



# LANDLORD LIGHTSTREAM

## 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.

### 2 BROADBAND SERVICES

#### 2.1 Availability

KCOM Landlord Lightstream is intended for use by residential landlords who want to provide a superfast broadband service to the tenants who occupy their rented property. KCOM Landlord Lightstream is only available for use by landlords who rent out residential property; not commercial property.

You are entitled to make KCOM Landlord Lightstream services available for use by the tenants who occupy residential property that You rent out. However, You are not entitled to resell the KCOM Landlord Lightstream services on a more general basis. You must not make any wider commercial use of KCOM Landlord Lightstream services, and You must not allow Your tenants to make commercial use of the KCOM Landlord Lightstream services.

The Landlord Lightstream services which are available are detailed in Table 1.

- If You have a property with more than 12 bedrooms You must subscribe to multiple Lightstream services which We may deploy using the same Optical Network Termination unit

All KCOM Landlord Lightstream services are subject to availability, line test and confirmation. You and Your end-users are subject to and must abide by KCOM's Acceptable Use Policy.

#### 2.2 Service Description

KCOM Landlord Lightstream provides You with a superfast broadband service using fibre optics nearer to Your premises to deliver faster broadband services than are normally available over copper based ADSL services.

The service can be deployed by KCOM in two methods depending on the location of Your Site(s) and KCOM's roll-out programme. This will either be a full fibre installation directly to Your Site premises (Fibre To The Premises ('FTTP')) or You may be provided service using Fibre to a nearby street cabinet (Very High Speed Digital Subscriber Line ('VDSL' or 'FTTC')).

You can find out more about what FTTP, VDSL and FTTC means on our website, [kcom.com/business/our-products/broadband-technologies-and-speeds/](http://kcom.com/business/our-products/broadband-technologies-and-speeds/).

The maximum download and upload speeds capable from these services is detailed in the Price Manual and Table 1, below.

These services must be taken in conjunction with a KCOM telephone line at each Site. If You do not have an existing KCOM telephone line at any Site, You must order a new KCOM telephone line and pay any installation charges for that line.

Outgoing calls will be barred on the KCOM telephone line(s) that You use with the KCOM Landlord Lightstream service, apart from emergency calls to 151 or 999.

The line rental charge for the KCOM telephone line(s) that You use with the KCOM Landlord Lightstream service is included within the Monthly Rental Charges for the KCOM Landlord Lightstream Service.

#### 2.3 Customer Requirements

- A new or existing KCOM line is required at the address of the KCOM Landlord Lightstream service.
- Ethernet LAN running TCP/IP (10 BASE T minimum). For LAN connections You must supply PC Ethernet cards.
- An internet ready device



- If We connect PC's and laptops using the wireless router, We provide a router to wireless N standards. To optimise Your wireless speed You will require wireless N adaptors or cards for Your PC, rather than older and slower A, B and G standards.
- All customers should consider the security of their PC. We recommend the use of current anti-virus software and firewall protection. Email anti-virus protection is provided with email POP accounts. Contact the business team regarding firewall security and Unified Threat Management hardware.
- In respect of KCOM Landlord Lightstream services that are delivered using FTTP, You will require two power sockets for the Optical Network Terminal (ONT) and the supplied router. In respect of KCOM Landlord Lightstream services that are delivered using VDSL, You will require a single power socket for the VDSL router and a VDSL microfilter supplied. See installation options below.

## 2.4 Engineer Visit

We will provide You with an AM or PM appointment. Missed Appointment charges apply for any missed installation dates.

## 2.5 Connection and Hardware Charges

The type of connection We will provide for Your KCOM Landlord Lightstream Service will be as stated in your Order. Further details of the connections We provide are as follows;

- Connection 10 metres; ONT and router located together within 8 metres (usable of fibre length) of entrance.
- Connection 30 metres; ONT and router located together with 28 metres (usable of fibre length) of entrance
- Connection 50 metres; ONT and router located together within 48 metres (usable of fibre length) of entrance.
- Cat5e Connection; Dual Ethernet socket and cable to 100 metres (90 metres usable) when Your router needs to be located next to Your PCs.

The connection charges that apply to Your KCOM Landlord Lightstream Service will be as stated in the Price Manual and your Order.

The type of hardware We will provide for Your KCOM Landlord Lightstream Service will be as stated in your Order.

## 2.6 Service Features

The service features for Your KCOM Landlord Lightstream Service will be as stated in the Price Manual and Table 1. Where any of these details are varied in the Price Manual, the up to date details published in the Price Manual will apply.

**Table 1 – FTTP**

|  | Landlord 50         | Landlord 100 | Landlord 300 | Landlord 500 | Landlord 900 |
|--|---------------------|--------------|--------------|--------------|--------------|
| Average Peak Time Download Speed*** (FTTP) | 50Mbps              | 100Mbps      | 300Mbps      | 500Mbps      | 900Mbps      |
| Average Peak Time Upload Speed*** (FTTP)   | 50Mbps              | 100Mbps      | 300Mbps      | 500Mbps      | 500Mbps      |
| Monthly Usage Allowance                    | Unlimited**         |              |              |              |              |
| Traffic Shaping                            | No*                 |              |              |              |              |
| IP Addresses                               | 1 static IP address |              |              |              |              |
| Hardware included                          | Wireless router     |              |              |              |              |



### Notes

- \* Further details of the Traffic Shaping that applies to Your Service are set out in the Traffic Management Policy for Landlord Services published on Our Website.
- \*\* References to “unlimited” are to the unlimited download and upload allowances with this service. No other aspect of the service is “unlimited”
- \*\*\* “Peak Time” is between the hours of 8pm and 10pm. The “Average Peak Time Download/Upload Speed” is the download/upload speed that 50% of our business customers taking the relevant product can expect to achieve during Peak Time.

## 2.7 Service Bolt-ons

The following Bolt-ons can be provided with Your Service for an additional charge;

**Table 2 – Service Bolt-ons**

| Bolt on               | Description  |
|-----------------------|--|
| Direct Tech Support   | <p>This Bolt-on allows Your tenants to contact Us directly for tech support. This allows the individual property account to be password protected. Tenants of that property can discuss their connection with Us through Our technical support helpdesk by stating the password on the account which You or Your agents have provided to them.</p> <p>Without Direct Tech Support, We can only discuss any network issues with the account holder.</p> |
| Wireless Access Point | <p>Wireless Access Points boosts home network coverage to extend the range of Wi-Fi within the home.</p> <p>This Bolt-on is intended for use in multi-storey houses and shared accommodation.</p>  |

The Bolt-ons You have selected for Your Service are as specified in your Order. You can select additional bolt-ons at any time by agreement with Us.

You must take each Bolt-on you select for an initial minimum period of 30 days. You can terminate Bolt-ons after the expiry of this initial minimum period by giving Us no less than 30 days’ notice (terminating a Bolt-on in this way will not affect the continuation of the other parts of this Contract).

## 3 HARDWARE

### 3.1 Provided Hardware

We will provide a free router for You to use with the KCOM Landlord Lightstream service, as specified in the Price Manual. All routers are subject to stock availability and We reserve the right to provide a reasonable alternative to the model specified.

You acknowledge that any free hardware provided shall remain the property of KCOM. If the service is cancelled You must return the free hardware To Us via our returns process.

You must take reasonable care of the hardware whilst it is at the premises and, in particular, must protect it from accidental damage and theft. In addition, You must not allow anyone other than Us to carry out any repairs or maintenance work on the hardware.

You will be responsible for the cost of repair or replacement hardware if it is lost or You fail to take proper care of it. However, We will be responsible for any problems You experience with the use of the hardware that can be attributed to any defects with the materials or manufacture.



**3.2 Purchased and Replacement Hardware**

If You purchase Hardware to use with the Service from Us the ownership of the Hardware shall be Yours once You have paid for the Hardware in full. We will assign the benefit of any product warranties given by the manufacturer or supplier of the Hardware to You.

**4 LINE SPEEDS**

4.1 The throughput speeds for Our KCOM Landlord Lightstream Services are as set out in Table 1, above. For Our VDSL Services, the throughput speed You actually receive will be dependent on a number of factors including the quality of the line and the distance from the exchange.

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.

4.2 For further information, please contact The Business Team.

**5 NOT USED - PLEASE REFER TO YOUR CONTRACT**

**6 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:

- via email; or
- by telephoning the KCOM Network Support team.

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.

**Network Support Availability and Service Standards**

| Service   | Landlord 50  | Landlord 100 | Landlord 300 | Landlord 500 | Landlord 900 |
|---|--|--------------|--------------|--------------|--------------|
| <b>Technical Support</b>                        | Contact hours- Mon – Fri 0700 to 2200 Saturday 0800 to 1600  |              |              |              |              |
| <b>Service Level Agreement the KCOM promise</b> | Repair time: 2 working days<br>85% of calls answered in <60sec 90% of emails replied to within 1 working day<br>75% of issues fixed at first point of contact<br>Repair time: Next Working Day<br>85% of calls answered in <60sec 95% of emails replied to within 1 working day<br>75% of issues fixed at first point of contact |              |              |              |              |

**Target Time to Repair Faults (“TTRF”).**

The TTRF for all KCOM Landlord Lightstream Services shall be 2 Working Days<sup>1</sup> for all Landlord Lightstream packages calculated in accordance with section 6.4. If a fault with the service occurs, You or the end user should try to resolve the faults by rebooting any affected routers or PCs before raising a fault with the KCOM Network Support team. We reserve the right to raise additional charges if faults are reported to the KCOM Network Support team which, upon investigation, are shown to be faults You or the end users could have resolved by re-booting the affected routers or PCs. You shall be responsible for ensuring that there is a recognised process by which end users can contact You about faults or services issues. The KCOM Network Support team will only liaise with You (Our customer) in relation



to faults or service issues; and not the end users (Your tenants) unless We have specifically agreed to liaise directly with Your end users in your Order. You will then have sole responsibility for any onward communication with Your end users.

#### Notes

<sup>1</sup> Excluding network outages, telephony faults or faults that require ongoing monitoring, working days are Monday to Friday and exclude bank holidays

### 6.1 **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 fault is diagnosed and if a Service engineer is required to carry out a Customer Site visit this will be arranged with You.
4. The fault is resolved and passed back to the KCOM Network Support team to confirm the Service has been restored to close.

### 6.2 **Our Obligations**

The Time to Resolve Faults (TTRF) obligations for Faults are set out in the Section named 'Network Support Availability and Service Standards', above.

### 6.3 **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 attend 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 attend 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.

### 6.4 **TTRF**

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 Faults.

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



## 6.5 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.

## 6.6 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.

## 6.7 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.

## 6.8 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.

## 6.9 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.

## 7 DEFINITIONS

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

### **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 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.

### **Fault Reference Number**

The unique number issued when logging a fault with Us.

### **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 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

### 1 TERM

- 1.1 This Contract will come into effect on the date it is signed by both parties 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.

### 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:
- 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);
  - suspend the Services for operational reasons (including, without limitation, in case of emergency); or
  - 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:
- due to Your inability to receive or send any e-mails;
  - 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
  - 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 14 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, 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:
- some technical limitations within the Our 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
  - 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 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 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.

### 3 ORDERS FOR SERVICE

- 3.1 At any time after the Commencement Date You will be entitled to order further services under further Unit Agreements.
- 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; 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.

### 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 a KCOM Centrex 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 KCOM Landlord Lightstream Service from Us, You must be the account holder for the KCOM Centrex line that You intend to use with the KCOM Landlord Lightstream Service.
- 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 deinstallation 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

- b) 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
- c) 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 FOR FTTC SERVICES

6.1 You acknowledge and agree that the speed and the stability of the operation of the Service is determined by:

- a) the characteristics of Your Communications Line, which includes its physical length, quality and susceptibility to interference from other Communication Lines;
- b) the specific IP application protocol used;
- c) electrical, electromagnetic or radio frequency interference;
- d) Rate Adaptation and the Line Rate of the Customer Equipment;
- e) the capacity available within Our network or the internet generally; and/or
- f) the management of Our network traffic and the priority that may be applied to the Service that You have purchased from Us.

6.2 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.

6.3 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.

6.4 Where applicable to the Service You have selected, You acknowledge that the Stabilisation Period cannot commence and, if Your Communication Line is provided by another Network Operator, We 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:

- a) take all reasonable and proper care of the KCOM Equipment;
- b) comply with all reasonable instructions communicated by Us to You for the safe and proper use of the KCOM Equipment from time to time;
- c) not operate the KCOM Equipment in the event that it has become defective, damaged or in a dangerous state; and
- d) 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) a sum equivalent to the full retail value of the KCOM Equipment; and
- b) the hire charges for the unreturned unit of KCOM Equipment until the sum specified in 7.6(a) 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, any KCOM Equipment or 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 DOMAIN NAME REGISTRATION

9.1 This clause 9 applies to existing Customers receiving existing Domain Names. Domain Names are no longer made available to new customers.

9.2 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.

9.3 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.

9.4 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 9.4 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 9.5 shall continue to have effect after the termination of this Contract.

9.5 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.

9.6 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.

9.7 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.

## 10 USE

10.1 You are only entitled to use the Services for business purposes. The Services are not available for domestic or residential use.

Except as specified in the Service Standards, You will not re-sell the use of the Services to any third parties.

10.2 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.

10.3 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.

10.4 You will not use and You will procure that Your authorised users will not use, the Service:

- a) 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 or any other Network Operator;
- b) in any way that contravenes any licence or third party rights;
- c) 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;
- d) 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;
- e) 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;
- f) in a way that does not comply with any instructions We give pursuant to clause 2.3(c) and/or 10.4;





- g) in a way that, in Our reasonable opinion, could materially affect the quality of, or be detrimental to, any telecommunications services, including the Service;
- h) 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
- i) for high traffic applications which (in Our reasonable opinion) are an unsuitable use of the Service.
- 10.5 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.
- 10.6 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 10.
- 11 CHANGES**
- 11.1 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](http://www.kcom.com) at any time or by writing to Us at KCOM, 37 Carr Lane, Hull, HU1 3RE.
- 11.2 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.
- 11.3 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 11.2;
  - introduce or withdraw Service features;
  - maintain the integrity or security of the Service or Our 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,
- provided that any change introduced pursuant to sub-clauses 11.3(e) to 11.3(h) shall not materially affect the Service or its performance insofar as it is reasonable to do so. We will give You at least 14 days' notice before the changes are to take effect.
- 11.4 If We materially change the conditions of this Contract pursuant to clauses 11.1-11.3 (inclusive) and such changes are to Your detriment, You shall be entitled to terminate this Contract and all Unit Agreements under it on 30 days' notice, such notice to be given no later than 30 days after the date upon which the changes leading to the termination take effect.
- 11.5 The Rebate Scheme is discretionary only. We reserve the right to amend or revoke the Rebate Scheme at any time. If We make a credit to your invoice in accordance with terms of the Rebate Scheme, We shall not be obliged to make any such payment in future years. The right to terminate set out in clause 11.4 shall not apply to any change to, or revocation of, the Rebate Scheme.
- 12 CHARGES**
- 12.1 You will pay the Charges to Us in accordance with the Order and the Price Manual. In the event of any conflict between the Charges for the Services stated in the Order and the Charges for the Services stated in the Price Manual, the Charges stated in the Price Manual shall apply. The Charges will be subject to change in accordance with this clause 13. You will pay the Charges, 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 Order 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 13.5.
- 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.
- 12.2 We reserve the right to vary the Charges at any time on 30 days' notice to You. We will give You notice of any changes to the Charges by publishing the changes in Our Price Manual. We will also give You notice of any significant changes by writing to You at the correspondence address for You set out in the Order. If We make a significant increase to the Charges under this clause, You may terminate this Contract without penalty by giving Us 30 days' notice at any time within 30 days of the date We give You notice of the change.
- 12.3 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.
- 12.4 All Charges are exclusive of value added tax and any other applicable taxes which may from time to time be levied.
- 12.5 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.
- 12.6 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, 11.4, 13.2(b) or 15.1) 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 multiplied by the number of remaining months of the Initial Term.
- 12.7 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, if any, will continue until the expiry of the minimum contract term specified for that IP address option,
- 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.
- 12.8 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.
- 12.9 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.
- 13 TERMINATION**
- 13.1 If either party is:
- in breach of any provisions of this Contract (other than any breach of clauses 10.4 or 10.5) 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.
- 13.2 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 10.4 or 10.5 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, where Our authorisations under the Acts to provide the Services are altered in a way that is material to the Service);
  - the circumstances in clause 12.9 occur.
- 13.3 We reserve the right to suspend the Services prior to any termination if any of the circumstances in clauses 2.3(b), 5.12, 12.3, 13.1, or 13.2 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.
- 13.4 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.
- 13.5 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.
- 13.6 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.
- 14 LIMITATION OF LIABILITY**
- 14.1 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, subcontractors 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
  - any of the indemnities set out in clauses 7.4, 7.7 and 10.7.
- 14.2 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.

- 14.3 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.
- 14.4 Without prejudice to clause 14.1, We shall not be liable to You in contract or 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.

- 14.5 Without prejudice to clause 14.1, 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.
- 14.6 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.
- 14.7 Without prejudice to clauses 14.1 and 14.6 each party's maximum 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 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**").
- 14.8 With reference to clause 14.7, 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.
- 14.9 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.
- 14.10 You acknowledge and accept that We do not 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 We shall not 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.
- 14.11 The limitations of liability set out in this clause 14 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 14 to any other liabilities You may incur under or in connection with this Contract.
- 14.12 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:
- any breach of this Contract; and
  - any use made or resale of the Equipment and/or Software, or of any product incorporating the said Equipment and/or Software; and

- any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Contract.

## 15 FORCE MAJEURE

- 15.1 Subject to clause 14.1, 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, 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.

## 16 CONFIDENTIALITY AND DATA PROTECTION

- 16.1 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:
- the relevant information comes into the public domain other than by breach of this clause 16;
  - 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
  - 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.
- 16.2 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).
- 16.3 The obligations under this clause 16 shall survive the termination of this Contract.
- 16.4 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.
- 16.5 We may also contact Your organisation (including individuals within Your organisation) by letter, telephone or e-mail with details of Our services that may be of interest. If an individual does not wish to receive marketing material from Us then please notify us by calling 0800 1386000.

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.

## 17 GENERAL

- 17.1 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.
- 17.2 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.
- 17.3 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.
- 17.4 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.
- 17.5 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.

- 17.6 Members of the KCOM Group may enforce their rights under clause 12.5 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).

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

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

- 17.9 Subject to clause 17.8, We may not assign this Contract to any other third party without Your prior written consent such consent not to be unreasonably withheld.

- 17.10 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. Any other variations must be in writing and agreed between the parties.

- 17.11 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.

- 17.12 Any notice addressed as provided in clause 17.11 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.

- 17.13 Unless expressly stated, nothing in this Contract entitles You to use any of Our or any of Our other suppliers' names, logos, trade marks 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.

- 17.14 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.

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

## 18 DEFINITIONS

- 18.1 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](http://www.kcom.com));

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

"**Bolt-on**" a service option selected by You as specified in the Order and further described in the Service Standards;

"**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;

"**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 Service Standard, the Data Processing Commitment and any other appendices and the Data Capture Form;

"**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 (**DPA 2018**), the General Data Protection Regulation 2016/679 (**EU GDPR**), the retained EU law version of the General Data Protection Regulation 2016/679 (as defined in the DPA 2018) (**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", "Sub-Processor", "Supervisory Authorities", "process" and "Personal Data" shall have the meanings given to those terms in the DPA 2018;

**"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;

**"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 Order, 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 or guidance published thereunder and all applicable European Union Laws, treaties, directives (whether incorporated into English law under the European Union (Withdrawal) Act 2018 or otherwise), and other legislation, as any of the same may be amended as replaced from time to time;

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

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

**"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;

**"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 by letter;

**"Price Manual"** the price manual published on Our Website that sets out the detailed charges for Our services;

**"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 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;

**"Rebate Scheme"** the rebate scheme as set out in the Service Standard;

**"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;

Mass market T&Cs  
Landlord Lightstream  
V3 20.01.25

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

**"Service Start Date"** the date upon which We activate the Service and/or Additional Service as applicable in accordance with the terms of this Contract;

**"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 12.6;

**"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, Hull HU1 3RE;

**"Website"** Our website at kcom.com/business or any other replacement site;

**"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 Schedule, unless the context otherwise requires:

“**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 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 A sets out the information regarding Our processing of Your Personal Data as required by UK GDPR. We may make reasonable amendments to Part A by written notice to You from time to time as We reasonably consider necessary to meet those requirements including but not limited to amendments arising from amendments to UK GDPR that result in a divergence from EU GDPR. Nothing in Part A (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, 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)

such permitted Sub-Processor enters into the International Data Transfer Agreement (**IDTA**), the International Data Transfer addendum to the European Commission’s Standard Contractual Clauses for International Data Transfers (**Addendum**) and any transitional provisions for the time being relating to the IDTA and/or the Addendum for the Processing and transfer of Personal Data outside of the United Kingdom 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 Schedule;
  - (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 14, 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

## Part A

| Description                                  | Details   |
|--|---|
| <b>Subject matter of the processing</b>      | Provisions of Services pursuant to the Contract between Us and You  |
| <b>Duration of the processing</b>            | During the Term of the Contract and for up to 7 years after the expiry or termination of the Contract   |
| <b>Nature and purposes of the processing</b> | <p>To facilitate the fulfilment of Our obligations arising under the Contract including</p> <ul style="list-style-type: none"> <li>i. Ensuring effective communication between Us and You;</li> <li>ii. Maintaining full and accurate records of all Services arising under the Contract;</li> <li>iii. Dealing with any rights, actions, incidents or disputes arising under the Contract.</li> </ul>  |
| <b>Type of Personal Data</b>                 | <p>Includes:</p> <ul style="list-style-type: none"> <li>i. Contact details of, and communications with You, and Your employees, directors or contractors concerned with management of and/or receipt of Services pursuant to the Contract</li> <li>ii. Contact details of, and communications with Your associated or group companies, and such parties staff concerned with management of and/or receipt of Services pursuant to the Contract</li> <li>iii. Contact details of, and communications with Your sub-contractors and third parties and such parties staff concerned with either the fulfilment of Your obligations arising from the Contract or the receipt of Your rights under the Contract</li> </ul> |
| <b>Categories of Data Subject</b>            | <p>Includes:</p> <ul style="list-style-type: none"> <li>i. Your directors, employees and/or staff concerned with the delivery of the Service</li> <li>ii. The directors, employees and/or staff of Your group and/or associated companies concerned with the delivery of the Service</li> <li>iii. The directors, employees and/or staff of Your sub-contractors and/or other third parties concerned with either the fulfilment of Your obligations arising from Contract or the receipt of Your rights under the Contract</li> </ul>  |