your Site to assist with the installation of the Services (or any fault reported thereafter), You may incur any additional charge.
- 6.3 You acknowledge that Your Line Rate will be subject to Rate Adaptation. Rate Adaptation can occur several times each day and may change the Line Rate available to You. Such changes in the Line Rate may re-set Your connection to Our network or the DSLAM.
- 6.4 The Service may provide upstream (and downstream) Rate Adaptation. If so, there shall be a maximum and minimum Line Rate available for the Service. Information regarding the maximum and minimum Line Rate available for the Service can be obtained from Us, if required.
- 6.5 Where applicable to the Service You have selected, You acknowledge that the Stabilisation Period cannot commence and We or BT, if Your Communication Line is provided by another Network Operator, will not be able to establish a Maximum Stable Rate until You have installed the appropriate Equipment and the Communication Line is synchronised to the relevant DSLAM. We will notify You once a Maximum Stable Rate has been established. However, You acknowledge that the Maximum Stable Rate may be subject to change.
- 7 KCOM EQUIPMENT**
- 7.1 We will supply the KCOM Equipment in accordance with the Acts and will comply at all times with any relevant standards.
- 7.2 Title to KCOM Equipment will remain with Us (or Our lessors, as the case may be) at all times and nothing will operate to transfer ownership of or rights in the KCOM Equipment to You.
- 7.3 You undertake and agree to:
- take all reasonable and proper care of the KCOM Equipment;
 - comply with all reasonable instructions communicated by Us to You for the safe and proper use of the KCOM Equipment from time to time;
 - not operate the KCOM Equipment in the event that it has become defective, damaged or in a dangerous state; and
 - not add to, modify or interfere with the KCOM Equipment.
- 7.4 Risk in the KCOM Equipment will pass immediately to You on delivery and You will indemnify and keep Us indemnified from and against all loss or damage caused by You to the KCOM Equipment to its full replacement value, except where this is due to fair wear and tear or is caused by Us (or anyone acting on Our behalf).
- 7.5 You will for the duration of this Contract (without prejudice to Your liability to Us), at Your own expense, effect and maintain insurance in relation to the KCOM Equipment with a reputable insurance company and such insurance will be in an amount equal to the full new replacement value of the KCOM Equipment (including all taxes duties and other payments incidental to any replacements) and on fully comprehensive terms (including third party liability) against loss or damage from any cause, including, but without limitation, all risk of third party liability arising out of the presence or use of the KCOM Equipment. You will provide Us written proof of such a policy within 10 Working Days of Our written request for the same.
- 7.6 On termination of each Unit Agreement, if You fail to allow Us to collect the KCOM Equipment You will be liable to Us for:
- a sum equivalent to the full retail value of the KCOM Equipment; and
 - the hire charges for the unreturned unit of KCOM Equipment until the sum specified in has been received by Us.
- 7.7 Any software contained in the KCOM Equipment and any software or documentation provided by Us in connection with the provision of the Services is and will remain Our property or that of Our licensors. You and Your authorised users are granted a non-exclusive, non-transferable right to use such software and manuals for the purpose of accessing the Services during the continuation of the Unit Agreement under which it is provided. Save as permitted by law, You will not copy, de-compile or modify such software and/or manuals. You will indemnify and keep Us indemnified against any costs, losses, damages, or liability We may incur due to You amending or in any way altering the software.
- 8 CUSTOMER EQUIPMENT**
- 8.1 Any Customer Equipment must: (a) be technically compatible with the Service; (b) not harm Our network, BT's network, any KCOM Equipment of the equipment of any third party; and (c) be connected and used in line with any relevant instructions, standards or laws.
- 8.2 You will make any modifications to the Customer Equipment as We may determine necessary and instruct You to do so in order to provide the Services, and comply with the requirements of the Acts.
- 8.3 Where You purchase any Equipment from Us under the terms of this Contract, We will supply the relevant Equipment with the benefit of the manufacturer's standard product warranty for that Equipment.
- 9 WEB SPACE**
- 9.1 The web space made available to You as part of the Services will be as specified in the Service Standard.
- 9.2 Details or logs of who visits any site You create using Your web space will not be made available to You.
- 9.3 Returning copies of any content or data stored on any web site You create using Your web space is Your responsibility. We will not keep back-up copies of Your web site. We accept no responsibility for loss of any such data or content which results from Your use of the Services.
- 9.4 The passwords that You use with Your web space are Your responsibility and should not be disclosed to any third party.
- 9.5 You must only reference the pages on Your web space using the Domain Name allocated to You. You must not reference Your web space by a dotted IP address (e.g. 194.152.67.11).
- 10 DOMAIN NAME REGISTRATION**
- 10.1 If You choose to take a Domain Name from Us, You must tell Us the Domain Name that You would like to use with the Service and We will use Our reasonable endeavours to allocate it to You or, if it is unavailable, such other Domain Name as is reasonably acceptable to You and available for use.
- 10.2 A Domain Name in the form www.domain.co.uk with an associated email address in the form of user@domain.co.uk will be allocated to You for use with the Services. If You want to use a Domain Name with a different suffix, We will use Our reasonable endeavours to arrange the registration and/or transfer of the relevant Domain Name so that You can use it with the Service. We will make additional charges calculated at Our standard rates for providing this service.
- 10.3 We will use Our reasonable endeavours to make any changes to the Domain Names You use with the Service, at Your request. You agree to pay any additional charges, calculated at Our standard rates, for providing this service. We do not accept any responsibility for any changes that You make to Your Domain Name, the Equipment or the Services, without Our express agreement.
- 10.4 We will automatically renew the registration of any Domain Names You use with the Service, unless You give Us at least one month's written notice prior to the relevant renewal date. We will make additional charges calculated at Our standard rates for every renewal that We carry out.
- 10.5 On the termination of any Unit Agreement, We will continue to renew the registration of the Domain Names You used with the terminated services in accordance with clause 10.3 until such time as You tell Us not to by giving Us at least one month's written notice prior to the relevant renewal date. You must continue to pay charges calculated at Our standard rates for every renewal that We carry out. For the avoidance of doubt, the provisions of this clause 10.5 shall continue to have effect after the termination of this Contract.
- 10.6 We will route any IP addresses that were previously assigned to You only if those addresses were assigned to You directly and not through any other ISP. We will not be held responsible if any other ISP's refuse to accept these addresses. We shall assign new or additional TCP/IP addresses as requested by You upon being provided with satisfactory documentation justifying the need for those addresses. The documentation must be in accordance with the policies set forth by RIPE. In certain circumstances, it may be necessary for TCP/IP addresses to be approved by RIPE, and in such cases those addresses are only assigned for the duration of the Service and become invalid at such time as We no longer provides the Service to You. We shall not be responsible for any decision made by RIPE. When We assign addresses to You, a temporary extension (usually thirty (30) days after the end of the Service) may be granted at Our sole discretion. Following termination or any further period (if any), those TCP/IP addresses may be reassigned by Us to other customers. If You wish to apply for addresses that will subsist beyond the duration of the Service, You must do so directly to RIPE. Any decision by RIPE or by another ISP relating to TCP/IP addresses is the responsibility of RIPE or of that other ISP and We accept no responsibility for such decision.
- 10.7 We will not accept responsibility for any loss of ownership of any Domain Name where You have instructed Us not to renew the registration and We will not be liable for any losses You incur as a result of this.
- 10.8 On Your request, We will arrange for the transfer of any Domain Names You use with the Services to an alternative service provider. You must pay additional charges calculated at Our standard rates for every such transfer that We carry out. We will not accept responsibility for any failure to re-register or renew the registration of any Domain Names that occur after they have been transferred from Us.
- 11 USE**
- 11.1 You are only entitled to use the Services for business purposes. The Services are not available for domestic or residential use.
- 11.2 You will not re-sell the use of the Services to any third parties.
- 11.3 You will comply with any restrictions set out in the Service Standard with regard to the number of PC's that You are able to connect to the Services or the networking of the Services with a LAN.
- 11.4 You must use and You must procure that Your authorised users use, the Services only in accordance with Our instructions as may be notified in writing from time to time and in accordance with the relevant provisions of the Acts, Our Acceptable Use Policy and any other relevant Legislation.
- 11.5 You will not use and You will procure that Your authorised users will not use, the Service:
- in any way that is unlawful or fraudulent or, to Your knowledge, has any unlawful or fraudulent purpose or effect, which shall include (without prejudice to the generality of the foregoing) the carrying out of a fraud or criminal offence against Us, BT or any other Network Operator;
 - in any way that contravenes any licence or third party rights;
 - to knowingly or recklessly transmit any material which contains software viruses or any computer code, files or programs designed to interrupt, damage, destroy or limit the functionality of any computer software, hardware or telecommunications equipment;
 - in any way which (in Our reasonable opinion) brings Our name into disrepute or in any way which intentionally causes damage or disruption to the Service or Our network;
 - to send, knowingly receive, upload, download, use or re-use material which is abusive, indecent, offensive, defamatory, obscene or menacing, or in breach of copyright, confidence, privacy or any other rights or is intended to, cause annoyance, inconvenience or worry or needless anxiety or which is defamatory, an act of treason or intended to be a hoax call to any emergency services;
 - in a way that does not comply with any instructions We give pursuant to clause 2.3(c) and/or 11.4;
 - in a way that, in Our reasonable opinion, could materially affect the quality of, or be detrimental to, any telecommunications services, including the Service;
 - to spam or send or provide unsolicited advertising or promotional material or knowingly receive responses to any spam, unsolicited advertising or promotional material sent or provided by any third party; or
 - for high traffic applications which (in Our reasonable opinion) are an unsuitable use of the Service.
- 11.6 Both parties agree to fully co-operate with the Police and any other relevant authorities (including but not limited to the Inland Revenue, the Trading Standards Office and/or OFCOM and any successor from time to time) in connection with any misuse or suspected misuse of the



- Service and You consent to Us co-operating with any other telecommunications operators in connection with any suspected fraudulent activity related to or connected with the Service and agree that We will be entitled to divulge the name and address and account information relating to You to such third parties.
- 11.7 You will indemnify Us against any claims or legal proceedings, which are brought or threatened against Us because the Service is used by You in breach of this clause 11.
- 12 CHANGES**
- 12.1 We may from time to time make changes to the Service Standard and the Acceptable Use Policy. You will be able to obtain a copy of the most up-to-date versions of the Service Standard and the Acceptable Use Policy from Our website at www.kcom.com at any time or by writing to Us at KCOM, 37 Carr Lane, Hull, HU1 3RE.
- 12.2 If We change the location of any Equipment at Your request, You shall pay to Us all applicable charges for any re-connections and associated work.
- 12.3 We may change this Contract (and any Unit Agreements pursuant to it) at any time in order to:
- comply with any legal or statutory obligation including, but not limited to, any requirements from time to time under the Acts;
 - comply with any final order, direction, notice, specification, designation or consent made by the Director General of OFCOM relating to the Service;
 - implement a change pursuant to clause 12.2;
 - introduce or withdraw Service features;
 - maintain the integrity or security of the Service or a Network;
 - introduce process changes, provided they are not to Your material detriment;
 - improve clarity, or make corrections to typographical errors; and/or
 - protect the use of any trade names or trademarks.
- We will give You at least 30 days' notice before the changes are to take effect.
- 12.4 If We change the conditions of this Contract pursuant to this clause 12 or pursuant to any other clause under this Contract, unless the change is exclusively for Your benefit, is of purely administrative nature and has no negative effect on You, or is directly imposed by law, You shall be entitled to terminate this Contract and all Unit Agreements under it on 7 days' notice, such notice to be given no later than 30 days after the date We announce the changes leading to the termination take effect.
- 12.5 If You exercise this right to terminate your Contract in accordance with clause 12.4, You will not have to pay any early termination charges but You will have to pay the Charges for the Services up to the date of termination.
- 13 CHARGES**
- 13.1 You will pay Us all appropriate Charges at the rates, times and frequencies as set out on the signature page of this Contract, as follows:
- the purchase price of any Equipment purchased by the Customer will be payable on delivery to the Site;
 - any connection Charges will be payable upon installation;
 - any rental or other fixed monthly Charges will be payable in advance at the frequency set out in the Contract from the Service Start Date unless otherwise agreed in writing; and
 - a cease Charge, where payable in accordance with the terms set out in clause 14.5.
- In the event that the Service Start Date for a Unit Agreement is not the same as Your monthly invoice date, We will charge You a pro rata monthly rental Charge for the first and last month, to ensure that all Unit Agreement monthly rental Charges are due on the same date.
- 13.2 Without prejudice to Our ability to vary the Charges under clause 18.10, We may vary or introduce new Charges from time to time by giving You no less than 30 days' prior written notice. We will publish the changes in Our Price Manual. We will also give You notice of any changes by writing to You at the correspondence address for You set out in the Contract. If the change is exclusively for your benefit, is of purely administrative nature and has no negative effect on you, or is directly imposed by law a, You may terminate this Contract on 30 days' written notice to Us provided that You serve such notice within 30 days of the date we give You notice of the varied Charges.
- In particular, We may give You notice to increase the Charges when the Initial Term for this Contract expires. If We give You notice in this way, You may be able to avoid the relevant increase by agreeing to renew this Contract prior to the expiry of the Initial Term.
- 13.3 All Charges due under this Contract will be payable within 30 days of the date of the relevant invoice and will be paid in full without any set-off, deduction or withholding of any kind. We reserve the right to charge daily interest on any outstanding amounts until payment is received in full at a rate equal to 4% per cent per annum above the base rate of National Westminster Bank Plc as current from time to time whether before or after judgement and/or suspend the Service until all Charges have been paid in full.
- 13.4 All Charges are exclusive of value added tax and any other applicable taxes which may vary from time to time be levied.
- 13.5 Where any Charges properly due to Us under this Contract and/or a Unit Agreement are outstanding We will be entitled to offset such payments against any payments due from Us to You under any other agreements under which We provide You with telecommunications or data services.
- 13.6 If a Unit Agreement is terminated by either party prior to the expiry of its Initial Term (other than pursuant to clauses 2.6, 2.7, 2.8, 2.9, 2.10, 12.2, 12.4, 13.2 or 16.1) You shall pay Us a termination payment ("Termination Payment") for each terminated Unit Agreement. The Termination Payment shall be the monthly rental and other fixed charges Charge multiplied by the number of remaining months of the Initial Term minus a 5 per cent deduction for costs not incurred by Us and a 5 per cent deduction for early payment of the monies.
- 13.7 You acknowledge that Our Charges have been calculated on the basis that:
- each Unit Agreement will continue until the expiry of its Initial Term; and
 - each IP address option will continue until the expiry of the IP Minimum Term,
- as We may have spent money on set up costs, and accordingly agree that it is reasonable for Us to require payment of the Termination Payment as calculated above.
- 13.8 We will repay or credit You with the appropriate proportion (on a pro rata basis) for any rental Charges You have paid in advance (other than for any part of the Initial Term if a Termination Payment is due) for the period ending after Your liability to pay the rental Charges ceases.
- 13.9 If at any time during this Contract Your financial standing changes adversely compared to Your financial standing at the date You entered the Contract, or You persistently default in paying the Charges due to Us, We may request a security deposit against non-payment of any amounts due and payable to Us. If You fail to provide such a security deposit within 5 Working Days of being asked to do so, We reserve the right to terminate this Contract and/or Unit Agreements on written notice.
- 14 TERMINATION**
- 14.1 If either party is:
- in breach of any provisions of this Contract (other than any of clauses 11.4 or 11.5) and fails to remedy such breach within a reasonable time of written notice to do so, such time being specified in the notice; and/or
 - unable to pay its debts as they fall due or threaten to suffer any resolution to wind up its business or enter into involuntary or compulsory liquidation or have an administrator, administrative receiver, receiver or any analogous officer appointed over all or part of its assets,
- then the other may immediately upon notice in writing (without prejudice to any other rights and remedies it may have) terminate (either in whole or in part) this Contract and/or any Unit Agreements.
- 14.2 We may terminate this Contract (either in whole or in part) and/or any Unit Agreements with immediate effect if:
- You are in breach (or We reasonably believe that You are in breach) of clauses 11.4 or 11.5 as such breach may be a criminal offence and/or cause serious harm to Our reputation;
 - Our ability to provide the Services is altered in a way that is material to the Service (including, for the avoidance of doubt, Our Authorisation);
 - the circumstances in clause 13.9 occur.
- 14.3 We reserve the right to suspend the Services prior to any termination if any of the circumstances in clauses 2.3(b), 5.12, 13.3, 14.1, or 14.2 occurs, without prejudice to any right to terminate the Contract. For the avoidance of doubt You will be liable for the Charges during any such period of suspension.
- 14.4 Upon termination of this Contract or a Unit Agreement You will cease to use all the Services or any individual Service(s) under the terminated Unit Agreement(s) as directed by Us and will pay to Us all outstanding Charges due up to and including the date of termination.
- 14.5 You will pay Us the cease Charge if (a) You terminate this Contract or any Unit Agreement (or they end) for any reason; (b) You move to another ISP; and/or (c) You move and ask Us to provide the Service at another Site.
- 14.6 The expiry or termination of this Contract will be without prejudice to any other rights either party may be entitled to and will not affect any accrued rights or liabilities of either party.
- 15 LIMITATION OF LIABILITY**
- 15.1 Nothing in this Contract shall exclude or limit either party's liability for:
- fraud or fraudulent misrepresentation; or
 - death or personal injury resulting from its own negligence or that of its employees, sub-contractors or agents; or
 - breach of the terms implied into this Contract by section 12 Sale of Goods Act 1979 or Section 2 Sale of Goods and Services Act 1982; or
 - the indemnity set out in clauses 7.4, 7.7 and 11.7.
- 15.2 Except as expressly provided in this Contract, all conditions, warranties, terms, representations, undertakings and obligations express or implied by statute (including, without limitation, those of satisfactory quality or of fitness for a particular purpose (even if that purpose is made known expressly or by implication to Us)), common law, custom, trade usage or otherwise and all liabilities (if any) are excluded to the fullest extent permitted by law.
- 15.3 Save as permitted by clauses 2.13 and 2.14, You acknowledge that We do not exercise control over or monitor in any way the content of any information, data or software which is stored or transmitted via the Service or which You send or receive. We exclude all liability for the accuracy or inaccuracy of any information or data stored or transmitted through the Service, or the sending or receipt or failure to send or receive any e-mail, information, data or software.
- 15.4 Without prejudice to clause 15.1, We shall not be liable to You in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise for any:
- loss of business; or
 - loss or corruption of data or information; or
 - loss of profits; or
 - loss of goodwill; or
 - loss of business opportunity; or
 - loss of anticipated savings even when advised of the possibility,
- suffered by You under or in connection with this Contract.
- 15.5 Without prejudice to clause 15.1, We shall not be liable to You whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any special, indirect or consequential loss or damage (including legal and other professional fees and expenses) or expenses of any nature.
- 15.6 Subject to the provisions of this Contract, each party hereby accepts liability in respect of damage to the other party's tangible property resulting from its own or its employees' negligence up to an aggregate amount of £2,000,000 (two million pounds) during the term of this Contract.
- 15.7 Without prejudice to clauses 15.1 and 15.6, each party's maximum aggregate liability in connection with this Contract whether arising in contract, tort (including negligence) or restitution or for breach of statutory duty or misrepresentation or, otherwise, shall be limited in the aggregate in each Contract Year to the greater of:
- £100,000 (one hundred thousand pounds) in respect of one incident or a series of related incidents and £250,000 (two hundred and fifty thousand pounds) for all such incidents in any 12 month period; or
 - the aggregate value of the Charges paid by You under all of Your Unit Agreements in the previous Contract Year (the "Liability Sum").
- 15.8 With reference to clause 15.7, in the event that a Contract Year has not elapsed, the Liability Sum shall be calculated by calculating the aggregate monthly average Charges incurred under all of the Unit Agreements multiplied by 12.
- 15.9 We will in no circumstances be liable to You in contract or tort (including negligence) or otherwise if We fail to renew Your domain name.
- 15.10 You acknowledge and accept that neither We, nor BT, have control over, nor are responsible for any third party information, software, content or services obtained by You whilst using the Services. Use of the Services is solely at Your risk and neither We, nor BT, shall be liable to You for any loss or damage of any nature whatsoever You suffer as a result of the use or reception of such materials.
- 15.11 The limitations of liability set out in this clause 15 shall not limit Your liability to pay any Charges that are properly due under this Contract. Further, Your liability to pay the Charges shall not be taken into account for the purposes of applying the limitations set out in this clause 15 to any other liabilities You may incur under or in connection with this Contract.
- 15.12 This clause sets out each party's entire financial liability (including any liability for the acts or omission of their respective employees, agents or subcontractors) to the other in respect of:



- (a) any breach of this Contract; and
- (b) any use made or resale of the Equipment and/or Software, or of any product incorporating the said Equipment and/or Software; and
- (c) any representation, statement of tortious act or omission (including negligence) arising under or in connection with this Contract.

16 FORCE MAJEURE

- 16.1 Subject to clause 15.1, We will not be liable to You for any loss or damage caused to or suffered by You as a direct or indirect result of the supply of Services being prevented, restricted, hindered or delayed by reason of any circumstance outside of Our control (including, without limitation, anything imposed on Us by BT or if there are technical conditions in the network which prevent Us from delivering the Service). If either party is prevented from performance of its obligations for a continuous period of three months, it may terminate this Contract and all Unit Agreements under it by giving written notice.

17 CONFIDENTIALITY AND DATA PROTECTION

- 17.1 During this Contract and after its termination or expiration for any reason, both parties shall hold in confidence all information relating to the activities or affairs of the other party to which they gain access in the course of carrying out their respective obligations pursuant to this Contract ("Confidential Information"), save to the extent that:

- (a) the relevant information comes into the public domain other than by breach of this clause 17;
- (b) the relevant information is or has been generated independently by the receiving party, otherwise within the course of performing its obligations pursuant to this Contract; or
- (c) the receiving party is obliged to disclose the relevant information pursuant to a statutory obligation, court order or instruction from a competent regulatory body or the rules of the UK Listing Authority.

- 17.2 Neither party may make or send a public announcement, communication or circular concerning the transactions referred to in this Contract unless it has first obtained the other party's written consent (not to be unreasonably withheld or delayed).

- 17.3 The obligations under this clause 17 shall survive the termination of this Contract.

- 17.4 Where We are processing data on Your behalf We shall only process such data in accordance with the Data Protection Laws and Our Data Processing Commitment.

- 17.5 As We continue to develop our business, members of the KCOM Group may be sold and any relevant Customer Information may be transferred as part of the sale, subject to the terms of this clause.

18 GENERAL

- 18.1 This Contract constitutes the entire agreement and understanding of the parties and supersedes any previous agreement between the parties relating to the subject matter of this Contract.

- 18.2 Each of the parties acknowledges and agrees that in entering into this Contract it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Contract or not) other than as set out in this Contract. Nothing will operate to limit or exclude any liability for fraud.

- 18.3 Should any provision of this Contract be held to be void or voidable the remaining provisions of this Contract will continue in full force and effect.

- 18.4 No forbearance, delay or indulgence by either party in enforcing the provision of this Contract will prejudice or restrict the rights of that party nor will any waiver of its rights operate as a waiver of any past or subsequent breach.

- 18.5 We shall use reasonable endeavours to meet any delivery time, date or period. However, such dates shall be regarded as estimates and We shall have no liability to achieve any such time, dates or periods.

- 18.6 Members of the KCOM Group may enforce their rights under clause 13.5 but no other person or body who is not a party to this Contract has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of the Contract (but this does not affect any rights or remedies of a third party which exist or are available apart from that Act).

- 18.7 You may not assign the whole or part of this Contract without Our prior written consent such consent not to be unreasonably withheld.

- 18.8 We may assign this Contract to any company which from time to time is a member of the KCOM Group.

- 18.9 Subject to clause 18.8, We may not assign this Contract to any other third party without Your prior written consent such consent not to be unreasonably withheld.

- 18.10 We reserve the right to vary these terms and conditions to the extent necessary to take into account any changes to Industry Agreements and any relevant Legislation. We may make changes to the Service Standards from time to

time. Such changes will be notified to You not less than 30 days prior to their taking effect. Any other variations must be in writing and agreed between the parties.

- 18.11 Any notice under or in connection with this Contract shall unless otherwise agreed be in writing and may be delivered by hand to or sent by first class post or by facsimile (confirmed by post) to the Company Secretary at the address of the party concerned set out in this Contract or any other address notified from time to time.

- 18.12 Any notice addressed as provided in clause 18.11 shall be deemed to have been given or made on the second Working Day after posting if sent by first class post upon delivery if delivered by hand and if sent by fax on the next Working Day after the date of transmission provided the sender's facsimile machine produces a report showing successful transmission to the correct facsimile.

- 18.13 Unless expressly stated, nothing in this Contract entitles You to use any of Our or BT's or any of Our other supplier's names, logos, trademarks or other intellectual property rights without prior written consent. Intellectual property rights shall remain the property of the owners and nothing in this Contract shall be deemed to confer any assignment or licence of such rights except where expressly stated.

- 18.14 You are not authorised or entitled to re-sell, re-supply or otherwise distribute or sub-license the services, software, documentation and/or any equipment provided by Us without Our prior written agreement or unless otherwise permitted by the terms of this Contract.

- 18.15 This Contract will be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

19 DEFINITIONS

- 19.1 Except where the Contract otherwise requires the following terms shall have the following meanings:

"Acceptable Use Policy" Our acceptable use policy which We may amend from time to time and which We will publish on Our website (www.kcom.com);

"Acts" means the Communications Act 2003, the Telecommunications Act 1984 and the Electronic Communications Act 2000 (each as amended);

"Additional Charge" the additional fees which may be charged at Our standard rates, in force from time to time, as detailed in this Contract;

"BT" means British Telecommunications Plc (Company number 1800000) whose registered office is at 81 Newgate Street, London EC1A 7AJ;

"Charges" all connection charges, rental charges, usage charges, abortive visit charges, IP address Charges (if any), additional charges and any other charges payable by You pursuant to this Contract;

"Commencement Date" means either: (a) the date We confirm acceptance of Your Offer in writing; or (b) the date We make the Service available to You;

"Communications Line" the telecommunications system that You have notified Us that You use to obtain telecommunications services over Your telephone network at the Site;

"Contract" these Terms and Conditions, together with the signature page, the Contract Summary, the Service Standard and any other parts or appendices and the Data Capture Form;

"Contract Summary" means the pre-contractual summary document sent to You as required by the EECC;

"Contract Year" a period of 12 months commencing on the Service Start Date and each consecutive 12 month period thereafter;

"Customer Equipment" any equipment at the Site owned by You or a third party which when operated in conjunction with the KCOM Equipment allows You to obtain and/or receive the Services;

"Data Capture Form" means the form that We require You to complete pursuant to clause 3.2, which shall contain the information that We require in order to provide the Services;

"Data Processing Commitment" means the Data Processing Commitment contained in this Contract;

"Data Protection Laws" means all applicable laws and regulations relating to the processing of Personal Data and privacy including the Data Protection Act 2018, the retained EU General Data Protection Regulation 2016/679 (UK GDPR) and any statutory instrument, order, rule or regulation made thereunder, as from time to time amended, extended, re-enacted or consolidated and the terms "Data Controller", "Data Processor", "Data Subject", "Data Subject Access Request", "Supervisory Authorities", "process" and "Personal Data" shall have the meanings given to those terms in such data protection laws and regulations;

"DNS" (Domain Name System) the mechanism used to resolve IP addresses against domain names;

"Domain Name" a node name and associated email address allocated to You for use with the Services;

"DSLAM" digital subscriber line access multiplexer;

"EECC" means the European Electronic Communications Code;

"Equipment" means KCOM Equipment and Customer Equipment.

"Industry Agreements" any standard industry agreements or third party agreements which impact on Our ability to provide the Services;

"Initial Term" the period of time stated in each Unit Agreement, or if none is stated, the period of time stated in the Contract, which commences on each Service Start Date;

"ISP" means an Internet service provider, other than Us;

"KCOM Group" means Us, Our holding company, Our subsidiaries, and any subsidiary of Our holding company. The terms "subsidiary" and "holding company" have the meanings given to them by section 1159 and Schedule 6 of the Companies Act 2006 (as amended);

"KCOM Equipment" any equipment located at the Site which is supplied by Us or a third party as part of the Services;

"Legislation" all Acts of Parliament and statutory regulations, instruments or orders and codes of practice and all applicable European Union laws, treaties, directives and other legislation as any of the same may be amended or replaced from time to time;

"Line Rate" the rate of connection between the Customer Equipment and the DSLAM located at the local exchange;

"Managed Services" any Services described as such in the Service Standard;

"Maximum Stable Rate" the maximum Line Rate the Service is expected to achieve on Your Communications Line, calculated on a per line basis;

"Metallic Pair" means a circuit comprising a pair of twisted metal wires which allows electrical signs to be conveyed;

"Monthly Usage Allowance" the Usage included with the Service, as detailed in the Service Standard;

"Network Operators" any authorised public telecommunications operator used by Us to deliver the Services;

"Offer" means the offer that You make to Us to enter into this Contract, usually by completing and signing the Contract.

"Order" means the order for the Services placed by You, the material details of which will be confirmed to You in writing by email or letter;

"personal data" has the meaning given to it in the Data Protection Act 2018;

"Proposed Start Date" the date specified as such in the Data Capture Form;

"Rate Adaptation" the automatic negotiation of the best Line Rate between the DSLAM and the Customer Equipment, based on the settings within Our or BT's network, as applicable, line characteristics and conditions. Rate Adaptation can occur several times a day, thus resetting the rate between the Customer Equipment and the DSLAM;

"RPI" means the Retail Price Index;

"Services" provision by Us of internet access services, including broadband, as more particularly defined in the Service Standard and any Unit Agreements;

"Service Standard" the Service level document incorporated into this Contract;

"Service Start Date" means, in respect of each Site, the Proposed Start Date or if different the earlier of the dates upon which You are notified the Service is available for use at a particular Site or the date You begin using the Services at such Site;

"Site" the premises to which the Services are to be provided, as described in the Data Capture form;

"Stabilisation Period" a period of up to 10 Working Day commencing from the date that You first use the Service following the Service Start Date, during which time the Maximum Stable Rate will be established for Your connection;

"Termination Payment" has the meaning given at clause 13.6;

"Unit Agreements" Your agreement with Us for each individual Service, whether as detailed in this Contract or in any further orders accepted by Us in accordance with clause 3;

"Usage" the amount of data transferred over the Services to You measured in gigabytes (GB);

"We/Us" KCOM Group Limited (registered number 2150618) whose registered office is at 37 Carr Lane, Kingston Upon Hull HU1 3RE;

"Working Day" Monday to Friday inclusive except for UK bank and public holidays;



"You/Your" means the person or company to whom Service is provided.

Data Processing Commitment

This Schedule represents Our commitment to You in regard to processing of Personal Data. It forms part of the Contract and should be read in conjunction with the Contract and any associated documentation.

1 DEFINITIONS

1.1 In this Data Processing Commitment, unless the context otherwise requires:

“**Data Subject**” has the meaning given to it in the Data Protection Laws;

“**Data Subject Access Request**” has the meaning given to it in the Data Protection Laws;

“**Personal Data**” has the meaning given to it in the Data Protection Laws;

“**Permitted Sub-Processor**” means any third party supplier or other sub-processor appointed by Us for the provision of Services to You pursuant to the Contract, as such third party supplier or sub-processor is expressly identified to You or as otherwise agreed between the parties.

1.2 Any other definitions used in this Data Processing Commitment Schedule shall have the meaning ascribed to it in the Contract.

2 DATA PROTECTION

2.1 Both Parties hereby warrant, represent and agree that in relation to the performance of the Services during the term of the Contract each Party will comply with the Data Protection Laws.

2.2 Both Parties acknowledge and agree that in relation to Your Personal Data, You are the Data Controller and We are the Data Processor. We agree and accept that We will process the Personal Data pursuant to and in accordance with the Contract, as applicable, and the Data Protection Laws.

2.3 Part 5A sets out the information regarding Our processing of Your Personal Data as required by article 28(3) of the UK GDPR. We may make reasonable amendments to Part 5A by written notice to You from time to time as We reasonably consider necessary to meet those requirements. Nothing in Part 5A (including as amended pursuant to this section 2.3 of this Data Processing Commitment) confers any right or imposes any obligation on either You or Us.

2.4 We shall:

(a) only process the Personal Data for the purposes of performing its obligations under the Contract, as applicable, and in accordance with Your documented instructions;

(b) not transfer the Personal Data outside of the United Kingdom or the EEA, unless permitted to do so as follows:

(i) in provision of the Services to the relevant Permitted Sub-Processor, subject to ensuring that either: (a) such Permitted Sub-Processor implements appropriate technical and organisational measures to safeguard against unauthorised and unlawful processing of Personal Data and to ensure a level of security appropriate to the risk; or (b) the Sub-Processor enters into the Standard Contractual Clauses for the Processing and transfer of Personal Data outside of the United Kingdom or the EEA with You; or

(ii) with Your prior written consent; and/or

(iii) if required to do so by any legislation or regulation, in which case We shall inform You of such requirement if it is able to do so;

(c) ensure that all of Our employees who process the Personal Data are subject to an obligation of confidentiality in relation to the Personal Data;

(d) implement appropriate technical and organisational measures to safeguard against unauthorised and unlawful processing of Personal Data and to ensure a level of security appropriate to the risk, including but not limited to:

(i) pseudonymising and encrypting Personal Data, as appropriate;

(ii) ensuring the ongoing confidentiality, integrity, availability and resilience of its processing systems and services;

(iii) enabling the restoration, availability and access to Personal Data in a timely manner in the event of a physical or technical incident and, without prejudice to the foregoing, in accordance with any service level agreement between Us and You;

(iv) regularly testing, assessing and evaluating the effectiveness of the technical and organisational measures for ensuring the security of the processing; and

(v) taking steps to ensure that any of Our employees who have access to Personal Data does so in accordance with Our rights and obligations as expressly detailed in this Data Processing Commitment or otherwise on Your express written instructions unless otherwise required by legislation or other applicable regulation;

(e) inform You of any new sub-processor and/or change of a Permitted Sub-Processor. You shall inform Us within five (5) Business Days of any objection to such appointment or change. If You do not raise any such

objection, We shall ensure that such sub-processors shall comply with the provisions of this Schedule or terms which are substantially similar;

- (f) assist You in the timely response to requests from Data Subjects exercising their rights, including but not limited to:
 - (i) where We are required to assist You with a Data Subject Access Request You have received, responding to such request for assistance within twenty (20) days of receiving notice of such request from You;
 - (ii) where We receive a Data Subject Access Request directly from the Data Subject, We shall notify You within one (1) Business Day after receipt and shall respond to the Data Subject within the time limits specified within the Data Protection Laws and where You are required to assist Us with such Data Subject Access Request, You shall respond to Us within twenty (20) days of receiving notice of such request from Us;
 - (iii) assisting You, as applicable, with a request for access, rectification and/or erasure by a Data Subject; and
 - (iv) enabling You to comply with a request for data portability of a Data Subject;
- (g) assist You in complying with its obligations relating to security of Personal Data as set out in the Contract, as applicable, or as otherwise may be reasonably requested by You, including but not limited to:
 - (i) notifying You of any Personal Data breach as soon as reasonably practicable and no later than twenty four (24) hours after We become aware of the breach (such notice by email and/or telephone and followed up by email), and including all relevant detail. We agree and accept that You may use any detail included in the notification of a Personal Data breach, or otherwise given in its communication to Data Subjects, to the extent that such information does not breach the rights of any other individual;
 - (ii) at Your request and expense assisting with the communication to the Supervisory Authorities, any of Your customers and/or Data Subjects following a Personal Data breach and/or implementing any measures required as a result of such breach;
 - (iii) at Your request and expense, consulting with the Supervisory Authorities and/or assisting You to consult with the Supervisory Authorities, including providing You with any information relating to Our processing of Personal Data and/or Our compliance with the Data Protection Laws as You may be reasonably request.
- (h) upon the expiry or termination of the Contract, delete or return all Personal Data to You (as requested by You), unless otherwise required or permitted by Data Protection Laws and provide written confirmation You in this respect;
- (i) make available to You all information reasonably necessary to enable You to demonstrate compliance with Your obligations under the Data Protection Laws, including such records of all categories of processing carried out on Your behalf, as such is requested by You;
- (j) co-operate with any request of the Supervisory Authority;
- (k) allow You to undertake audits of Us on 30 days' notice and at Your expense, subject to any reasonable requests We may have regarding the timing and conduct of such audit (including, without limitation, such audits to be conducted during Our Business Hours and allowing Us to supervise such audit), to ensure Our compliance with this Data Processing Commitment;
- (l) contribute to any audits or inspections carried out on You by any Supervisory Authority or any of Your suppliers or customers, as such contribution and/or inspection is reasonably necessary to demonstrate compliance with Your and/or Our obligations in this Data Processing Commitment, subject always to the provisions in Section 2.3(k) above;
- (m) at Your expense, implement any reasonable recommendations and/or remedial actions necessary to ensure compliance with the provisions of this Schedule and/or the Data Protection Laws, as such recommendations and/or remedial actions are deemed necessary by You (acting reasonably) or any Supervisory Authority, as applicable, following an audit or inspection in accordance with Section 2.3(l) above, or otherwise as You deem reasonably necessary.
- (n) Subject to clause 15, each Party shall indemnify the other Party in the event of any claim by a third party arising as a consequence of the other Party's breach of this Data Processing Commitment and/or Data Protection Laws.

3 GENERAL

- 3.1 We shall be entitled to amend this Data Processing Commitment either: (i) immediately to ensure Our commitment is in compliance with Data Protection Laws; or (ii) upon giving You 30 days' prior written notice of such change, provided that such change shall not (in Our reasonable opinion) cause a material detrimental effect to You).

DATA Processing Details

Description	Details
Subject matter of the processing	Provisions of Services pursuant to the Contract between Us and You
Duration of the processing	During the Term of the Contract and for up to 7 years after the expiry or termination of the Contract
Nature and purposes of the processing	Collecting Storing Processing (organising, structuring, adaptation or alteration, retrieval consultation, use) Releasing (transmission, dissemination or otherwise making available) To facilitate the fulfilment of Our obligations arising under the Contract including <ol style="list-style-type: none"> i. Ensuring effective communication between Us and You; ii. Maintaining full and accurate records of all Services arising under the Contract; iii. Dealing with any rights, actions, incidents or disputes arising under the Contract;
Type of Personal Data	Name IP Address Telephone Number Email Address Unique Identifier (Customer Node Name) URL Logs
Categories of Data Subject	Includes: <ol style="list-style-type: none"> i. Your directors, employees and/or staff of the Customer concerned with the delivery of the Service ii. The directors, employees and/or staff of Your group and/or associated companies concerned with the delivery of the Service iii. The directors, employees and/or staff of the End User iv. Members of the general public
Permitted Sub-Processors	Netlynk SAP