



## TERMS AND CONDITIONS FOR THE PROVISION OF TELEPHONY SERVICES

### INTRODUCTION

This document contains pre-contractual information telling you the terms and conditions on which we supply the Services detailed in Schedule 1. Please read these terms and conditions carefully before ordering any Services. You should understand that by ordering any of our Services, you agree to be bound by these terms and conditions. If anything is not clear or you have any difficulty in reading this document, please contact us either by email [numbering@24Seven.co.uk](mailto:numbering@24Seven.co.uk) or by telephone on 08000 247 247 before you place an order. We are here to help.

Please tick to confirm you have read the above

### INFORMATION ABOUT US

- 24 SEVEN COMMUNICATIONS LIMITED is incorporated and registered in England and Wales with company number 4468566 whose registered office is at Novis and Co, Chartered Accountants, 1 Victoria Court, Bank Square, Morley, Leeds, West Yorkshire, LS27 9SE (**24 Seven**).
- Our VAT number is GB 797 1451 92
- The services we provide and the charges we make for those services are detailed in Schedule 1. We reserve the right to vary our charges in certain circumstances but if we do you have the right to terminate your Contract with us. For more details please refer to clause 5.
- We are regulated by the Office of Communications (Ofcom) – for further details go to [www.ofcom.org.uk](http://www.ofcom.org.uk) and in respect to Premium Rate Services by PhonepayPlus – [www.phonepayplus.org.uk](http://www.phonepayplus.org.uk). Our PhonepayPlus registration number is ORG835-61512-02809.
- In respect to data protection and privacy matters we are regulated by the Office of the Information Commissioner – for further details go to [www.ico.gov.uk](http://www.ico.gov.uk)

## **[SERVICE AVAILABILITY**

Our Services are only intended for use by people resident in the Serviced Countries identified in Schedule 2. We do not accept orders from individuals outside those countries. Some restrictions are placed on the extent to which we accept orders from specific countries. These restrictions can be found in Schedule 2.]

## **YOUR STATUS**

By placing an order for Services with us, you warrant that:

- You are legally capable of entering into binding contracts; and
- You are at least 18 years old;
- [You are resident in one of the Serviced Countries];
- You have complied with all requisite PhonepayPlus registration requirements.

## **HOW THE CONTRACT IS FORMED BETWEEN YOU AND US– YOUR RIGHT TO CANCEL**

If you wish to order any of the Services you should complete the attached order form. Please take your time to read what follows. We do not wish to encourage you to make an order until you are satisfied in all respects that you understand the nature of our Services and these terms and conditions. Your order constitutes an offer to purchase the Services you select. All orders are subject to acceptance by us, and we will confirm such acceptance to you by sending you an e-mail that confirms that we are prepared to accept your order (the **Service Confirmation**). The contract between us (**Contract**) will only be formed when we send you the Service Confirmation.

After placing an order, you will receive an e-mail from us acknowledging that we have received your order. Please note that this does not mean that your order has been accepted. You may cancel or amend your order at any time up until the moment we provide you with the Service Confirmation by sending an email to [numbering@24Seven.co.uk](mailto:numbering@24Seven.co.uk).

If you wish to cancel your order prior to the Service Confirmation you will be refunded any deposit or advance payment that you may have paid to us. If we do not accept your order we will refund to you any deposit or advance payment that you have paid to us.

The Contract will relate only to those Services we have confirmed in the Service Confirmation. We will not be obliged to supply any other Services which may have been part of your order until we confirm the same in a separate service confirmation.

## 1. INTERPRETATION

### 1.1 The definitions and rules of interpretation in this clause apply to these terms and conditions

**Act:** the Communications Act 2003 to include any subordinate legislation made pursuant to such Act.

**AIT:** artificial inflation of traffic as defined and scoped in Annex E of the Standard Interconnect Agreement (SIA), and as applied by Paragraph 14A of the main body of the SIA.

**Call:** shall have the meaning given to it in the PECR Regulations.

**Code:** the most current PhonepayPlus Code of Practice.

**Contract:** shall bear the meaning ascribed to it in the introduction.

**Cookies:** a small file of letters and numbers downloaded on to a device when the user accesses certain websites and any other similar technology in respect of which the PECR Regulations apply.

**Customer:** the person whose order for the Services is accepted by 24 Seven.

**Confidential Information:** all information (including all oral and visual information, and all information recorded in writing or electronically, or in any other medium or by any other method) disclosed to, or obtained by one party from, the other party or a third party acting on that other party's behalf.

**Distance Selling Regulations:** the Consumer Protection (Distance Selling) Regulations 2000 (as amended from time to time).

**General Condition 17:** General Condition 17 ("Allocation, Adoption and Use of Telephone Numbers") set by the Director General of Telecommunications by way of a publication of a notification pursuant to section 48(1) of the Act on 22 July 2003 and contained in the Schedule to that notification and modified by Ofcom from time to time.

**Golden or Silver Number:** a number or number range which has particular commercial value or utility, whether to an individual Customer or end user, or a class of Customers or end users, or ubiquitously, due to its memorability or suitability to any such party's business or business needs.

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or

extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Interest:** 4% per annum above the HSBC Bank base rate from time to time.

**Network:** 24 Seven's electronic communications network used for the routing and termination of fixed line, mobile and voice over internet protocol telephone calls.

**Number:** any number (including where applicable any Golden or Silver Number and Revenue Share Number) specified in Schedule 1.

**Number Designation:** the designated purpose for the Number as set out in the annex to General Condition 17.

**PhonepayPlus:** the Premium Rate Services regulator or any successor or replacement body.

**Port:** the facility whereby a subscriber may continue to be provided with any publicly available telephone service by reference to the same telephone number irrespective of the identity of the person providing such a service.

**Premium Rate Services:** premium rate services the operation of which are subject to the provisions of the Code.

**PECR Regulations:** the Privacy and Electronic Communications Regulations 2003 (as amended from time to time).

**Revenue Share Number:** a Number in respect to which the parties have agreed that 24 Seven is to pay to the Customer an element of the conveyance charges which 24 Seven receives for calls to that Number.

**Services:** those of the services set out in Schedule 1 to be provided by 24 Seven under the Contract in response to an order received from the Customer, together with any other services which 24 Seven provides or agrees to provide to the Customer.

**Service Confirmation:** shall bear the meaning ascribed to it in the introduction.

**Third Party Network Operator:** any operator of an electronic communications network other than that owned, run, leased or managed by 24 Seven.

**VAT:** value added tax chargeable under English law for the time being and any similar additional tax.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of these terms and conditions.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 1.4 The introduction and schedules form part of the Contract and shall have effect as if set out in full in the body of the Contract. Any reference to the Contract includes the introduction and schedules.

- 1.5 Words in the singular shall include the plural and vice versa.
- 1.6 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.7 A reference to **writing** or **written** includes faxes and e-mail.
- 1.8 Where the words **include(s)**, **including** or **in particular** are used in these terms and conditions, they are deemed to have the words **without limitation** following them. Where the context permits, the words **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.
- 1.9 Any obligation in these terms and conditions on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.
- 1.10 References to clauses and schedules are to the clauses and schedules of these terms and conditions.

## **2. COMMENCEMENT AND DURATION**

- 2.1 24 Seven shall provide the Services to the Customer on the terms and conditions of the Contract.
- 2.2 24 Seven shall (unless agreed otherwise with the Customer) provide the Services to the Customer from the date on which 24 Seven provides the Service Confirmation.
- 2.3 The Services supplied under the Contract shall continue to be supplied for a period of three calendar months and, after that, shall continue to be supplied unless the Contract is terminated by one of the parties giving to the other not less than thirty days' notice, such notice to expire at any time after that date, unless the Contract is terminated in accordance with clause 10.

## **3. 24 SEVEN'S OBLIGATIONS**

- 3.1 24 Seven shall in its provision of the Services comply with its obligations under the Code. No provision of this Agreement shall oblige 24Seven to act in breach of the Code and where there is a conflict between this clause 3.1 and any other provision of this Agreement this clause 3.1 shall have precedence.
- 3.2 24 Seven shall use reasonable endeavours to provide the Services in all material respects in accordance with the provisions of the Contract. 24 Seven does not warrant

that it can provide a fault free service and may suspend provision of a Number to safeguard the Network, in case of emergency, if instructed to do so by a court or regulatory authority or to repair or maintain or improve the Network.

- 3.3 Subject to clause 3.4, where the Customer has ordered a Number, 24 Seven shall use reasonable endeavours to ensure that such Number is ready for service by the date agreed between the parties but any such date shall be an estimate only and time for performance by 24 Seven shall not be of the essence of the Contract.
- 3.4 24 Seven will have no obligation to provide the Customer with a Number and reserves the right to refuse to supply Numbers if:
- 3.4.1 24 Seven suspects that the Customer intends to use the Numbers in contravention of the relevant Number Designation, or
- 3.4.2 the use of the Number infringes or may infringe the Intellectual Property Rights of 24 Seven or any third party, or
- 3.4.3 24 Seven suspects that the manner in which the Number has or is proposed to be used is or would be in breach of the Code, the Act or the Contract or otherwise be unlawful, or
- 3.4.4 the Customer has been subject to an investigation by PhonepayPlus or its predecessor organisation.
- 3.5 Where the Customer requires a Golden or Silver Number and subject to the Customer first agreeing all related charges, 24 Seven will use reasonable endeavours to provide the Customer with that Golden or Silver Number provided that the same is not already allocated to another Customer or a third party.
- 3.6 Notwithstanding any other provision of the Contract, 24 Seven reserves the right on giving prior written notice to the Customer and without liability to the Customer, to change or alter a Number, or Golden and Silver Number, if such change or alteration is required by legislation, statutory instrument, court or competent regulatory authority.

#### **4. CUSTOMER'S OBLIGATIONS**

- 4.1 Not to commence or permit the use of any Number in connection with a Premium Rate Service until such time as the Customer or any third party in respect of whom the Code applies has complied with all PhonepayPlus registration requirements as set out in the Code and until such time as the Customer has provided 24 Seven with the

relevant PhonepayPlus registration numbers both for the Customer and any such third party.

- 4.2 Not to commence use of any Number in connection with a Premium Rate Service until such time as 24 Seven confirms in writing to the Customer that 24 Seven have received a completed Initial Enquiry / order form and are satisfied that they have been provided with all such information as 24 Seven might in their absolute discretion require so as to enable 24 Seven to fully discharge its own obligations to PhonepayPlus under the Code.
- 4.3 The Customer shall be responsible for the content, promotion, quality and delivery of services offered by it or any other party with whom it contracts, using the Numbers, including without prejudice to the generality of the foregoing and by way of example only, for ensuring full compliance with all applicable laws, rules, regulations and codes (including the Code and any mobile code of practice). The Customer shall not be involved directly or in-directly with any service or use or permit the use of any Number for or in connection with any purpose that:
  - 4.3.1 is abusive, harmful, threatening, defamatory in nature or otherwise unlawful;
  - 4.3.2 infringes the Intellectual Property Rights of 24 Seven or those of any other third party;
  - 4.3.3 fails to satisfy the required Outcomes and Rules set out in Part Two of the Code;
  - 4.3.4 fails to comply with the PECR Regulations.
- 4.4 The Customer agrees that 24 Seven shall be entitled to recover from the Customer on a full indemnity basis either directly on demand or by way of set off against any monies otherwise due or payable to the Customer, the full amount of all fines, claims, refunds to consumers, costs (including legal costs) or administrative expenses for which 24 Seven or the Customer or any third party with whom the Customer contracts or who is directly or in-directly engaged in the provision of premium rate services using the Numbers, may be liable to pay in consequence of any regulatory or other legal action taken by PhonepayPlus or other competent authority.
- 4.5 The Customer shall provide 24 Seven on request with full and transparent information regarding the services operated by the Customer or any third party with whom the Customer contracts or for which the Customer is directly or in-directly responsible using the Numbers.
- 4.6 The Customer shall provide all such information as may be requested by 24 Seven in order to enable 24 Seven to comply with the obligations on its part contained in the

Code including by way of example but not limitation, any that relate to the carrying out of thorough due diligence.

- 4.7 The Customer undertakes in favour of 24 Seven to ensure that 24 Seven is immediately informed of any change in the information previously provided to 24 Seven pursuant to the provisions of this Agreement.
- 4.8 The Customer will ensure that it and any party with whom it contracts or who is directly or in-directly engaged in the provision of premium rate services using the Numbers complies fully with the requirements of the Code.
- 4.9 The Customer will immediately provide 24 Seven with full details of any allegation made by PhonepayPlus that any Premium Rate Service has operated in breach of the Code.
- 4.10 The Customer will ensure that 24 Seven are kept fully informed at all times regarding any circumstances which might give rise to an allegation by PhonepayPlus that a Premium Rate Service has operated in breach of the Code.
- 4.11 The Customer acknowledges and accepts that for the purpose of enabling 24 Seven to discharge its lawful and regulatory obligations 24 Seven shall be entitled to disclose to PhonepayPlus or other competent authority any information provided to it by the Customer or of which it is aware insofar as it concerns the provision of services by the Customer using the Numbers.
- 4.12 The Customer shall at all times co-operate with 24 Seven in all matters relating to the Services.
- 4.13 The Customer shall without delay afford all such co-operation and assistance as 24 Seven shall request in connection with any complaints, enquiries or investigations regarding services offered by the Customer using the Numbers.
- 4.14 The Customer shall ensure that in its arrangements with any third party it does not act in a manner or provide any commitment the effect of which may be to undermine or otherwise frustrate the intent of this Agreement including the fulfilment of any obligation contained herein on the part of the Customer.
- 4.15 Without prejudice to any other provision of this Agreement, insofar as prior permission from PhonepayPlus is required for the provision of any of its services, the Customer undertakes not to operate or promote the same using the Numbers unless and until a relevant prior permission certificate or certificates has or have been issued by PhonepayPlus and a true and full copy thereof has or have been received by 24



Seven and 24 Seven have given a written confirmation that they are in a form acceptable to 24 Seven.

- 4.16 The Customer shall provide to 24 Seven or by the direction of 24 Seven directly to PhonepayPlus all such information as PhonepayPlus or other competent person might reasonably request in connection with any requirement for prior permission or which may be required in connection with any enquiry or regulatory action taken in respect to any service operated by the Customer or for which the Customer is responsible using any Number.
- 4.17 The Customer shall ensure it has sufficient financial, human and technical resource to enable it to discharge its obligations under the Code.
- 4.18 The Customer shall ensure it has made notification to the office of the Information Commissioner under the Data Protection Act 1998 and must in its notification disclose PhonepayPlus as a potential recipient of personal data and state that data collected from consumers may be disclosed to PhonepayPlus for regulatory purposes.
- 4.19 The Customer will, insofar as the same is applicable to any service using a Number, procure full compliance with the provisions concerning the collection of personal information as set out in the Code.
- 4.20 The Customer shall not engage or permit the involvement in the provision of any service using a Number of any person and/or associated individual in respect of whom a sanction, which has been published by PhonepayPlus, has been imposed under the Code or any previous version of the Code, so as to enable that person and/or associated individual to operate in breach of that sanction.
- 4.21 The Customer acknowledges and undertakes that insofar as a Number is a “Personal Number” it will strictly comply with the most current guidelines issued by Ofcom in relation to their use.
- 4.22 The Customer agrees that it will not in connection with the use of a Number permit or facilitate any act or omission by itself or by any third party of which it is aware or ought reasonably to have been aware insofar as such act or omission involves AIT.
- 4.23 The Customer agrees that in its promotion of its services to consumers using the Numbers it will comply with the requirements of the Consumer Protection from Unfair Trading Regulations 2008.
- 4.24 The Customer warrants that in relation to any Number provided under this Agreement the Customer will ensure that any use of that Number whether by itself or any

permitted third party is in accordance with the Number Designation, the Act, the Code and in a manner that is lawful.

4.25 In the event that the Customer wishes to provide its own equipment and or leased lines to connect to its equipment and the Network:

4.25.1 this must be agreed in writing with 24 Seven, and

4.25.2 the Customer must pay 24 Seven's related planning and organisational charges for the Customer connecting such equipment or leased lines to the Network prior to such equipment or leased lines being used.

4.26 24 Seven shall have no liability for nor does it warrant that any equipment and / or leased lines provided by the Customer will be compatible with the Network and the Customer agrees to assume sole risk in respect thereof.

4.27 Notwithstanding and without prejudice to any other provision of this Agreement the Customer shall be liable to pay to 24 Seven, on demand, all reasonable costs, charges or losses sustained or incurred by 24 Seven (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) that arise directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under this Agreement, subject to 24 Seven confirming such costs, charges and losses to the Customer in writing.

4.28 If during this Agreement the Customer wishes to Port any Number, it may do so provided that:

4.28.1 It first gives 24 Seven not less than 10 working day's written notice of its wish to do so, and

4.28.2 It first provides 24 Seven with all such information as 24 Seven might reasonably require, and

4.28.3 It first pays 24 Seven's reasonable administration charges in meeting the Customer's request.

4.29 Without prejudice to clause 16, the Customer shall provide 24 Seven in writing with full details of any changes affecting the ownership or control of the Customer within 14 days of any such change and shall further and without unreasonable delay, at the request from 24 Seven to do so (or immediately in case of emergency), re-confirm the

accuracy of the responses and supporting information provided to 24 Seven prior to commencement of Service provision.

## **5. SERVICE CHARGES AND PAYMENT**

### **5.1 CHARGES**

5.1.1 In consideration of the provision of the Services by 24 Seven, the Customer shall pay on demand the Charges, as set out in Schedule Three. Time for payment shall be of the essence of the Contract.

5.1.2 The Charges are exclusive of any applicable VAT.

5.1.3 Following the Service Confirmation, 24 Seven shall be entitled from time to time to vary the Charges on giving the Customer not less than 28 days prior written notice. In the event that the Customer is not in agreement with any such variation the Customer shall be entitled, at any time up to and including the date on which the variation is to take effect, to terminate the Contract by giving 7 days written notice of termination to 24 Seven.

5.1.4 All sums payable to 24 Seven under the Contract shall become due immediately on its termination, despite any other provision. This clause 5.1.4 is without prejudice to any right to claim for interest under the law, or any such right under the Contract.

5.1.5 24 Seven may, without prejudice to any other rights it may have, set off any liability of the Customer to 24 Seven against any liability of 24 Seven to the Customer.

5.1.6 Interest shall be payable by the Customer on the full balance of any sum due under the Contract but remaining unpaid from and including the due date for payment until and including the date on which the full balance together with all accrued Interest has been received by 24 Seven.

### **5.2 REVENUE SHARE SERVICES**

5.2.1 For every Call placed to a Revenue Share Number, 24 Seven will pay the Customer the agreed rate per minute/call [delete as appropriate] as set out in Schedule [Three] for every whole minute that the Call is connected to that Revenue Share Number.

5.2.2 24 Seven will calculate the total number of minutes/calls connected to a Revenue Share Number for the preceding month and multiply the total number of minutes to the Revenue Share Number by the applicable rate per minute. This shall represent the gross amount payable to the Customer for that month ("Gross Amount") in respect to the relevant Revenue Share Number. For the avoidance of doubt all calculations will

be undertaken by 24 Seven by reference to data logged by 24 Seven which shall be accepted by the Customer as true and accurate.

- 5.2.3 The Customer acknowledges that payments payable to the Customer are dependent upon 24 Seven receiving payments from Third Party Network Operators for the conveyance of the relevant Calls. 24 Seven reserves the right to deduct from the Gross Amount any sums due from the Customer but remaining unpaid and any sums not received by 24 Seven for Calls made to any Revenue Share Number due to:
- 5.2.3.1 a Third Party Network Operator withholding sums pursuant to an order or direction made by PhonepayPlus, Ofcom or any other court or competent regulatory authority;
- 5.2.3.2 a Third Party Network Operator withholding sums due to AIT or an allegation of AIT;
- 5.3 Subject always to any Code obligation with which 24 Seven is bound to comply, 24 Seven will against receipt of an appropriate invoice pay to the Customer the Gross Amount less any sums deducted under clause 5.2 (“the Net Amount”) by BACS (or as otherwise agreed in writing) within 40 days after the conclusion of the month in which the Calls originated.
- 5.4 If following payment in accordance with clause 5.3 a Third Party Network Operator attempts to recover any further sums or withhold further sums for AIT which relate to a period for which 24 Seven has already paid the Customer, 24 Seven may deduct these amounts from future payments to be made to the Customer or within 7 days of a written request to do so, the Customer shall pay to 24 Seven an amount equal to the amount recovered or withheld by the Third Party Network Operator.
- 5.5 The Customer agrees that 24 Seven will not be liable to pay the Customer any payments for Calls made to a Revenue Share Number where the total value of the minutes/calls for that Revenue Share Number is below £25 per month or where 24 Seven (acting in its sole discretion) suspects that in respect to that Revenue Share Number AIT has or will occur.
- 5.6 The Customer acknowledges that a Third Party Network Operator may seek to recover sums from 24 Seven due to an error in their billing systems which has resulted in over payment to 24 Seven. 24 Seven reserves the right to recover any amounts paid to the Customer as a result of such error or overpayment and such payments will be made to 24 Seven within 7 days of any written request by 24 Seven.
- 5.7 24 Seven reserves the right to change the rate per minute/call applicable to a Revenue Share Number by giving 21 days written notice to the Customer whereupon the

expiry of the said period of notice the new rate per minute shall apply in respect to the Revenue Share Number referred to in the notice.

- 5.8 Notwithstanding the provisions set out in clause 5.7 the Customer acknowledges that a Third Party Network Operator may vary the rates payable to 24 Seven in respect of a Revenue Share Number. In the event of a rate variation imposed by a Third Party Network Operator 24 Seven reserves the right to vary the rate per minute/call applicable to the relevant Revenue Share Number immediately on written notice and the Customer acknowledges that such changes may be applied retrospectively.
- 5.9 To the extent that a Third Party Network Operator attempts to claw back any monies paid to 24 Seven by virtue of a rate change of the type referred to in Clause 5.8 the Customer shall pay to 24 Seven within 7 days of a written request to do so the difference between the payments received and the payments it would have received had the revised rates been in force.
- 5.10 24 Seven shall be entitled to deduct or otherwise set-off any sum owed to 24 Seven from or against any sum due to the Customer.
- 5.11 24 Seven shall be entitled to withhold any sum otherwise due to the Customer in the event that:
- 5.11.1 The Customer has failed to pay any sum properly due to 24 Seven under the terms of this Agreement, or
- 5.11.2 24 Seven is instructed to do so by PhonepayPlus or other lawful authority in settlement or part-settlement of any monies due to PhonepayPlus or such lawful authority including by way of example but not limitation, fines, costs (including legal costs) claims or administrative expenses levied in respect to any service promoted using any Number, or
- 5.11.3 In connection with any service operating using any Number the Customer is or may be liable to pay any fines, costs (including legal costs), refunds to consumers, claims or administrative expenses
- 5.12 All sums payable under this clause 5 shall be exclusive of any applicable VAT.

## **6 INTELLECTUAL PROPERTY RIGHTS**

- 6.1 As between the Customer and 24 Seven, all Intellectual Property Rights in a Number and in any aspect of the Services provided by 24 Seven to the Customer shall be owned by 24 Seven.

## **7. CONFIDENTIALITY**

- 7.1 Each party will keep confidential the terms of the Contract and all Confidential Information that it may acquire in relation to the other party.
- 7.2 Neither party will use the other party's Confidential Information for any purpose other than to perform its obligations under the Contract. Each party will ensure that its officers and employees comply with the provisions of this clause 7.
- 7.3 The obligations on a party set out in this clause 7 will not apply to any Confidential Information which either of the parties can demonstrate is in the public domain (other than as a result of the breach of this clause 7) or where disclosure is required by law or by any governmental or other regulatory authority (e.g.: PhonepayPlus).
- 7.4 The Customer agrees not to give any undertaking to consumers, suppliers, other Networks Operators or providers in respect of whom the Code applies which could preclude any information being given to PhonepayPlus in confidence and the Customer must ensure that it warns any consumer with whom it deals that any data collected may be passed to PhonepayPlus.

## **8. LIMITATION OF LIABILITY**

- 8.1 This clause 8 sets out the entire financial liability of 24 Seven (including any liability for the acts or omissions of its employees, agents, consultants and subcontractors) to the Customer in respect of:
- (a) any breach of the Contract;
  - (b) any use made by the Customer of the Services; and
  - (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 8.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 8.3 Nothing in the Contract limits or excludes the liability of 24 Seven:
- (a) for death or personal injury resulting from negligence; or
  - (b) for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by 24 Seven;
- 8.4 Subject to clause 8.2 and clause 8.3 24 Seven's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of

the Contract shall be limited to the charges paid by the Customer pursuant to clause 5.1 for the Services.

## **9. DATA PROTECTION**

9.1 The Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on behalf of 24 Seven in connection with the Services;

9.2 In respect to the PECR Regulations the Customer acknowledges and agrees as follows:

9.2.1 That insofar as it wishes to use any website owned or otherwise under the control and direction of 24 Seven any such website may use Cookies in order that such website may recognise the device used by the Customer;

9.2.2 That in respect of any such website, the Customer has or otherwise will prior to the Customer's first use of the relevant website read the privacy statement which appears on such website which statement contains clear and comprehensive information about the purpose of the storage, or access to, that information.

## **10. TERMINATION**

10.1 The Customer may terminate the Contract in accordance with clauses 2.3, 5.1.3 and 12.1.

10.2 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other immediately on giving notice to the other if:

- (a) the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 7 days after being notified in writing to make such payment; or
- (b) the other party commits a material or persistent breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
- (c) the other party suspends, or threatens to suspend, payment of its debts, is unable to pay its debts as they fall due, admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 **OR** (being a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency

Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply.

10.3 On termination of the Contract for any reason:

- (a) the Customer shall within 14 days of the termination date pay to 24 Seven all of 24 Seven's outstanding unpaid invoices and Interest and, in respect of Services supplied but for which no invoice has been submitted, 24 Seven may submit an invoice, which shall be payable within 14 days of receipt; and
- (b) the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

10.4 On termination of the Contract (however arising) the following clauses shall survive and continue in full force and effect:

- (a) Clauses 5.4, 5.6 and 5.8;
- (b) clause 6;
- (c) clause 7;
- (d) clause 8;
- (e) clause 10; and
- (f) clause 21.

## 11. FORCE MAJEURE

11.1 A party, provided that it has complied with the provisions of clause 11.2, shall not be in breach of the Contract, nor liable for any failure or delay in performance of any obligations under the Contract (and, subject to clause 11.3, the time for performance of the obligations shall be extended accordingly) arising from or attributable to acts, events, omissions or accidents beyond its reasonable control (**Force Majeure Event**).

11.2 Any party that is subject to a Force Majeure Event shall not be in breach of the Contract provided that it promptly notifies the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance.

11.3 If the Force Majeure Event prevails for a continuous period of more than one month, either party may terminate the Contract by giving 30 days' written notice to the other party. On the expiry of this notice period, the Contract will terminate. Such termination shall be without prejudice to the rights of the parties in respect of any breach of the Contract occurring prior to such termination.



**12. VARIATION OF THESE TERMS AND CONDITIONS**

12.1 In addition to any other express provision providing for the same, 24 Seven shall on giving the Customer not less than 28 days prior notice in writing, have the right to revise and amend these terms and conditions from time to time to reflect changes in market conditions affecting their business, changes in technology, changes in payment methods, changes in relevant laws and regulatory requirements and changes in their system's capabilities. In the event that the Customer is not in agreement with any such variation the Customer shall be entitled, at any time up to and including the date on which the variation is to take effect, to terminate the Contract by giving 7 days written notice of termination to 24 Seven.

12.2 Subject to clause 12.1, the Customer shall be subject to the policies and terms and conditions in force at the time that the Customer orders the Services from us, unless any change to those policies or these terms and conditions is required to be made by law or governmental authority (in which case it will apply to orders previously placed by the Customer), or if 24 Seven notify the Customer of the change to those policies or these terms and conditions before 24 Seven send the Customer the Service Confirmation (in which case 24 Seven have the right to assume that the Customer has accepted the change to the terms and conditions, unless the Customer notifies us to the contrary prior to our sending the Customer the Service Confirmation).

**13. WAIVER**

13.1 No failure or delay by any party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

**14. SEVERANCE**

14.1 If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected.

**15. ENTIRE AGREEMENT**

15.1 The Contract constitutes the whole Agreement between the parties and supersedes any previous arrangement, understanding or Agreement between them relating to the subject matter of the Contract.

15.2 Each party acknowledges that, in entering into the Contract it does not rely on any statement, representation, assurance or warranty (**Representation**) of any person

(whether a party to the Contract or not) other than as expressly set out in the Contract. Each party agrees that the only remedies available to it arising out of or in connection with a Representation shall be for breach of contract.

15.3 Nothing in this clause shall limit or exclude any liability for fraud.

## **16. ASSIGNMENT**

16.1 The Customer shall not, without the prior written consent of 24 Seven, assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any other manner with all or any of its rights or obligations under the Contract.

16.2 24 Seven may at any time assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any other manner with all or any of its rights or obligations under the Contract.

16.3 The Customer warrants that it is acting on its own behalf and not for the benefit of another person.

16.4 The Customer hereby agrees that for the purpose of Section 1 of the Contracts (Rights of 3<sup>rd</sup> Parties) Act 1999, PhonepayPlus may in its own right directly enforce against the Customer the relevant terms of this Agreement as if it were an original party to the same.

## **17. NO PARTNERSHIP OR AGENCY**

Nothing in the Contract is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

## **18. ALTERNATIVE DISPUTE RESOLUTION**

If any dispute arises in connection with this agreement, the parties will attempt to settle it by mediation in accordance with the Office of the Telecommunications Ombudsman (**OTELO**) Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by OTELO. To initiate the mediation a party must give notice in writing ("**ADR notice**") to the other party to the dispute requesting mediation. A copy of the request should be sent to OTELO. The mediation will start as soon as reasonably possible after the date of the ADR notice. No party may commence any court proceedings in relation to any dispute arising out of this agreement until it has attempted to settle the dispute by mediation and either the

mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

**19. RIGHTS OF THIRD PARTIES**

Subject to clause 16.4, a person who is not a party to the Contract shall not have any rights under or in connection with it.

**20. NOTICES**

20.1 All notices (save where otherwise provided in the Contract or in applicable legislation) from either party to the other shall be in writing and be sent by first class prepaid post, fax or email. In the case of an individual the notice shall be posted to their last notified home address and in the case of a company be posted to their current registered office address. For the purpose of this clause:

20.1.1 24 Seven's email address is [numbering@24Seven.co.uk](mailto:numbering@24Seven.co.uk) and their fax number is 08000 247 248

20.1.2 The Customer's email address and fax number shall be as stated on the Customer's order form or as last notified to 24 Seven.

**21. GOVERNING LAW AND JURISDICTION**

21.1 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.

21.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

## **Schedule One - Services**

### **1. Numbers**

The provision of the following non-revenue sharing Numbers:

The provision of the following non-revenue sharing Gold and Silver Numbers:

The provision of the following Revenue Sharing Numbers:

### **2. Provision of call routing across the 24 Seven Network**

### **3. Call Routing over VoIP**

**[Schedule Two – Serviced Countries]**

**Schedule Three - Charges for the Services and Rates Per Minute  
(Charges are exclusive of VAT)**

**ORDER FORM**

**FROM: [NAME OF CUSTOMER/S][ADDRESS DETAILS][EMAIL ADDRESS][FAX NUMBER]**

**PHONEPAYPLUS REGISTRATION NUMBER:**

**To: 24 SEVEN COMMUNICATIONS LIMITED – NUMBERING@24SEVEN.CO.UK**

I/we wish to order from you the following services on the basis of the aforementioned terms and conditions and by signing the box below I can confirm I have read said terms and conditions.

<b>Services ordered</b>	<b>Charges</b>	<b>Revenue Share</b>
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The provision of:

the following numbers:

the following Gold or Silver Numbers:

call routing across the 24 Seven Network:

call routing over VoIP:

Signed: .....

Print Name: .....

Duly authorised for and on behalf of

The service provider .....

Signed: .....

Print Name: .....

Duly authorised for and on behalf of:

**24 SEVEN COMMUNICATIONS LTD**