



## Hullabaloo Terms and Conditions for Telephone Services For Business Customers

© Hullabaloo Communications Limited 2008

### Definitions

**“Agreement”** means this agreement entered into between Hullabaloo and the Customer in respect of the Service, commencing on the Commencement Date

**“Annual Minimum Call Spend”** means the annual sum of money the Customer agrees with Hullabaloo will be the Customer's minimum spend on Call Charges during each year beginning on the Switchover Date or any anniversary thereafter during the term of the Agreement

**“Authorisation”** means the authorisation granted to pursuant to the Communications Act 2003 that authorises to Network Operator to run a public communications network

**“Business Customer”** any customer Hullabaloo makes this Agreement with in respect of with where the Service is provided to a place of business for business purposes. It includes a person who Hullabaloo reasonably believes is acting with the Customer's authority or knowledge

**“Call”** means a signal, message or communication that is silent, spoken or visual on each line that Hullabaloo agrees to provide to the Customer under this Agreement

**“Call Level”** means the sum of money the Customer agrees with Hullabaloo which the Customer expects to spend on Call Charges during the period covered by the Customer's invoices and which Hullabaloo agrees is acceptable further to undertaking any credit check it wishes to undertake

**“Call Charges”** means the sum of money (plus VAT) which is payable to Hullabaloo by the Customer per Call

**“Charges”** means all sums (plus VAT) payable by the Customer to Hullabaloo in respect of the Service including but not limited to the connection charge (in respect of the Customer being connected to the Network). Line Rental and Call Charges and any other charges for any other services provided by Hullabaloo as identified in the Pricing List

**“Commencement Date”** means the date of the telephone call concluded between Hullabaloo and the Customer where the Customer requested the Service

**“Customer”** means the customer Hullabaloo makes this Agreement with. It includes a person who Hullabaloo reasonably believes is acting with the Customer's authority or knowledge

**“Early Termination Charges”** means the charges (plus VAT) for early termination calculated pursuant to clause 14.6

**“Equipment”** means equipment that is not part of the Network and which the Customer uses or intends to use with the Service

**“Fault”** means the continuous total loss of the ability to make or to receive Calls or the continuous total loss of a related service

**“Invoice”** means the monthly itemised list of Call Charges and Services incurred and due for payment by the Customer, supplied to the Customer in monthly arrears, delivered electronically via electronic-mail (e-mail) or by post at an additional cost should the Customer fail to provide a valid email address. Line rentals and special numbers are billed monthly in advance

**“Line”** means a connection to the Network

**“Line Rental”** means the monthly and quarterly fixed charge (plus VAT) to be paid by the Customer for the Service as set out in the Price List

**“Main Telephone Socket”** means the point where the Equipment is connected to the Network which is called the Network Termination Point in the Authorisation

**“Minimum Term”** means the period of [24] or [36] months, as notified to the Customer by Hullabaloo on entering into this Agreement and in the contract or Notification Letter

**“Network”** means the fixed line telecommunications network operated by the Network Operator

**“Network Operator”** means the network operator who operates a network to which the Line is connected in accordance with an agreement between the Network Operator and Hullabaloo

**“Notification Letter”** means the statutory transfer letter sent by Hullabaloo to the Customer regarding the Customer's transfer to Hullabaloo, such letter to include details of the Switchover Date. Switchover dates are deemed to be 14 days from contract signing

**"Hullabaloo"** means Hullabaloo Communications Ltd (Company number 5894951) whose registered office is Regency House, 61a Walton Street, Walton on the Hill Surrey KT20 7RZ.

**"Parties"** means Hullabaloo and the Customer and references to "Party" shall be construed accordingly

**"Phone Box"** means any kiosk, booth, acoustic hood, shelter or similar structure in which a phone is installed for the provision of telephone services to the public

**"Premises"** means the place where the Service is or will be provided, usually the Customer's place of business unless agreed otherwise

**"Price List"** means the price list as set out on the Website as varied by Hullabaloo from time to time

**"Relevant Standards"** means the standards designated under Section 22 of the Telecommunications Act 1984 as amended by the Communications Act 2003

**"Service"** means all or part of the Service explained in clause 1 and any related services listed in the Price List that Hullabaloo agrees to provide to the Customer under this Agreement and "Services" shall be construed accordingly

**"Service Guarantee"** means the guarantee set out in clause 20

**"Service Provider"** means any Public Electronic Communications Network Provider as defined in the Communications Act 2003

**"Special Entry"** means any additional entry to the Phone Book requested by the Customer to Hullabaloo supplemental to the regular information provided relating to the Customer in any phone book issued by BT

**"Switchover Date"** means the date of transfer of the Service to Hullabaloo as notified to the Customer

**"Website"** means the website [www.hullabaloo.comms.com](http://www.hullabaloo.comms.com).

## **1. What the Service is**

- 1.1 The Service Hullabaloo supplies to the Customer is the ability to make and or receive a Call using any number range including ranges beginning 01, 02, 03, 04, 05, 06, 07, 08, and 09.
- 1.2 The Service does not include any phones or other equipment that Hullabaloo may supply to the Customer under a separate agreement. In providing the Service, Hullabaloo will endeavor to use the reasonable skill and care of a competent telecommunications service provider.

## **2. Things Hullabaloo may have to do**

From time to time Hullabaloo may have to:

- (a) change the code or telephone number or the technical specification of the Service due to mandatory changes imposed on Hullabaloo; or
- (b) interrupt the Service for operational or emergency reasons; although Hullabaloo will restore the interrupted Service as quickly as possible; or
- (c) give the Customer instructions that Hullabaloo believe are necessary for health or safety reasons, or to maintain the quality of the Service that Hullabaloo supplies to the Customer or to other customers.

## **3. Phone number**

- 3.1 The Customer may not sell or agree to transfer the number provided to it for use with the Service.
- 3.2 The Customer must ensure that the phone number for the Service is not advertised in or on a Phone Box without Hullabaloo's prior written consent. If this happens, Hullabaloo will be able to suspend the Service pursuant to clause 15.

## **4. The Phone Book and Directory Enquiries**

- 4.1 Hullabaloo will put the Customer's name, address and the phone number for the Service in the phone book for the Customer's area and make the phone number available from a directory enquiries service unless the Customer requests Hullabaloo not to do so within 14 days of entering into this Agreement.
- 4.2 If the Customer requests a Special Entry in any phone book issued by the Network Operator it must let Hullabaloo know. Where Hullabaloo agrees to a Special Entry the Customer may be required to pay an additional charge and sign a separate agreement for that entry.

## **5. Call Monitoring**

Hullabaloo may occasionally monitor and record calls made to or by Hullabaloo by or to the Customer, for training purposes, to improve the quality of its customer services and to assist with complaint handling.

## **6. Use of the Customer's information**

- 6.1 Hullabaloo complies with its obligations under the Data Protection Act 1998 ("the Act"). Hullabaloo will only use any Personal Data (as defined within

the Act) obtained from the Customer as a result of providing the Service for the purposes of administering the Customer's account and notifying the Customer of changes to the Service, enabling Hullabaloo or its third party suppliers to supply the Service to the Customer and for invoicing purposes.

- 6.2 Hullabaloo will not pass Personal Data obtained from the Customer to any third parties for marketing purposes but may send the Customer information about Hullabaloo's own products and services which it considers may be of interest to the Customer, unless the Customer requests Hullabaloo not to do so.
- 6.3 If the Customer or a user does not want its details, or, in the case of the Customer those details of its users to be used in this way then the Customer should contact the Hullabaloo Data Controller at Hullabaloo Communications Limited First Floor 33 Nork Way Banstead Surrey SM7 1PB
- 6.4 The Customer agrees that Hullabaloo may search the files of credit reference agencies, which will keep a record of that search. Hullabaloo may also carry out identity and anti-fraud checks with fraud prevention agencies. If the Customer give us false or inaccurate information and we suspect fraud, Hullabaloo will record this. Details of how the Customer conducts their account may also be disclosed to those agencies. The information may be used by Hullabaloo and other parties in assessing applications for and making decisions about credit, credit related services and insurance (including motor, household credit, life and other insurances and claims) from the Customer and members of the Customer's household and for debt tracing, debt recovery, credit management and crime, fraud and money laundering detection and prevention. Information may be used by Hullabaloo and other parties for checking the Customer's identity, statistical analysis about credit, insurance, fraud and to manage the Customer's account and insurance policies. Hullabaloo may also perform subsequent searches for the purpose of risk assessment, debt collection and fraud prevention with one or more credit reference agencies and/or fraud prevention agencies whilst the Customer retains a financial obligation to Hullabaloo.
- 6.5 Information held about the Customer by credit reference agencies may be linked to records relating to the Customer's financial associate(s). For the purposes of this application you declare that the Customer and the Customer's financial associate(s) are financially independent and the Customer requests that their application be assessed without reference to any "associated" records, although the Customer recognises that this may adversely affect the outcome of their application. The Customer believes that there is no information relating to their financial associates that is likely to affect Hullabaloo's willingness to offer the Services to them. The Customer authorise Hullabaloo to check the validity of this declaration with credit reference agencies and if Hullabaloo discover any associated records, which would affect the accuracy of this declaration Hullabaloo may suspend the Service or terminate this Agreement with immediate effect. For the purpose of this clause a "financial associate" is someone with whom the Customer has a financial link, for example, a spouse, partner or family member.
- 6.6 The Customer authorises Hullabaloo to use and disclose, in the UK and abroad, information about them and their use of the Mobile Services and how they conduct their account for the purposes of operating their account and providing the Customer with the Mobile Services or as required for reasons or national security or under law to our associated companies, partners or agents, any telecommunications company, debt collection agency or credit reference agency and fraud prevention agency or governmental agency and other users of these agencies who may use this information for the same purpose as Hullabaloo. The Customer agrees to this information being used by Hullabaloo for credit control purpose and fraud and crime detection and prevention. The Customer can obtain further details from our public registration held by the Information Commissioner. If the Customer wishes to have details of the credit reference or the fraud prevention agencies from whom Hullabaloo obtains and with whom Hullabaloo records information about the Customer or receive a copy (Hullabaloo may charge a fee) of the information Hullabaloo holds about the Customer, please contact us by writing to the Data Controller at Hullabaloo Communications at first Floor, 33 Nork Way, Banstead, Surrey SM7 1PB stating your full name, address, account number and phone number.
- 6.7 The Customer also agrees to the information described in paragraph 6.6 being used, analysed and assessed by Hullabaloo and the other parties identified in paragraph 6.6 and selected third parties for marketing purposes including amongst other things to identify and offer the Customer by phone, post, the Network, phone, email, text (SMS), media messaging or other means, any further products, services and offers which we think might interest you. If the Customer does not wish their details to be used for marketing purposes, please write to the Data Controller at Hullabaloo at the address detailed in clause 6.3, stating the Customer's full name, address, account number and phone number.

## **7. When Hullabaloo will provide the Service**

- 7.1 Hullabaloo will use all reasonable endeavors' to provide the Service by the date agreed with the Customer such date being the date informed to the Customer either verbally or in writing
- 7.2 Hullabaloo will use the reasonable skill and care of a competent telecommunications service provider to provide the Service however, Hullabaloo cannot guarantee that the Service will always be Fault free as other third party companies may provide the Network.

## **8. Duration of this Agreement**

- 8.1 This Agreement will come into force on the date on which the Customer orders the Service or in the case of the service already existing resigns a contract. The Service is supplied by Hullabaloo subject to a Minimum Term unless this Agreement is otherwise terminated prior to expiry of the Minimum Term or additional terms in accordance with its terms. The Minimum Term will commence on the Switchover Date or if a resigned contract for services the date of that contract being signed (this then becomes the anniversary date).
- 8.2 Upon expiry of the Minimum Term, or any anniversary thereafter, this Agreement will renew automatically for further periods of 12 months (Additional Term) unless terminated by either party with 30 days written notice prior to the end of the Minimum term or in writing 30 days prior to the start of the 12 Months Additional Term in accordance with the terms of this Agreement and any notification to cancel or change the service. Any notification outside these dates will incur the outstanding monies for that period as detailed in 14.3

## **9. Repairing faults**

- 9.1 If there is a Fault, the Customer must report this directly to Hullabaloo.

9.2 If the Customer reports a Fault in respect of the Line, Hullabaloo will report the Fault to the Network Operator as soon as reasonably practicable so that the Network Operator can arrange for an engineer to attend to the Fault as soon as possible.

9.3 Hullabaloo will not be responsible for any Faults in respect of any Customer who does not pay Line or number Rental pursuant to this Agreement.

#### **10. Paying Hullabaloo's charges for the Service**

10.1 The Customer agrees to pay all of the Charges due in respect of the Service as set out in the Price List.

10.2 The Customer is responsible for all Call Charges incurred as a result of use of the Service by the Customer or any third party using the Service at the Premises.

10.3 Hullabaloo will calculate the Call Charges using the details recorded at the telephone exchange. Call Charges will normally be invoiced monthly in arrears. Where possible, Call Charges will appear on the Customer's next invoice, but sometimes there may be a delay.

10.4 Invoices shall be supplied to the Customer monthly in arrears via email (Hullabaloo 'e billing') to the Customers registered email address, or alternatively, should the Customer fail to provide a valid e-mail address invoices shall be provided by post at an additional cost.

10.5 If the Customer does not pay an invoice within 14 calendar days of the date of that invoice, Hullabaloo will send the Customer a reminder. If Hullabaloo does not receive payment of that invoice within 7 calendar days of the date of that reminder, Hullabaloo may charge the Customer daily interest on the overdue amount(s) at a rate equal to 4% above the base lending rate of HSBC Bank plc for the period beginning on the date on which payment is due and ending on the date on which payment is made Hullabaloo may at its own discretion suspend service.

10.6 Hullabaloo reserves the right to issue the Customer with an interim invoice if the Customer has exceeded its Call Level. Hullabaloo may also ask the Customer to pay a deposit at any time, as security for payment of future invoices.

10.7 Line Rental is payable from the Switchover Date. Line Rental will be payable monthly in advance, unless expressly agreed in writing by a Director of Hullabaloo. The Line Rental charges vary depending on what line classification the Customer has. The classifications are explained in the Price List. If Hullabaloo agrees to provide the Customer with a temporary Service, Hullabaloo may require the Customer to pay Line Rental in advance for the whole period that the Customer requires the Service.

10.8 Hullabaloo will issue the first invoice to the address provided by the Customer shortly after it provides the Service (posted or e mailed).

10.9 The Customer is committed to using Hullabaloo for both Line Rental and Calls. Should the Customer use an alternative carrier for Calls once this Agreement has commenced, or prevent Hullabaloo from carrying Calls in any monthly period so that the Call Charges are materially reduced when compared to the Customer's current average invoicing profile, Hullabaloo shall be entitled to charge the Customer £50 plus VAT on the Customer's next monthly invoice.

10.10 Charges are payable by Direct Debit, unless agreed otherwise with Hullabaloo. If a Customer cancels an active Direct Debit without Hullabaloo's consent reasonable administrative charges may apply.

10.11 The Customer must pay all Charges in accordance with their direct debit authority, or if, for some reason, their direct debit payment fails, in accordance with the time for payment detailed in the invoice. The Customer must pay all deposits when Hullabaloo asks for them.

10.12 If the Customer's payment is rejected, or becomes, or is, invalid or unavailable, thereby preventing us from recovering the sums due under your account within 4 days following the due date for payment, Hullabaloo reserves the right immediately to withdraw access to the Services. The Customer will also be charged a reasonable administration fee

10.13 In these circumstances, the Customer will be sent a letter giving them 10 days in which to arrange for their account to be discharged in full.

10.14 If the Customer's account remains unpaid for a period of 25 days after the original due date for payment a security deposit of three times the average monthly invoice or payment in full for the first year will be required before we reinstate the Services.

10.15 If the Customer's account remains unpaid for a period of 32 days after the original due date for payment, the Services will then be terminated and the Customer's account will be referred to Hullabaloo's credit control department for it to take the appropriate action to collect the outstanding sums.

10.16 If Hullabaloo are required to instruct their solicitors or other professional advisers to collect any outstanding sums on the Customer's account, the Customer will be responsible for, and Hullabaloo will look to the Customer to discharge, those costs that are incurred by Hullabaloo in taking such action.

The Customer must ensure that the account holder's name is the same as the name on the payment details that are provided.

Hullabaloo may amend the Charges at any time. Hullabaloo will publish details on their Website at least 14 days before the change is to take effect. If the Customer does not accept the proposed increase in the Charges, the Customer must notify Hullabaloo within 14 days of publication on the Website or receipt of the notice of the proposed increase, otherwise the Customer will be deemed to have accepted the proposed increase.

If the Customer has agreed to an Annual Minimum Call Spend (as notified to the Customer by Hullabaloo on entering into this Agreement), and at the end of any given year (beginning on the Switchover Date or any anniversary thereof), the Customer has not incurred the Annual Minimum Call Spend, or if the Customer terminates this Agreement other than in respect of termination by the Customer pursuant to clause 14.2, prior to the end of any given year (beginning on the Switchover Date or any anniversary thereof), the Customer will be liable to pay 20% of the difference between the Charges incurred during that year and the Annual Minimum Call Spend.

Hullabaloo reserves the right to apply a monthly minimum threshold of £10.00 excluding VAT in respect of outbound calls for each invoiced account to keep the account operating at a viable level. In the event that the actual outbound calls billed amount does not reach the threshold level the Customer agrees to pay the difference between the actual calls billed amount and the threshold.

## **11. The Customer's obligations**

- 11.1 The Customer may only connect phones, extension wiring, sockets or other equipment to the Network using a Main Telephone Socket that Hullabaloo or the Network Operator have fitted unless the Parties agree otherwise.
- 11.2 The Equipment must only be used with the Network in a way that meets the Relevant Standards, is technically compatible with the Service and complies with the terms under which Hullabaloo or the Network Operator was granted Authorisation. If the Equipment does not meet the Relevant Standards, the Customer must immediately disconnect it, or allow Hullabaloo to do so at the Customer's expense. If the Customer asks Hullabaloo to test the Equipment to make sure that it meets the Relevant Standards, the Customer must pay Hullabaloo the applicable charges
- 11.3 Hullabaloo may have to place equipment on the Premises to provide the Service. Hullabaloo requires a suitable place and safe conditions for this equipment. If Hullabaloo has to supply equipment that needs a continuous mains electricity supply and connection points, the Customer is responsible for providing this at its own expense.
- 11.4 The Customer must prepare the Premises for any installation of the Service to be carried out by Hullabaloo prior to Hullabaloo's arrival according to any reasonable instructions that Hullabaloo may give to the Customer. When the work is completed, Hullabaloo will not be responsible for putting back items that have had to be moved by Hullabaloo to allow it to carry out any necessary work nor for any re-decorating to the Premises required.
- 11.5 The Customer is responsible for obtaining all relevant permissions for Hullabaloo to carry out any work necessary to provide the Service at the Premises.
- 11.6 If Hullabaloo's or the Network Operator's engineers have to enter the Premises they will make themselves known. Hullabaloo will comply with reasonable health and safety requirements notified to Hullabaloo at the Premises and the Customer shall comply with Hullabaloo's reasonable instructions to ensure a safe place for its engineers to carry out the work.
- 11.7 Nobody must tamper with Hullabaloo's equipment that is on the Premises. Other than fair wear and tear, if there is any damage to or loss of Hullabaloo's equipment (unless caused by Hullabaloo), the Customer must pay the charge in the Price List for any necessary repair or replacement.
- 11.8 The Customer must ensure the Service is not used:
- (a) to make offensive, menacing, indecent, nuisance or hoax Calls;
  - (b) fraudulently or in connection with any criminal offence;

In the event that the Customer uses the Service in breach of this clause 11.8, Hullabaloo reserves the right to suspend the Service pursuant to clause 15. The Customer will fully reimburse Hullabaloo in respect of any sums Hullabaloo is obliged to pay to any third party, and any other costs incurred by Hullabaloo (including without limitation properly incurred legal fees), as a result of the Customer's misuse of the Services in breach of this clause 11.8.

- 11.9 The Customer must inform Hullabaloo if they are moving Premises so that Hullabaloo can arrange the transfer of the Customer's lines. If Hullabaloo are requested to move the lines Hullabaloo will also, unless otherwise requested, endeavour to retain the Customer's existing telephone number. If Hullabaloo can transfer the Customer's existing number to the new Premises the existing Agreement will continue under the same terms and conditions. If Hullabaloo cannot transfer the Customer's existing number to the new Premises, installation of a new line will be required at the new Premises, or if the Customer requires any additional new lines, this will attract new line connection charges and a new Agreement for a minimum term of 24 or 36 months. All minimum or additional term payments need to be made if a Customer moves premises before the end of that term
- 11.10 If the Customer currently receives services from an alternative supplier the Customer is responsible for any contractual agreement the Customer has with them and any liabilities the Customer may incur for terminating the Customer's current agreement.

## **12. Liability**

- 12.1 Hullabaloo's liability under this Agreement for a failure in provision of the Service or the Service itself is detailed in this clause 12.
- 12.2 Hullabaloo does not exclude or limit its liability for death or personal injury resulting from its negligence
- 12.3 Subject to clause 12.2, Hullabaloo shall not be liable to the Customer for any indirect, special or consequential loss arising under this Agreement, including but not limited to loss of profit, business or revenue, loss of anticipated savings, wasted management time or any other loss, damage cost or expense arising out of any breach of this Agreement by Hullabaloo which was not reasonably foreseeable.

Hullabaloo cannot guarantee that the Service will operate Fault free as other third party companies may provide the Network. This is beyond Hullabaloo's reasonable control and Hullabaloo are not therefore liable for Faults due to these matters. In addition any upgrade from analogue lines to ISDN digital lines will incur a period of downtime and this is beyond Hullabaloo's control. Hullabaloo are not liable for the downtime in these matters

For the avoidance of doubt Hullabaloo shall not be liable for any delay in the repair of the Fault except to the extent that Hullabaloo delays or fails to report the fault (as notified to Hullabaloo by the Customer under clause 9) to the Network Operator as soon as reasonably practicable.

- 12.5 Subject to clauses 12.2 and 12.3 above, Hullabaloo's total liability to the Customer (in contract, tort (including negligence), breach of statutory duty,

restitution or otherwise) in respect of any loss or damage howsoever arising is limited to a total of £50.00 for each line affected and subject to an overall total of £2,000.00 per event or series of events.

- 12.6 Unless clause 12.2 applies, Hullabaloo's liability to the Customer in contract, tort (including negligence) or otherwise in relation to this Agreement is limited to £2,000.00 (two thousand pounds) in any 12 month period.
- 12.7 Except as set out expressly in this Agreement, all conditions, warranties, undertakings and obligations implied by statute, common law, custom, trade, usage or otherwise are excluded to the extent permissible in law.
- 12.8 Nothing in this clause 12 will exclude liability, which one Party would otherwise have to the other Party in respect of any statements made fraudulently.
- 12.9 The express terms of this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law.
- 12.10 Hullabaloo does not accept liability for the acts or omissions of other providers of telecommunication services (including for the avoidance of doubt the Network Operator) unless such other providers have been specifically engaged by Hullabaloo as subcontractors or assignees in respect of performing Hullabaloo's obligations under this Agreement.
- 12.11 Hullabaloo does not accept liability to the Customer for any third party interference (either internally at your premises or externally (eg Hackers) with the services nor as a consequence of abuse or misuse thereof
- 12.12 Any network services or network features which are provided by a third party and not transferred to Hullabaloo will not in any circumstances be the responsibility of Hullabaloo

### **13 Force Majeure**

Hullabaloo will not be liable for failure to comply with its obligations as set out in this Agreement due to matters beyond its reasonable control including but not limited to lightning, flood, or exceptionally severe weather, fire or explosion, terrorism, strikes, civil disorder, riot, war, or military operations, national or local emergency, anything done by government or other competent authority or industrial disputes of any kind or in respect of any acts or omissions of Ofcom or any other Public Electronic Communications Network Providers as defined in the Communications Act 2003.

### **14. Termination of this Agreement**

- 14.1 The Customer may terminate this Agreement by written notice to Hullabaloo only if Hullabaloo is in material breach of its terms and fails to remedy such breach within 30 days of receiving notice from the Customer requiring such breach to be remedied
- 14.2 In the event that the Customer terminates this Agreement prior to expiry of the Minimum Term or additional term, other than in respect of termination by the Customer pursuant to clause 14.1 the Customer shall pay the Early Termination Charges, calculated in accordance with clause 14.3.
- 14.3 The Early Termination Charges shall be, for each line that a Customer cancels:-
- (a) the sum of the Line Rental charges payable by the Customer from the date of actual termination until the date of expiry of the Minimum Term or Additional Term; and
  - (b) any actual Call Charges or rentals accrued up to and including the date of termination; and
  - (c) the average monthly call spend multiplied from the date of the actual termination until the date of expiry of the Minimum term or Additional Term; and
  - (d) an administration charge of £50.00 (fifty pounds) plus VAT.
- 14.4 In the event that Hullabaloo terminates this Agreement after the expiry of the Minimum Term, other than in respect of termination by Hullabaloo pursuant to clauses 15(d), or 15(e), the Customer shall pay the Charges up to the end of the notice period.
- 14.5 In the event that the Customer terminates this Agreement after the expiry of the Minimum Term or additional term, other than in respect of termination by the Customer pursuant to clause 14.2, the Customer shall pay the Charges up to the end of the notice period in accordance with clause 14.1 or until 30 days from the date the notice is received by Hullabaloo whichever is the later.
- 14.6 If this Agreement ends, Hullabaloo will refund any money owed to the Customer, after first deducting any money the Customer owes to Hullabaloo under this Agreement or any other agreement Hullabaloo has with the Customer.
- 14.7 In the event that the Customer terminates any service prior to expiry of the Minimum or additional Term, other than in respect of termination by the Customer pursuant to clauses 14.2, and 14.4, Hullabaloo shall be entitled to charge the Customer such an amount as would be reasonable in covering Hullabaloo's losses as a result of such a termination for the period outstanding on the contract. This would include inter alia instances where Hullabaloo has provided line installations to the Customer that have been subsequently cancelled prior to the expiry of their minimum term.
- 14.8 The complete set of Free Installation Terms & Conditions are available on the Hullabaloo website at [www.hullabaloo.com](http://www.hullabaloo.com).

## 15. Suspension or termination of the Service for breach

- 15.1 Hullabaloo reserves the right to suspend the Service or terminate this Agreement immediately at any time without giving the Customer prior notice, and without prejudice to Hullabaloo's other rights and remedies, if:
- (a) the Customer breaches this Agreement or any other agreement it has with Hullabaloo for telephone service, including lines, payphone, numbers or private service and fails to remedy the breach within 14 days of Hullabaloo notifying the Customer of such breach and requesting that such breach is remedied;
  - (b) Hullabaloo believes that the Service is being used in breach of clauses 3.2 or 11.8, whether the Customer is aware of such misuse or not;
  - (c) the Customer, being an individual, partnership or firm has entered into any composition or arrangement with its creditors, has a petition presented by it or by any other person for its bankruptcy or has a bankruptcy order made against it; or, being a company, is subject to any winding up or administration proceedings, or in any event ceases, or threatens to cease to trade;
  - (d) Hullabaloo's Authorisation (or the authorisation of any relevant third party telecommunications supplier or regulator) expires or is revoked or modified in any respect which materially or adversely affects Hullabaloo's ability to provide the Services to you; or
  - (e) if Hullabaloo have to do so to comply with any order, instruction or request of any authorised government body or authority or any emergency service; or
  - (g) any direct debit details submitted by the Customer for payment are found not to be or cease to be valid; or
  - (f) Hullabaloo are directed by any competent authority to cease the provision of the Services or any part of it; or
  - (h) Hullabaloo's contract with any third party who assists Hullabaloo in providing the Services to the Customer is terminated.
- 15.2 If the agreed Call Level is reached before the next monthly invoice is sent, Hullabaloo will inform the Customer of the amount the Customer has spent and agree any necessary action. If the Customer has a limited payment history for the Service (being less than 3 invoices received and paid in full) Hullabaloo reserves the right to restrict the Customer's ability to make outgoing Calls pending payment of charges accrued on Hullabaloo's invoicing system.
- 15.3 If the Customer does not pay an invoice in accordance with clause 10.4, Hullabaloo reserves the right to suspend the Service initially with outgoing call bars, followed by incoming call bars if required (but not in relation to emergency number access) and will lift the suspension following full payment being made by the Customer to Hullabaloo.
- 15.4 If Hullabaloo suspends the Service pursuant to this clause 15 (other than pursuant to clauses 15.1(d) and (e)), Hullabaloo will not be obliged to recommence provision of the Service until the Customer does what it is obliged to do under and in accordance with the terms of this Agreement or satisfies Hullabaloo that the Service will not be used in a way that is in breach of this Agreement.
- 15.5 The Customer is still liable to pay the Charges applicable to any period of suspension of the Service (other than in respect of a suspension pursuant to clauses 15.1 (d) or (e)).
- 15.6 In the event the Service is suspended by Hullabaloo for reasons as set out in clause 15.1 (c) above, Hullabaloo reserves the right to charge the Customer an administration fee of £50 payable by the Customer within 14 days of the Service being suspended by Hullabaloo.
- 15.7 In the event the Service is recommenced, Hullabaloo reserves the right to charge a reconnection fee of £50.00 plus VAT per affected line.

## 16. Validity

If any provision of this Agreement becomes invalid or unenforceable the other provisions of this Agreement shall not be affected by such invalidity or unenforceability.

## 17. Disputes

- 17.1 If the Customer has a complaint or query regarding any aspect of the Service, the Customer should contact Hullabaloo's customer services or write to Hullabaloo at the address given in clause 22.
- 17.2 If Hullabaloo cannot resolve any dispute with the Customer after a 12 week period, either Party can refer the dispute to the Telecoms Ombudsman at [www.otelo.org.uk](http://www.otelo.org.uk) or on 0845 050 1614 or to OFCOM, the communications regulator at [www.ofcom.org.uk](http://www.ofcom.org.uk) or call OFCOM on 0845 456 3000 for resolution.
- 17.3 Nothing in this clause 17 will prevent either Party from:
- (a) seeking injunctive relief in the case of any breach or threatened breach by the other Party;
  - (b) commencing any proceedings where this is reasonably necessary to avoid any loss of a claim due to the rules on limitation of actions; or
  - (c) commencing proceedings in the case of non-payment of the Charges.

## **18. Changing this Agreement**

- 18.1 If the Customer asks Hullabaloo to make any change or changes to the Service Hullabaloo may ask the Customer to confirm its request in writing. If Hullabaloo agrees to a change, this Agreement will be changed when Hullabaloo confirms the change to the Customer in writing.
- 18.2 Hullabaloo can change the conditions of this Agreement including its Charges at any time. Hullabaloo will publish any change on the Website at least 2 weeks before it takes place.

## **19. Assignment**

Hullabaloo shall have the right to assign or otherwise delegate all or any of its rights and obligations under this Agreement to any Associated Company third party

The Customer cannot assign or try to assign this Agreement or any part of it to a third party without Hullabaloo's prior written consent.

## **20. Service**

20.1 Hullabaloo Endeavours :

- (a) to provide the Service by the date agreed with the Customer as described in clause 7.1;
- (b) to report a Fault in line to the Network Operator as soon as reasonably practicable;
- (c) to keep any appointment Hullabaloo makes with the Customer under this Agreement.

## **21. Codes of Practice**

In response to directives of the Regulator (OFCOM) which require all providers of fixed-line voice telephony services to maintain and follow a sales and marketing, and dispute resolution codes of practice in relation to Customer service, Hullabaloo have produced a Sales and Marketing Code of Practice and a Complaint Handling and Dispute Resolution Code of Practice to protect the Customer's rights in this area and a full copy of this is available on the Website.

## **22. Notices**

Any notice given under this Agreement must be delivered by hand, sent by email or sent by prepaid post as follows:

- (a) to Hullabaloo Communications, First Floor, 33 Nork Way, Banstead, Surrey, SM7 1PB or such other address as may be notified to the Customer; or
- (b) to the Customer at the address the Customer has asked Hullabaloo to send invoices to.

## **23. Entire Agreement Clause**

- 23.1 This Agreement constitutes the entire agreement between Hullabaloo and the Customer and supersedes all prior negotiations, representations, proposals, understandings and agreements whether written or oral relating to the Services.
- 23.2 Each of the parties acknowledges and agrees that in entering into this Agreement, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement. Nothing in this clause shall, however, operate to limit or exclude any liability for fraudulent misrepresentation.

## **24. Third Party Rights**

A person who is not a Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

## **25. Waiver**

The failure or delay by either party to this Agreement to exercise or enforce any right, power or remedy under this Agreement shall not be deemed to operate as a waiver of any such right, power or remedy; nor shall any single or partial exercise by any party operate so as to bar the exercise or enforcement thereof or of any right, power or remedy on any later occasion.

## **26. Law and Jurisdiction**

This Agreement or any term of this Agreement will be governed by English law and the English courts will have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement.