

Nasstar Connectivity Services Terms

1. Introduction

1.1 These Connectivity Services Terms shall be incorporated into each Order under which Nasstar supplies any Connectivity Services. Connectivity Services may include PECS (as defined) and related services, such as maintenance and support. Any related services that are not included in the same Order as Connectivity Services will not be considered Connectivity Services for the purposes of these Terms.

1.2 Nasstar does not intend to supply Connectivity Services to any natural person for purposes which are outside his or her trade, business, craft or profession.

1.3 Each Customer shall notify Nasstar immediately if it is procuring services in the course of a business or a not-for-profit or charitable endeavour which (in either case) is carried on with not more than 10 workers (employees, volunteers or otherwise) or fewer ("**Small Customer**")

2. Term of Connectivity Services

2.1 The committed service term for any Connectivity Services and related services (including any rights of extension or renewal) shall be as specified in the relevant Order and it shall start on the date on which any implementation services have been completed or the Connectivity Services commence, which shall override the start date (if any) specified in the relevant Order.

2.2 Each Order shall continue until the earlier of: (i) the date on which all of the services to be provided by Nasstar under the Order have been provided; (ii) the end of the Order duration specified in the Order, unless renewed in accordance with these Terms or (iii) the date on which the Order is terminated by a party in accordance with its terms or these Terms.

3. Nasstar's obligations

3.1 Nasstar will provide Connectivity Services using reasonable skill and care and in all material respects in conformity with the Order or applicable Service Description.

3.2 Nasstar will use reasonable efforts to maintain the availability of the Connectivity Services and minimise disruption and otherwise make Connectivity Services available as set out in the Order or any applicable Service Description incorporated into the Order by reference.

3.3 The Customer's sole and exclusive remedy, and Nasstar's sole liability, with respect to a failure or defect in the Connectivity Services shall (at its election) be to rectify or re-perform the Connectivity Service to comply with the applicable warranty, unless otherwise agreed by Nasstar, subject in all cases to the Customer complying with its obligations. Time shall not be of the essence for the performance of Nasstar's obligations or any Connectivity Services.

3.4 To the extent permitted by law, unless otherwise expressly provided in these Terms, Nasstar provides the Connectivity Services "as is" and without any warranties, guarantees, or representations of any kind, whether express or implied, including any warranties, guarantees, or representations of merchantability, fitness for a particular purpose, or non-infringement. Neither Nasstar nor its carriers guarantee or warrant that Connectivity Services will be free from faults or errors.

3.5 In relation to any Third Party Services, to the extent that Nasstar is permitted to do so under its contracts with the relevant third parties, it will pass on the benefit of any warranties to the Customer which it receives from those third parties in relation to the Third Party Services.

3.6 Any Third Party Services supplied by Nasstar will be subject to any applicable terms or conditions under which the Third Party Services are made available, including any end user licence agreements, and any acceptable use policies set by the third party provider of the Third Party Services (collectively, "**Third Party Terms**").

3.7 The Customer shall comply with all Third Party Terms and shall reimburse Nasstar for all reasonable losses, costs or damages that Nasstar may incur or suffer as a result of the Customer failing to comply with the Third Party Terms.



3.8 Nasstar (or its third party network operator or supplier) will retain ownership of any Nasstar Equipment or subscriber identity module or other identifying chips provided to the Customer (a "**SIM**") in order for the Customer to receive any Connectivity Services. Nasstar may recall any SIM at any time for upgrades, modifications or for the Customer's misuse or Nasstar's termination of the relevant Connectivity Services or Order, and the Customer shall return the SIM at its own cost at Nasstar's request.

4. Customer obligations

4.1 The Customer shall be entitled to use Connectivity Services for its own internal business purposes, provided that the Customer complies with and ensures that its Users comply with the Acceptable Use Policy.

4.2 The Customer shall be responsible for procuring any consents, permits or wayleaves that are required in order for Nasstar or its suppliers to set up or provide the Connectivity Services, which may include consents from landlords or adjoining or neighbouring properties ("**Customer Permits**"). If Nasstar or the Customer are unable to procure the necessary Customer Permits within three months (i.e. 90 days) from the effective date of an Order, Nasstar shall have the right to terminate the Connectivity Services or the relevant Order and the Customer shall remain liable to pay for all work performed by Nasstar prior to the effective date of termination (including staff and equipment costs) and Fees for all Connectivity Services used up to and including the effective date of termination (which may be calculated based on a proportion of Fees due for any part of a charging period (e.g. part of a year for any annual fees)).

4.3 In the event that Nasstar supplies any Nasstar Equipment to the Customer or installs any Nasstar Equipment at the Customer's premises for the purposes of using or receiving the Connectivity Services, the Customer shall ensure that the Nasstar Equipment remains available for use by Nasstar, is not moved or modified, is kept clean and in good condition, is kept secure, is not identified as Customer property, is kept in an environment that is suitable for the Nasstar Equipment (in terms of temperature, humidity, etc) and is connected to a continuous supply of electrical current (if required). The Customer shall notify Nasstar promptly if any

Nasstar Equipment is faulty or malfunctioning. Nasstar shall have no liability to the Customer in respect of any fault or malfunction if the Customer fails to notify Nasstar within two weeks (i.e. 14 days) of becoming aware of the fault or malfunction.

4.4 Nasstar reserves the right to replace Nasstar Equipment or any part thereof at any time. If replacement is necessary due to the Customer's misuse or damage to the Nasstar Equipment, Nasstar will be entitled to charge the Customer for such replacement, but otherwise any replacement will be at no charge to the Customer. Any replacement Nasstar Equipment may not be identical to the replaced Nasstar Equipment but will provide no less than an equivalent level of performance and functionality to the replaced Nasstar Equipment.

4.5 The Customer shall ensure that any Customer Equipment that is used in connection with the Connectivity Services is technically compatible with the Connectivity Services and is approved or assessed to conform to required industry standards and bears appropriate UKCA marking or CE marking (as appropriate).

4.6 The Customer shall and shall procure that its personnel and users shall, at its own cost and in a timely manner:

- (a) cooperate with Nasstar and provide such assistance as Nasstar may reasonably require for the performance of its obligations;
- (b) grant access to and use of all premises, equipment, facilities, hardware, and information systems as Nasstar may reasonably require in connection with the Connectivity Services and take all necessary steps to ensure that these are properly prepared, maintained, and fit for use in connection with the Connectivity Services;
- (c) comply with reasonable instructions of Nasstar in connection with the receipt and use of the Connectivity Services.

4.7 It is the Customer's responsibility to ensure that each call placed using Connectivity Services is presented with a calling line identity or CLI. If a call is placed without a CLI then Nasstar may present a



dummy or private CLI, which will not provide any meaningful information to emergency organisations.

5. Fees and payment

5.1 The Customer shall pay Nasstar the Fees and any Reimbursable Expenses in accordance with this clause 5. The Fees are exclusive of VAT and other taxes, which shall be added as a separate charge in Nasstar's invoices and are payable by the Customer. The Customer shall pay all properly invoiced amounts:

- (a) In full cleared funds within thirty (30) days of the date of the invoice, or such other payment period as may be expressly specified in an Order;
- (b) In the currency set out in the relevant Order, or if no currency is specified in Pounds Sterling;
- (c) to the account specified in Nasstar's invoice;
- (d) without set-off or withholding.

5.2 The Fees are subject to annual indexation no more than once in any 12 month period by a percentage amount no greater than the most recent 12-month percentage change to RPI (All Items Index) published by the UK Office of National Statistics plus five per cent (5%). Nasstar may change the Fees to pass through any increase in the costs of any Third Party Services from time to time on written notice to the Customer. Nasstar will give the Customer at least one month's (i.e. 30 days') notice of any price changes made pursuant to this clause 5.2.

5.3 Nasstar may issue its invoices to the Customer for the Fees, any Reimbursable Expenses and all applicable taxes at the frequencies specified in the Order or, if no invoice frequency is specific, monthly in arrears. If an amount due for payment by the Customer is not paid by the due date, Nasstar shall be entitled, from the due date until the date of actual payment, to charge interest on the overdue amount at the rate of four percent (4%) above the then current Bank of England base rate, such interest to accrue and compound daily. Nasstar shall also be entitled to suspend performance of the Connectivity Services, to which the overdue payments relate, without liability to the Customer.

5.4 Nasstar may raise an additional Fee at Nasstar's standard rates in force from time to time, or based on the costs incurred by Nasstar for Third Party Services plus a reasonable administrative margin, if:

- (a) Nasstar's approved engineer is called out because of faults that are found upon examination not to be faults for which Nasstar is responsible;
- (b) the Customer fails to provide a Nasstar engineer with access to a Customer site or cancels an appointment with a Nasstar engineer to attend a Customer site for any reason;
- (c) the Customer reports Nasstar Equipment is faulty and it is not or it is not covered by the warranty with the third party manufacturer or distributor or any maintenance and support contract in place in respect of the relevant equipment;
- (d) Nasstar's third party network operator or supplier is required to visit a Customer site to assist with installation or any repair or maintenance activities for which Nasstar is not responsible;
- (e) Nasstar performs maintenance services outside of normal Nasstar business hours.

5.5 Nasstar may provide services that are outside of the scope of the Connectivity Services, such as maintenance services outside normal Nasstar business hours or arising as a result of a Customer's act or omission or failure to comply with its contractual obligations. In such circumstances, the Customer shall pay such additional Fees.

6. Changes

6.1 Nasstar will give the Customer at least one month's (i.e. 30 days') notice if Nasstar makes any contractual modification to any PECS or the terms on which they are provided, unless the modification is exclusively for the benefit of the Customer, is of a purely administrative nature, has no negative effect on the Customer or is directly imposed by law (a "Change Notice").



6.2 Subject to clause 6.3, where a Change Notice has been given in respect of any PECS, the Customer will have the right to terminate their Order with respect to the PECS to which the Change Notice relates by giving written notice to Nasstar within one month (i.e. 30 days) from the date of the Change Notice ("**Termination Notice**"). Early termination fees will apply in the event the Customer seeks to terminate any other Services (including any other Connectivity Services) provided pursuant to the Order.

6.3 Clauses 6.1 and 6.2 do not apply to any changes to Fees which are made pursuant to clause 5.2.

6.4 In the event that the Customer gives notice of termination pursuant to clause 6.2, the Customer shall pay the Fees (whether invoiced or not) for the PECS to which the Termination Notice relates up to and including the date on which those PECS end. The Customer shall continue to be liable for all fees and charges due for other services or equipment that Nasstar provides the Customer pursuant to the relevant Order or which the Customer continues to use after termination.

6.5 Nasstar may vary or change these Terms or the Fees on written notice to the Customer in accordance with these Terms so far as they concern any Connectivity Services or other services that do not constitute PECS.

7. Emergency planning

7.1 If Nasstar is required to make or implement any Emergency Planning Arrangements on the request of the Customer, the Customer shall pay Nasstar's reasonable costs incurred in making or implementing such Emergency Planning Arrangements.

7.2 The Customer shall indemnify, keep indemnified and hold harmless Nasstar and its Affiliates against any losses, damages, costs and expenses (including legal expenses) which Nasstar incurs or for which Nasstar is liable as a result of implementing any Emergency Planning Arrangements.

8. Allocation and use of numbers by the Customer

8.1 Any numbers, IP addresses or other identifiers allocated to the Customer by Nasstar (if any) do not belong to the Customer. The Customer accepts that the Customer does not acquire any intellectual property rights whatsoever in such numbers and the Customer must make no attempt to apply for registration of the same as a trade mark, service mark or domain name whether on its own or in conjunction with some other words or trading style.

8.2 The Customer is not entitled to sell or agree to transfer to any third party any number allocated to the Customer by Nasstar. This is without prejudice to any rights the Customer may have under applicable law to port numbers allocated to it.

8.3 If the Customer has not initiated use of any number within six months of the service commencement date for the relevant Connectivity Service, Nasstar may recall such numbers from the Customer and Nasstar shall be entitled to use such numbers for third parties.

8.4 Nasstar shall be entitled, for commercial, operational or technical reasons or to comply with the requirement of any competent authority to withdraw or change any numbers or codes allocated or provisionally allocated to the Customer. Where a number is already in operational use by the Customer, and if reasonably practicable Nasstar will give the Customer reasonable notice. Nasstar shall not be liable for any costs, inconvenience, or other losses (including without limitation marketing costs) incurred by the Customer because of any change or withdrawal as described in this clause 8.4.

8.5 If at the Customer's request a specific number is allocated to the Customer, the Customer shall be responsible for all necessary investigations and inquiries as to the legitimacy or use of such numbers and Nasstar shall have no liability whatsoever with respect to the number chosen or is use by the Customer.

8.6 If the Customer is allocated a number which falls within a range of numbers classified from time to time by Ofcom (or any other competent authority) as being for the provision of a particular type of service, whether in the national telephone numbering plan or otherwise, then the Customer



must ensure that any service provided by the Customer on that number always conforms with the type allocated to that number range. In the event that the Customer loses the right to use such number, the Customer must inform Nasstar immediately and Nasstar will terminate the provision of the number to the Customer.

9. Access to numbers for incoming and outgoing services

9.1 Nasstar does not guarantee access to all telephone numbers, except to the extent it is required to do so under applicable law with respect to any Connectivity Services and where it is technically and economically feasible for Nasstar or its suppliers to do so. Nasstar shall not be required to provide access to any telephone numbers to which the Customer has asked Nasstar to block user access in specific geographic areas.

9.2 Nasstar or its suppliers may block user access to certain telephone numbers or services where requested to do so by Ofcom on the basis of fraud or misuse. In addition:

- (a) Nasstar may bar access to certain types of number ranges if the Customer is in breach of (or Nasstar reasonably suspects that Nasstar is in breach of) its obligations or for commercial or regulatory reasons;
- (b) Connectivity Services may not support certain outgoing calls, incoming calls, SMS, and text messaging services or premium rate services which are not configured for use by the Customer; and
- (c) if the Customer makes an abnormally high number of calls to an international destination or incurs fees for usage that is unusual taking into account the Customer's typical call rates and profile, then Nasstar may instigate network management control measures.

9.3 Nasstar cannot guarantee that Nasstar can provide service to specific numbers where such numbers have been transferred to the Nasstar network from another network operator or service provider or where there are national code or number changes.

9.4 Nasstar shall not have any liability to the Customer in respect of any of the limitations described in this clause 9.

10. Access to emergency services

10.1 Where any VoIP outbound call services or similar services are provided:

- (a) the Customer will need to ensure that users are aware that they will need to inform the operator of their location to ensure the correct emergency services respond;
- (b) the ability to access an emergency organisation may cease if there is a power cut or power failure, or a failure of the internet connection on which the service relies; and
- (c) calls may not receive the same network priority as a call from a landline or mobile number.

10.2 Nasstar may pass information in its possession related to users onto its relevant carrier to the extent that Nasstar is required to do so by applicable law or by its contractual obligations or inclusion in the emergency services database. The Customer acknowledges that Nasstar or its carriers may contact users in connection with their provisions of the emergency service database from time to time and that such information may remain in the emergency services database following termination of the Connectivity Services. The Customer shall inform all users of the same and obtain their consent if required by applicable law.

10.3 Access to emergency organisations is not enabled for Connectivity Services that do not enable calls to be made to numbers in the national telephone numbering plan, including internet access services and network services such as Multiprotocol Label Switching (**MPLS**).

11. Limitations of the services

11.1 Connectivity Services exclude maintenance which is required for any of the following reasons, unless otherwise agreed in writing by Nasstar:



- (a) any breach by the Customer or any user for which the Customer is responsible, including any breach of the Acceptable Use Policy;
- (b) improper use of the Nasstar Equipment or third party maintenance contrary to Nasstar's own or the relevant manufacturer's recommendations;
- (c) accident (including lightning and electrical damage), wilful damage, misuse, neglect or default by the Customer or any of its users or agents;
- (d) any design made or specified by the Customer;
- (e) any alteration to the Nasstar Equipment other than by Nasstar necessary to meet changes in its requirements or the standards or requirements of any other system or network to which the Nasstar Equipment may be connected directly or indirectly;
- (f) any work on wiring or other items not forming part of the Nasstar Equipment; and
- (g) moving or re-installing the Nasstar Equipment.

11.2 There may be circumstances where Nasstar's third party network providers and other suppliers put in place procedures to measure and shape traffic that passes over their network. Nasstar is not involved in and does not have any control over how its third party network providers or other suppliers measure or shape the traffic that passes over their networks including any procedures or processes that may impact on the Connectivity Services provided to the Customer.

11.3 There may be some technical limitations which may not become apparent until after Nasstar begins supplying Connectivity Services to the Customer or before completing surveys or testing. It may also become apparent to Nasstar that Connectivity Services may be degraded to such an extent that Nasstar would be unable to comply with these Terms or meet any applicable Service Descriptions, specifications or service levels. In such circumstances, Nasstar reserves the right to

terminate the Connectivity Services or the relevant Order without any liability to the Customer.

11.4 Nasstar will notify the Customer if it needs to conduct a survey or undertake any other discovery work before commencing Connectivity Services. The Customer acknowledges that Nasstar shall be entitled to amend the technical aspects of the Connectivity Services and make any consequential changes to the Fees (which may include additional charges over and above Nasstar's standard advertised tariffs) as a result of the outcome of the survey or discovery work. The Customer shall have the right to terminate the Connectivity Services or the relevant Order within one month (i.e. 30 days) after receiving notice of the relevant changes. If the Customer exercises its right of termination, the Customer shall remain liable to Nasstar for any applicable Fees associated with Nasstar performing the survey, any costs incurred (including staff costs and equipment costs) and any Fees for Connectivity Services used by the Customer.

11.5 In the event that Nasstar provides any Connectivity Services that are intended only as back-up or to provide redundant capacity, such as mobile failover services ("**Failover Services**"), Nasstar accepts no responsibility for any use of, or reliance on, such services and does not make any representations as to the quality, error-free nature, compatibility, security or fitness for purpose of the relevant services. The Customer acknowledges that the Failover Services may not be available. This may occur in circumstances including where Nasstar's third party supplier or services needs to perform upgrading, maintenance or other work on the network or services used to provide the Failover Services or due to factors outside of Nasstar's control, such as regulatory requirements, lack of capacity, interruptions to service from other suppliers, faults in other communications networks, weather or radio interference caused by hills, tree growth or other physical obstructions.

11.6 The speed and the stability of Connectivity Services are determined by the type of service and characteristic of the Customer's communications line or connection, which may include its physical length or distance to a communication mast, quality and susceptibility to interference from other communications or electronic or electromagnetic or radio equipment; the specific IP application protocol used; rate adaption (where applied) and line rate of



the Customer Equipment; the capacity available within Nasstar's or its third party network operator's or supplier's communications network or the internet generally; signal strength; and/or contention within the Nasstar network.

12. Porting and switching

12.1 Where a Customer requires switching or porting of broadband, landline or mobile services provided by Nasstar, Nasstar will use reasonable efforts to minimise loss of service and offer a port date of the Customer's choice, not less than one business day from the date on which all necessary validation processes have been completed and the network connection is ready for use, unless it is not technically feasible to do so, and subject to engineering resource availability from our suppliers. The switching or porting request will not be valid if the Customer does not provide all of the information that Nasstar requires in order to complete the switching or porting request.

12.2 If Nasstar delays the porting of a telephone number in relation to landline or mobile service (whether from a previous provider or to a replacement provider) for more than one business day (once all necessary validation processes have been completed, the network connection is ready for use by the Customer and Nasstar has given or received a request to activate the porting of the relevant number) or where there is an abuse of porting by Nasstar or on its behalf ("Number Porting Failure"), the Customer shall contact Nasstar and provide details of the circumstances giving rise to the Number Porting Failure.

12.3 If Nasstar is responsible for a Number Porting Failure, Nasstar shall provide reasonable compensation, calculated by Nasstar so far as reasonably practicable in accordance with applicable laws and regulations, to the Customer as a credit against the next applicable invoice, or if no further invoices are due to be issued, Nasstar shall pay such reasonable compensation to the Customer as soon as reasonably practicable. Nasstar shall be entitled to reasonable charges for porting telephone numbers and shall be entitled to invoice the Customer for such charges promptly after receiving a request to port numbers.

12.4 Nasstar shall not be liable for any compensation in excess of what it is required to pay the Customer under applicable laws or regulations.

12.5 All business switching is gaining provider led. Nasstar does not provide any residential broadband services and therefore the Customer cannot make use of the one touch switching process in the United Kingdom. Nasstar shall not be liable to the Customer for any consequences of erroneous switches initiated by a gaining provider.

13. Artificial inflation of traffic

13.1 The Customer shall be responsible for monitoring the profile of calls made by all users for potential fraudulent or bad faith use, including Artificial Inflation of Traffic (AIT), and take reasonable steps to prevent such use. The Customer should take note that it is responsible and will be invoiced for all billable traffic generated from use of the Services.

13.2 The Customer shall not knowingly engage in, assist or allow others to engage in AIT.

13.3 Nasstar may suspend the Connectivity Services or terminate any Order if Nasstar or its third party suppliers reasonably suspect AIT as occurred. In the case of suspension, Nasstar will reinstate the Connectivity Services promptly if the Customer can demonstrate to Nasstar's reasonable satisfaction that no AIT has occurred.

14. Cooperation

14.1 Each party shall co-operate fully with the Police and any other regulatory or supervisory authorities having jurisdiction over either party, including HM Revenue and Customs, Trading Standards, Ofcom, or any of their successor or replacement bodies, in connection with any misuse or suspected misuse of Connectivity Services and the Customer consents to co-operate with Nasstar and any third party network operator or supplier in connection with any actual or suspected fraudulent activity related to the Connectivity Services including any actual or suspected AIT. Nasstar shall be entitled to disclose the name, address and account information of the Customer or its representatives along with such other information that Nasstar may be required to disclose under applicable laws or regulations.



15. Termination

15.1 Either party may, on written notice to the other, terminate an Order with immediate effect if:

- (a) the other party is in material breach of its obligations under the Order or these Terms and, where the breach is capable of remedy, the party in breach has failed to remedy it within thirty (30) days of receiving notice from the terminating party specifying the breach and requiring to be remedied;
- (b) a party is substantially prevented from performing its obligations under an Order or these Terms as a result of Force Majeure Event for a continuous period of ninety (90) days; or
- (c) the other party is subject to an insolvency event.

15.2 Either party may terminate an Order on ninety (90) days' written notice to the other at any time or on such other notice as set out in the relevant Service Description, such notice not to have effect before the end of any committed service term. Where a Connectivity Service is eligible for gaining provider led switching, the requirement for 90 days' written notice is waived and the relevant Connectivity Services will terminate on the date of the switch to the gaining provider.

15.3 On termination of Connectivity Services or of any Order under which such services are provided, the Customer shall pay all Fees that would otherwise become due and payable for the remainder of the committed service term (if applicable), unless the Customer has properly terminated the relevant services or the relevant Order in accordance with the rights to terminate in clause 15.1 or 15.2, in which case the Customer shall pay any reasonable stranded costs incurred by Nasstar in contemplation of the relevant services being provided for their full committed services term to the extent that Nasstar cannot further mitigate these costs.

15.4 The Customer also agrees to pay costs incurred by Nasstar, including cease or cancellation charges payable to any third party network operator or supplier, if the Customer terminates or cancels a

Connectivity Service or related service, whether before or after the expiry of any committed services term. Nasstar will inform that Customer of such costs following termination or cancellation.

15.5 Where Nasstar becomes aware of a pending switch of a Service away to a gaining provider, Nasstar will make reasonable efforts to calculate and advise the charges before the switch completes.

16. Liability

16.1 Nasstar's total liability to the Customer in relation to any Connectivity Services (whether arising under contract, tort including negligence, statute or otherwise) in any particular calendar year shall be limited to the Fees paid by the Customer to Nasstar pursuant to the Order for those Connectivity Services in that particular calendar year.

16.2 Nasstar shall not be responsible for any loss of or damage arising out of or in connection with any negligence or misuse of the Connectivity Services or otherwise caused by the Customer or its officers, employees, agents and contractors.

16.3 Nasstar shall not be liable for any acts or omissions of the Customer in connection with the Customer's use of the Connectivity Services.

16.4 A material breach of these Terms by the Customer may cause irreparable injury for which monetary damages would not be an adequate remedy and therefore that Nasstar will be entitled to seek equitable relief in addition to any other available remedies.

16.5 The provision of the Connectivity Services to the Customer is on an "as is" and "as available" basis and the Customer acknowledges and agrees that Nasstar will have no liability whatsoever for any bug, error, omission, deficiency or defect in the Connectivity Services. Nasstar disclaims all warranties, express, implied or statutory, with respect to the Connectivity Services, including without limitation the implied warranties of merchantability, fitness for a particular purpose, title, non-infringement or results to be obtained.

16.6 The Customer's use of or reliance upon the Connectivity Services is at the Customer's sole risk and discretion.



16.7 Nasstar is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Connectivity Services may be subject to limitations, delays and other problems inherent in the use of such communication facilities.

16.8 Nothing in this clause 9 shall have the effect of limiting or excluding Nasstar's liability for death or personal injury caused by its negligence, for fraud or fraudulent misrepresentation, under s.12 of the Sale of Goods Act 1979 or for any other liability that cannot be excluded or limited under applicable law or regulations.

17. General

17.1 **Confidentiality.** Each party agrees to treat all Confidential Information of the other party as strictly confidential and not to disclose such Confidential Information to any person, except: (a) where required by applicable law or order of the courts, or by any securities exchange or regulatory or governmental body to which such party is subject; (b) where disclosed on a necessary basis to its professional advisers, insurers, auditors, shareholders and bankers; (c) where the Confidential Information has come into the public domain other than by a breach of any obligation of confidentiality; (d) where disclosed to the party's agents, directors, officers, employees, sub-contractors or suppliers in connection with the performance of that party's obligations under the relevant Order for Connectivity Services and provided that such persons are made aware of the confidential nature of the Confidential Information and are bound by obligations of confidentiality in respect of the Confidential Information that are substantially equivalent to those set out in this clause; or (e) with the prior written approval of the other party. This clause shall continue to bind the parties for a period of three (3) years following the expiry of the committed service term under the applicable Order.

17.2 **Assignment, sub-contracting, and other dealings.** (a) The Customer must not assign or transfer any of its rights or obligations under an Order for Connectivity Services without the prior written consent of Nasstar. Any purported assignment or transfer in breach of this sub-clause (a) shall be ineffective. (b) The Customer hereby

consents to any assignment or transfer of Nasstar's rights or obligations under an Order for Connectivity Services to another member of Nasstar's corporate group or to any person or entity acquiring all or substantially all of the assets of Nasstar's business. (c) Nasstar may subcontract the performance of any of its obligations under the Order to a third party provided that, unless otherwise stated, Nasstar shall remain liable to the Customer for the subcontracted obligations.

17.3 **Force Majeure.** Nasstar shall not be liable for any failure or delay in performing its obligations under these Terms or an Order to the extent caused by a Force Majeure Event. Nasstar shall take reasonable precautions to mitigate the effects of the Force Majeure Event.

17.4 **Corruption, bribery and sanctions.** Each party shall comply with all applicable laws and regulations regarding anti-corruption and anti-bribery. The Customer warrants and undertakes to Nasstar that neither it nor any of its personnel are or shall be the subject of any sanctions enforced by the US, the UK, the EU, or any EU member state, and the Customer shall not use the Connectivity Services to engage, facilitate, or support any person or entity that is the subject of such sanctions.

17.5 **Modern slavery.** Each party shall comply with all applicable laws and regulations regarding anti-slavery and shall have and maintain throughout the term of each Order policies and procedures for ensuring compliance with such laws and regulations. Each party shall promptly notify the other on becoming aware of any slavery or human trafficking in its supply chain relevant to the provision or receipt of the Connectivity Services.

17.6 **Survival.** All clauses that are intended expressly or by implication to survive expiry or termination of any Order for Connectivity Services shall remain in full force and effect following such expiry or termination.

17.7 **Entire agreement.** An Order for Connectivity Services, and these Terms, constitutes the entire agreement and understanding between the parties relating to the subject matter of the relevant Order and supersedes any other agreement or understanding (written or oral) between the parties relating to the same. Each party acknowledges and agrees that it does not rely on, and shall have no



remedy in respect of, any promise, assurance, statement, warranty, undertaking or representation made (whether innocently or negligently) by the other party or any other person except as expressly set out in the Order or in these Terms, in respect of which its sole remedy shall be for breach of contract. Nothing in this clause shall exclude or limit the liability of any person for fraud, including fraudulent misrepresentation.

17.8 Counterparts. An Order for Connectivity Services may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy.

17.9 Changes. Except as expressly provided otherwise, no purported change or variation to the Order shall be effective unless agreed in writing.

17.10 Waiver. The failure to exercise or delay in exercising a right or remedy shall not constitute a waiver of that right or remedy, and no waiver by a party of any breach by the other party shall constitute a waiver of any subsequent breach of the same or any other provision.

17.11 Rights and remedies. Except as expressly provided otherwise in an Order for Connectivity Services, the rights and remedies provided under the Order are in addition to, and not exclusive of, any rights or remedies provided by law.

17.12 Severance. If any provision of these Terms or an Order for Connectivity Services is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable (and clause 17.9 shall not apply in respect of such modification). If this modification is not possible, the provision shall be deemed deleted.

17.13 No partnership or agency. Nothing in these Terms or an Order for Connectivity Services shall give rise to any relationship of partnership, joint venture, or profit sharing between the parties.

17.14 Notices. Any notice to be given under these Terms or an Order for Connectivity Services must be given in writing. Notices to Customer shall be sent by e-mail to the address(es) specified in the Order or by post or delivery to Customer's registered address, and notices to Nasstar shall be sent by e-

mail to the address(es) specified in the Order (with a copy to legal@nasstar.com) and with a copy by post or delivery to Nasstar's registered address. A notice sent in accordance with this clause shall be deemed effective: (i) if sent by email, when received by the recipient's e-mail server; (ii) if delivered personally, when left at the party's registered address; or (iii) if sent by post, two Business Days after posting by registered post.

17.15 Third-party rights. A person who is not a party to an Order for Connectivity Services has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of these Terms or any Order for Connectivity Services and the consent of such person shall not be required to affect any amendments to the same.

17.16 Governing law and jurisdiction. These Terms, any Order for Connectivity Services and any disputes arising therefrom shall be governed by and construed in accordance with the laws of England and Wales. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Order, its subject matter or formation (including non-contractual disputes or claims).

17.17 Small Customers shall have the right to refer disputes concerning any Connectivity Services that constitute PECS to the Communications and Internet Services Adjudicator Scheme (CISAS) in accordance with Nasstar's complaints handling procedure which is available on the Website. Nothing in these Terms or any Order will prevent or delay either party from referring a dispute to Ofcom.

18. Definitions and Interpretation

18.1 In these Terms, unless the context otherwise requires, the below will be given the following meanings:

- (a) **"Artificial Inflation of Traffic":** any increase in traffic or calls to a service that incurs charges to a user, including calls to premium rate services or non-geographic numbers, that is disproportionate to that which would be expected from good faith commercial practice, including by leaving missed calls with users in order to promote traffic or calls to the service;



- (b) **"Business Day"**: A day other than Saturday, Sunday or a bank or public holiday in England.
- (c) **"Communications Law"**: The Communications Act 2003 (as amended) and the General Conditions of Entitlement issued by Ofcom and any other laws or regulations applicable in the United Kingdom concerning any of the Connectivity Services supplied by Nasstar to the Customer.
- (d) **"Confidential Information"**: Any information disclosed by or on behalf of a party which is described as confidential or which a reasonable businessperson would regard as confidential.
- (e) **"Connectivity Services"**: any electronic communications networks or services provided by Nasstar as specified in an Order, which may include broadband, internet access services, landlines, mobile services, network connectivity services, numbers and any related services which may include installation services or maintenance and support services or bundled services that are used and sold by Nasstar under the same Order and in conjunction with the Connectivity Services.
- (f) **"Customer Equipment"**: any equipment, hardware or other devices that the Customer may use in connection with the Connectivity Services such as terminal equipment (handsets, computers, servers, etc).
- (g) **"Emergency Planning Arrangements"**: any arrangements for the provision or rapid restoration of such communications services as are practicable and may reasonably be required in disasters (including in any major incident having a significant effect on the general public and in any incident of contamination involving radioactive substances or other toxic materials);
- (h) **"Fees"**: the fees, charges, prices and other amounts payable by the Customer to Nasstar in respect of the Connectivity Services specified in an Order or as otherwise described in these Terms, an Order or a Service Description.
- (i) **"Force Majeure Event"**: Any cause or event that is beyond the reasonable control of the affected party, to the extent that the affected party is without fault in causing or failing to prevent such occurrence, which may include delays or acts of any third party network operator that affect or impact on the provision of the Connectivity Services).
- (j) **"Nasstar Equipment"** means any equipment made available by Nasstar to the Customer for the use or receipt of the Connectivity Services but which remains Nasstar's property and is not sold separately to the Customer under separate contract or order, which may include routers and cabling, among other things.
- (k) **"Order"**: A contract for the supply of Connectivity Services between Nasstar and the Customer, whether in the form of a statement of work, service agreement, standalone order form, or other ordering document.
- (l) **"PECS"** means any Connectivity Services that are public electronic communications services (as defined under Communications Law), which may include broadband or internet access services or number-based interpersonal communications services such as inbound and outbound telephony, but which excludes any private electronic communications networks or services or other related services that Nasstar may provide, such as WANs, LANs, MPLS networks, SIP trunking, ethernet, managed hosting, inbound voice services and voice recording services, among others.
- (m) **"Service Description"**: Nasstar's service description or service specification for any Connectivity Services or related services as incorporated or referred to in an Order or otherwise made available to the Customer, including via the Website.
- (n) **"Small Customer"**: has the meaning given to it in clause 1.3.
- (o) **"Third Party Services"** means any third party products or services that Nasstar makes



available to the Customer in connection with or as part of the Connectivity Services.

- (p) **"Third Party Terms"**: has the meaning given to it in clause 3.6.
- (q) available as a service) and which is supplied by Nasstar to the Customer.
- (r) **"Website"**: the Nasstar website located at www.nasstar.com or such other website as may be notified by Nasstar from time to time.

In these Connectivity Services Terms and any Order for Connectivity Services, unless the context requires otherwise: (a) any reference to an enactment includes that enactment as amended, extended, consolidated, or re-enacted, and any subordinate legislation made under that enactment; (b) the singular includes the plural and vice versa; (c) any reference to a party includes its successors and permitted assigns; (d) any reference to something being "written" or "in writing" includes e-mail; (d) any reference to an English legal term includes, in any jurisdiction other than England, what most closely approximates that English legal term in that jurisdiction; (e) the words "includes", "including" and any similar words or expressions do not limit the generality or extent of any other words or expressions; (f) the headings in these Terms do not

