

1 Interpretation

1.1 Definitions

Contract: has the meaning given to it in clause 2.9.

Customer: has the meaning given to in clause 2.1

Early Termination Charges: has the meaning given to it in clause 9.5

Initial Term: has the meaning given to it in clause 4.1

License: has the meaning given to it in clause 9.1

NFON Hardware: the hardware (if any) specified in an Order Form including but not limited to: telephone handsets, analog terminal adapters, media gateways and/or headsets and accessories;

NFON Cloud Telephone Service: is an Internet-based telephony service delivered over Broadband Internet;

Order Form: has the meaning given to it in clause 2.1;

Service: has the meaning given to it in clause 2.3;

Service Levels: Guaranteed availability of Service as published by NFON on its website www.nfon.com/gb;

VOIP: Voice over IP

VOIP Terminal: Telephone handset or software-based phone.

Warranty Period: has the meaning given to it in clause 3.4.5.

Early Termination Charges: Liquidated damages resulting from early cancellation of the Contract before the end of agreed term.

2 Contracting Parties

2.1 Contracting parties are NFON UK LTD ("NFON") with registered office at Ground Floor Belmont Place, Belmont Road, Maidenhead, SL6 6TB, United Kingdom and the entity ("Customer") whose details are set out in the attached order form ("Order Form")

2.2 The Customer may from time to time submit Order Forms to NFON. Order Forms will be in such form as is notified to the Customer by NFON from time to time. NFON shall not unreasonably refuse to accept any Order Form submitted by the Customer.

2.3 Each Order Form will be binding on NFON upon the earlier of a duly authorised signatory on behalf of NFON signs a copy of the Order Form, the date on which NFON emails confirmation of its acceptance of the Order Form or on the date that NFON commences provision of the Service ("Service") specified in the Order Form.

2.4 The Customer may from time to time add Service to the Customer Contract on-demand without requiring additional Order Forms. Additional Service added by the Customer is subject to these General Terms and Conditions.

2.5 Customer agrees that NFON may carry out credit checks, as it deems necessary prior to acceptance of the Order Form.

2.6 Customer agrees that NFON will require the Customer to setup a Direct Debit mandate prior to acceptance of the Order Form and processing of order.

2.7 These General Terms and Conditions, which shall prevail over any other terms submitted or proposed. No variation of these General Terms and Conditions will bind either party unless expressly agreed in writing by each party.

2.8 Each party warrants to the other that it has the necessary rights, licenses and permissions to enter into and perform its obligations under these General Terms and Conditions and each Order Form.

2.9 Once the Order Form has been duly signed by Customer and accepted by NFON it shall represent the contract ("Contract") governing the commercial relationship between NFON and the Customer and shall be deemed to include these General Terms and Conditions.

2.10 NFON offers its range of Service exclusively to business and enterprise Customers, not private consumers nor minors. If NFON becomes aware that a Customer is a consumer or a minor, NFON will immediately terminate this Contract in accordance with clause 4.4 of this Contract.

3 Service Conditions

3.1 NFON Cloud Telephone Service and Access to Emergency Service

3.1.1 The Customer acknowledges that the NFON Cloud Telephone Service will not be available during any power cut affecting the Customer and accordingly access to emergency Service (999, 112) will not be available during any such power cuts;

3.1.2 Any change in the configuration of the voice and data components of the NFON Cloud Telephone Service can adversely affect the ability to make emergency calls. NFON undertakes that it will not make any changes to the configuration of the voice and data components of the NFON Cloud Telephone Service which has an adverse effect on the Customer's ability to make emergency calls without first notifying the Customer of the adverse impact and obtaining the Customer's prior written consent to such change;

3.1.3 A configuration change of the voice and data components preconfigured by NFON can adversely affect emergency calls. An emergency call made via VoIP terminal in a different location from the one that is registered in Order Form, is transmitted to the control centre indicating the registered address and not the location of the VoIP terminal.

3.1.4 Damages and claims arising from emergency call abuse are entirely the Customer's responsibility, NFON shall accept no liability.

3.1.5 Unless specified to the contrary in an Order Form access to premium rate numbers and directory services will be prohibited via the NFON Cloud Telephone Service;

3.1.6 NFON may block certain target numbers, target number groups or national dialling codes. NFON will notify the Customer when it blocks such numbers, number groups or national dialling codes;

3.1.7 The Customer is not entitled to specify the choice of upstream network operators and carriers used by NFON to provide the Services. NFON has the complete freedom of choice to switch its suppliers including upstream network operators and carriers without notification to the Customer.

3.2 Broadband Internet

In order to use the NFON Cloud Telephone Service, it is the Customer's responsibility to procure at its cost a reliable business-grade broadband connection either through NFON (if applicable) or through a supplier approved by NFON. Where Broadband is supplied by a third party NFON does not assume any liability or responsibility for any third party broadband Internet connection. The Customer acknowledges that call quality depends on both the specifications and availability of the broadband connection to which the Customer is connected and also on the IP or telecommunications network to which the person being called is connected.

3.3 Customer Network Readiness for NFON Service

In order to use the NFON Cloud Telephone Service, it is the Customer's responsibility to ensure that the Customer's network is ready for NFON Service by ensuring it is fully configured to the NFON's technical specifications published in the "NFON Plug and Play Network Requirements Guide" found on www.mynfon.com. To assist the Customer in determining network readiness, NFON provides an assessment tool (NCONNECTME!) that gives an indication of the Customer's network compatibility with the NFON Service which the Customer must successfully run on their network prior to installing the NFON Service. The successful outcome of the tests does not present a compatibility guarantee but rather a strong indication of readiness. The Customer acknowledges that call quality depends on readiness of the Customer's network for the NFON Service.

3.4 NFON Hardware

- 3.4.1 NFON shall deliver the NFON Hardware to the Customer on the date specified in the Order Form and to the address specified in the Order Form or if no date is specified within a reasonable period of the Contract coming into force;
- 3.4.2 INCOTERMS 2010 for NFON hardware is ex Works. Costs for transportation and packing shall be borne by the Customer.
- 3.4.3 Risk in the NFON Hardware shall pass to the Customer on delivery;
- 3.4.4 Time shall not be of the essence in respect of any delivery of NFON Hardware unless the parties agree otherwise in writing;
- 3.4.5 NFON warrants that on delivery and for a period of 12 months from the date of delivery ("Warranty Period") the NFON Hardware shall:
 - 3.4.5.1 confirm in all material respects with the description (including any description in the Order Form); and
 - 3.4.5.2 be free from material defects in design, material and workmanship and be of satisfactory quality.
- 3.4.6 If the Customer gives notice during the Warranty Period that the NFON Hardware or any part of it does not comply with the warranty set out in clause 3.4.5 NFON shall at its option subject to NFON's RMA process repair or replace the relevant NFON Hardware. Where NFON replaces the NFON Hardware the Customer shall return the defective NFON Hardware at Customer's expense and risk and NFON shall ship the replacement at NFON's expense and risk. The warranty set out in clause 3.4.5 shall apply to any replacement hardware.

4 Term and Termination

- 4.1 Unless otherwise specified in the relevant Order Form, the term of the Contract shall be 30-day or 36-month period as specified in the Order Form from the date the Contract comes into force ("Initial Term") and will continue until terminated in accordance with these General Terms and Conditions.
- 4.2 On expiry of the Initial Term the Contract shall automatically renew for successive 30-day periods unless either party gives the other not less than 4 weeks' written notice of non-renewal, such notice to expiry on the expiry of the then current term.
- 4.3 A Contract where no Initial Term is specified can be terminated by either party giving the other not less than 30-day's prior written notice of termination such notice to expire at the end of a calendar month.
- 4.4 Only available for 30-day Contracts, the Customer may request change to a different type of NFON license (contract). NFON will carry out the requested change within 30 days and charge a license change fee of £20. It is not permissible to change NFON license/contract type during the term of 36-month Contracts.
- 4.5 Either party may terminate a Contract immediately by extraordinary notice in writing to the other where the other party is in material breach of the Contract and that breach is incapable of remedy or where it is capable of remedy (including non-payment of any sums due) has failed to remedy the breach within 20 days of a written notice specifying the breach.
- 4.6 NFON may terminate a Contract immediately by notice in writing to the Customer if:
 - 4.6.1 the Customer suspends or threatens to suspend payment of its debts, is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of s123(e) of the Insolvency Act 1986;
 - 4.6.2 the Customer appoints an administrator or liquidator or a petition is presented for its winding up.

4.7 Cancellation Policy

- 4.7.1 Notice of cancellation of a Contract without liability to the Initial Term of the Contract may not be given at any time after NFON has commenced provision of the Service or delivered any NFON Hardware under the Contract.
- 4.7.2 Hardware Returns:
 - In the event of a valid request approved by NFON to return hardware, the following policy applies:
 - 4.7.2.1 any NFON Hardware delivered to the Customer where original product packaging has not been opened nor damaged will be subject to 15% restocking fee. This percentage is calculated on the NFON published RRP price list. It shall be returned to NFON logistics centre in Germany at the Customer's expense and risk.
 - 4.7.2.2 any NFON Hardware delivered to the Customer where original product packaging has been opened or damaged cannot be returned and the Customer must pay full price.
- 4.8 On contract termination, any numbers still required by the customer that are listed under the contract must be ported from NFON within 3 months of the contract termination date. After this date any remaining numbers will be de-activated, removed from the NFON portal and will no longer be available for porting.

5 Changes to the Contract and General Terms and Conditions

- 5.1 NFON has the right to modify or supplement Contract terms and conditions, specifications and price lists by giving the Customer not less than one month's prior written notice.
- 5.2 Save for clause 10.6, The Customer has the right to object to the change in writing within one month of receipt of the notification. If the Customer does not object within the notice period, the changes or modifications shall be deemed to be approved. In the amendment notification NFON will inform the Customer about the consequences of a failure to object.
- 5.3 In the case of an objection by Customer to the change NFON reserves the right to terminate the contract by extraordinary notice according to clause 4.5.

6 Assignment and Sub-contracting

- 6.1 NFON is entitled to provide the Service by subcontracting to third parties provided that NFON shall be liable to the Customer for any acts or omissions of such subcontractors if such acts or omissions would have constituted a breach of Contract by NFON if it had been its act or omission.
- 6.2 NFON may assign its rights and obligations under any Contract to one or more third parties. In this case the Customer has no right to cancel.
- 6.3 NFON may choose to commission a third party organisation for payment control and billing purposes in the name of NFON and/or the third party organisation name.
- 6.4 The Customer is not entitled to assign any Contract to a third party without prior written consent by NFON. Where consent is provided by NFON, any transfer of contract involving Customer name or Customer company number is subject to a £50 service charge.

7 NFON's Contractual Obligations and Duties

- 7.1 NFON guarantees the accessibility and performance of its Service and systems in accordance with the Service Levels.

- 7.2 NFON shall supply the Service:
- 7.2.1 in accordance with all applicable laws and regulations;
 - 7.2.2 in accordance with the Service Levels;
 - 7.2.3 with reasonable care and skill and in accordance with good industry practice; and
 - 7.2.4 in accordance with the Service description provided by NFON to the Customer.
- 7.3 NFON can restrict access to Service if this is required for the safety of the network infrastructure, to maintain service integrity, in particular to prevent serious malfunctions of service, network, software or stored data. NFON shall keep any such restrictions to a minimum and shall use its reasonable endeavours to notify the Customer in advance of such restrictions.
- 7.4 If NFON fails on its Service Levels the Customer shall only be entitled to withdraw from the Contract in accordance with clause 4.5. Any subsidised hardware provided as part of the Service in accordance with clauses 9.3 and 9.4 cannot be returned and the Customer shall pay full price as per NFON current price list and own title. NFON will cooperate to enable Customer to re-use the NFON Hardware with another provider.
- 7.5 If the Service is to be used to carry alarm signals, then NFON will not accept responsibility for lack of Service or failure to deliver an alarm signal due to a) network failure; b) suspension of the Customer's account or c) reasons outside NFON's reasonable control including but not limited to any technical issues within the network (network is being tested, modified or maintained or access to the network is denied).
- 8 Licence Agreements and Copyright**
- 8.1 For the duration of each Contract NFON grants to the Customer a non-exclusive and non-transferable right to use any intellectual property rights comprised or embedded in the Service or the NFON Hardware for its own internal business purposes.
- 8.2 The Customer may take a reasonable number of copies of any intellectual property licenced to it pursuant to clause 8.1 for back-up purposes only.
- 8.3 The Customer may print any documents or manuals provided to it in electronic format.
- 8.4 The Customer may not modify or remove any copyright notices.
- 9 Reservation of Property Rights**
- 9.1 All intellectual property rights in the programs ("License") and the Service and any associated documentation made available to the Customer shall remain the property of NFON or its licensors.
- 9.2 The Customer is not entitled to use the program in any manner other than described here, to copy, edit or transfer the software into any other form of expression (Reverse-Assemble-Reverse-compile) or to translate it in other ways if such conversion is not stipulated by express legal provisions. The Customer is not entitled to rent or lease the program or grant sub-licences
- 9.3 All NFON Hardware remains the property of NFON until NFON has received payment of the full purchase price for such NFON Hardware.
- 9.4 If NFON has supplied the NFON Hardware at no cost to the Customer or at discounted subsidised rate in return for an Initial Term of 36-month period commitment, title to such NFON Hardware shall not pass to the Customer and NFON shall always hold title.
- 9.5 If NFON has supplied the NFON Hardware at no cost to the Customer or at discounted subsidised rate in return for a minimum Initial Term of 36-month period commitment, the Customer may not:
- 9.5.1 Reduce the Service below certain volume as a minimum monthly charge is always applicable ("Minimum Monthly Charge") and;
 - 9.5.2 Cancel or terminate the Contract without incurring early termination charges ("Early Termination Charges") payable to NFON as liquidated damages and;
 - 9.5.3 Sign a separate addendum to these General Terms and Conditions accepting the Minimum Monthly Charge and the computation of Early Termination Charges. The addendum shall form an integral part of these General Terms and Conditions.
- 10 Prices and Payment**
- 10.1 All prices are fixed prices according to NFON price list applying at the time the Contract is entered into or as otherwise set out in the Order Form.
- 10.2 NFON Service monthly fee is not pro-rated and NFON does neither support nor offer part-month Services.
- 10.3 Method of payment for NFON Services and Hardware is exclusively by Direct Debit.
- 10.4 On confirmation of Order, NFON charges the Customer as per the following:
- 10.4.1 For NFON license Service activation fee: immediately;
 - 10.4.2 For NFON license Service monthly fee: begins charging in current calendar month regardless of Contract creation date. For NFON Hardware: on order or when shipped;
- 10.5 During the term of the Contract, when the Customer requires additional Service and Hardware, NFON automatically charges the Customer as per the following:
- 10.5.1 For NFON license Service activation fee: immediately;
 - 10.5.2 For NFON license Service monthly fee: immediately (whole month is charged) regardless when in the month the Service has been activated.
 - 10.5.3 For NFON Hardware (if any): on order or when shipped;
- 10.6 NFON may change its charges as per the following:
- 10.6.1 For NFON license Service fees: once in each 12-month period provided that it gives not less than 30 days' prior written notice of such changes;
 - 10.6.2 For NFON Call Charges: at any time to take account of any price changes mandated by any regulatory body, market shifts or termination carriers (eg. BT, DT, Telefonica) provided that such changes shall not take effect on a date earlier than the date mandated by such regulatory body, market or carrier. The Customer can request the most up to date NFON call charges from NFON directly or by accessing the relevant CDR (Call Data Record) portal.
- 10.7 On or before the 10th working day of each calendar month, NFON emails out invoices to the Customer for Service activation fees, Service monthly fee and call charges incurred in the previous month. This may also include Hardware cost if not subject to prepayment or other payment arrangements previously agreed by NFON.
- 10.8 Invoices are due for payment within fourteen days (14) of receipt by email and are settled by direct debit or bank collection. Should Customer not opt-in for email correspondence, a postal charge of £1.50 is applicable on each invoice sent out.
- 10.9 Any objections to an invoice must be lodged in writing within eight weeks following its receipt. Any failure to contact NFON within the specified time shall be deemed as approval of the invoice.
- 10.10 NFON shall issue valid VAT invoices, reflecting any applicable VAT at the then prevailing rate.

10.11 NFON reserves the right to activate Service and/or ship Hardware only after receipt of the mutually agreed payment for the Service and/or Hardware.

10.12 Should payment collection from the Customer's bank account fail due to direct debit cancellation by the Customer NFON may apply a charge of £20.

10.13 Should payment collection from the Customer's bank account fail due to insufficient funds NFON may apply a charge of £20 for each failed collection.

11 Disconnection of Service

11.1 Should payment collection from the Customer's bank account fail for reasons outlined in clauses 10.12 or 10.13 and the Customer is unable to pay within 24 hours of notification of failed payment, NFON will immediately block the ability for the Customer to make outbound calls using NFON Cloud telephone system. The Customer will continue to be able to make calls to Emergency Services as well as receive calls for two weeks from the due date.

11.2 Should the Customer fail to settle invoices within two weeks of the due date, NFON has the right to cease all Services. As a consequence, the Customer will be unable to make or receive phone calls using NFON Cloud telephone system. A disconnection fee of £20 will be charged.

11.3 For the duration of the disconnection period, the Customer has the obligation to pay the monthly Service charges. This applies with the reservation of the right of NFON to further claims due to delayed payment.

11.4 Reconnection of Service following cancellation by Customer or NFON shall incur a Service re-establishment charge of £100.

12 Exclusion and Limitation of Liability

12.1 Neither party excludes or limits its liability for:

12.1.1 death or personal injury caused by its negligence or the negligence of its personnel, agents or sub-contractors in accordance with the Contract and all applicable laws.

12.1.2 fraud or fraudulent misrepresentation; or

12.1.3 any other liability which cannot be excluded under applicable law; or

12.1.4 arising under any indemnity.

12.2 Subject to clause 12.1:

12.2.1 NFON shall not have any liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any indirect or consequential loss arising under or in connection with any breach of Contract;

12.2.2 NFON will not be liable for any consequential loss or damage to the Customer which may result from any interruptions, delays, faults or errors in the supply of the Service. NFON will not, under any circumstances whatsoever, be liable for loss of profits; loss of business; depletion of goodwill and/or similar losses; loss of anticipated savings; loss of contract; loss or corruption of data or information; or any special indirect, consequential or pure economic loss, costs, damages, charges or expenses.

12.2.3 NFON's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection each Contract shall be limited to the total charges paid and payable by the Customer from the previous month. Such liability will be settled in the form of a credit note against the Customer's next month's invoice.

12.2.4 NFON's aggregate liability to the Customer under or in connection with these Terms and Conditions (whether in contract, tort, or otherwise including any liability in negligence) in respect of all causes of action arising in a calendar year will not exceed the total charges paid or payable by the Customer for the Service in such calendar year.

12.2.5 In the event of any failure in the Service, NFON will not be liable to the Customer for any charges incurred by the Customer should the Customer divert traffic to another Service provider.

12.2.6 NFON obligations and responsibilities under or in connection with these Terms and Conditions are solely to the Customer and not to any third party and the Customer will keep harmless and will indemnify NFON, its officers, employees and agents against any liabilities or costs arising from any and all claims by any third party in connection with the use of the Service or any defect in or failure of the Service.

12.3 NFON exclusively supports NFON Services on VOIP terminals that have been automatically provisioned through the NFON system. NFON does not provide support for VOIP terminals that have been manually provisioned and configured by the Customer as they present technical and security challenges. Upon written request for supply of configuration information (known as SIP account data) by the Customer, NFON shall release this information to the Customer under the following conditions:

12.3.1 The Customer accepts that NFON will not handle support requests concerning or involving registration, signalling or voice quality problems of manually provisioned VOIP terminal devices.

12.3.2 The Customer accepts that SIP access data is subject to abuse by third parties that may intercept the correspondence containing the SIP access data communication. The Customer undertakes to ensure the protection of the SIP access data and bear all liability and costs for calls resulting from an inadequate or improper handling of the SIP access data.

12.3.3 With the establishment and publication of SIP account data NFON incurs cost, for which the Customer will be charged in the form of a one-time activation fee of £10 per SIP account.

12.4 Save for the warranties and conditions expressly set out in these General Terms and Condition, NFON gives no warranty or condition regarding the Service and specifically NFON:

12.4.1 expressly disclaims all conditions and warranties of any kind, whether express or implied, including but not limited to the implied conditions and warranties of satisfactory quality, fitness for a particular purpose, reasonable care and skill and non-infringement.

12.4.2 gives no condition or warranty that the Service will meet the Customer's requirements, will be uninterrupted or timely, will be secure or error free or that defects in the Service will be corrected.

13 Number Porting

13.1 Where access to the Service is facilitated through number porting from a current supplier (eg. BT), the Customer authorises NFON to have the numbers from the current supplier listed in the appendices of the Order Form routed by NFON instead of the current supplier and to forward appropriate details of the Customer's porting application for the Service to NFON. The Customer will receive advance notification of the change of Service from the current supplier to NFON. NFON's ability to provide the Service is subject to the current supplier porting the numbers in question.

- 13.2 Customer understands and accepts that the following services will be automatically terminated upon completion of the number porting: Broadband service, Redcare Alarm, Fax, PDQ & Franking machines and monitoring services such as alarms and utility meters. Other services such as, but not limited to, 1571/Call Minder, Call Barring and Call Diversion will also be ceased. Any messages left via the 1571/Call Minder service will be lost. Customer must arrange at its own cost availability of such services from other suppliers or over other lines and numbers. Failure to do so will result in disruption to Customer business and NFON shall not take any responsibility for service loss as result of number porting.
- 13.3 The Customer accepts to cover any potential contract termination charges which may arise from Leaving Communication Provider (i.e. current supplier).
- 13.4 Customer accepts that Number Porting is governed by regulation and is managed by multiple carriers and telecommunications operators and as a result NFON has no control over the duration nor outcome of the process. NFON cannot be held liable in any way for any Number Porting related issues, faults or errors.
- 13.5 Customer accepts all charges and fees associated with Number Porting including submissions, rejections, re-submissions and export. Charges are as per current NFON price list.
- 13.6 From time to time and during the process of switching suppliers as per clause 3.1.7, NFON may port the Customer's telephone number(s) between its upstream suppliers as a general internal practice. NFON does not notify the Customer of this internal NFON network change nor seek the Customer's consent.
- 14 Rights of Offsetting and Retention**
- 14.1 The Customer shall pay all such amounts payable under clause 10.7 in full without set off or withholding of any kind.
- 14.2 The Customer can only make a claim against claims made by NFON if Customer claims are undisputed or legally confirmed
- 14.3 The Customer's right to retention only applies if the claim is undisputed or legally confirmed within the same contractual relationship.
- 15 Duties and Obligations of the Customer**
- 15.1 The Customer confirms that telephone numbers set out in the Order Form to be taken over by NFON are free from rights of third parties which restrict such takeover.
- 15.2 The Customer confirms that information provided by it to NFON is correct and complete. The Customer shall notify NFON of any changes in respect of the data provided by it. This applies in particular to the Customer's name and address as well as name, address, email, telephone and fax numbers of the Customer Service contact.
- 15.3 The Customer shall not use the Service to transmit any content in breach of applicable law. The Customer will ensure that the Services are not used either by the Customer or any third party for any fraudulent, criminal, defamatory, offensive, obscene or abusive purpose or so as to constitute a violation or infringement of the rights of NFON or any third party. The Customer undertakes to comply with all applicable laws and regulations and all reasonable instructions of NFON in relation to its use of the Service.
- 15.4 The Customer acknowledges that NFON may suspend the Service if it reasonably believes the Customer is in breach of clauses 15.3.
- 15.5 NFON is entitled to select or change the network provider and carriers at its own discretion. Customer authorises NFON to make it known that these General Terms and Conditions permits NFON to make such change. The Customer will upon request confirm the right given to NFON in this clause 15.5.
- 15.6 The Customer shall keep any password provided by NFON to access the Service strictly confidential and shall promptly notify NFON if it becomes aware any unauthorised third party becomes aware of such password. If as a result of the Customer's negligence or default a third party obtains any password supplied to the Customer the Customer shall be liable for all charges incurred as a result of any one of the Service using such password.
- 15.7 The Customer accepts responsibility to inform employees and members of staff that calls to Emergency Services (999,111) may require first dialling (9) as a prefix in order to access an external line.
- 15.8 The Customer accepts responsibility to inform employees and members of staff that calls to Emergency Services (999,111) are not available during power cuts and network outages.
- 15.9 The Customer has the obligation to ensure that the Device Site Location address details for the VOIP Terminals in the NFON portal is up to date. Failure to do so will result in incorrect address information made available to Emergency Services (999, 111).
- 15.10 In the case of a serious breach of obligations by the Customer or if he fails to prevent such a breach by a third party in spite of being warned by NFON within a specified period of time although it would be within its power NFON is entitled to terminate this Contract in accordance with clause 4.5.
- 15.11 The Customer has to check its voice mail messages at regular intervals, at least every four weeks. NFON reserves the right to delete personal messages for the Customer if the capacity limits within the relevant tariff have been exceeded.
- 16 Data Protection**
- 16.1 Each party shall comply with their obligations under applicable data protection law.
- 16.2 NFON will delete all traffic data after six months unless a pending objection makes a longer storage period of the Customer's data necessary.
- 16.3 NFON will store billing data in separate secured systems for 10 years. Access to billing data after expiry of the relevant calendar year is only possible to comply with a court order or applicable law.
- 16.4 Any other Customer-related data (e.g. correspondence by letter or email, trouble tickets) are deleted respectively anonymised at the end of the calendar year following the termination of the contract.
- 16.5 NFON is entitled to name the Customer for reference purposes and use their company logo as well. The Customer can object to his name and logo being used at any time.
- 16.5.1 NFON explicitly points out to the Customer that data protection for data transmission in open networks such as the internet cannot be completely guaranteed according to the current state of technology. The Customer is aware that other users of the Internet have the technical knowledge to enable them to breach network security and listen in or interfere with communication.
- 16.6 NFON employs technological, procedural and operational safety precautions to guarantee at all times security of personal and traffic data and protect them from accidental or intentional manipulation, loss or damage through third parties. The security measures employed are constantly improved and updated to the latest technology standard. Despite all efforts to provide maximum data security NFON cannot accept liability for unlawful interference by third parties.
- 17 Complaints**
- If the Customer is not satisfied with the Service they may first refer to NFON's Complaints Code of Practice found on www.mynfon.com and which details the correct procedure for lodging a complaint. Should the Customer not be satisfied with the handling of the complaint by NFON, the Customer may contact the Ombudsman Services – Communications at www.ombudsman-services.org or 0330 440 1614.

18 Force Majeure

Notwithstanding anything in these General Terms and Conditions, if total or partial performance of any of its obligations under these General Terms and Conditions is delayed or rendered impossible for NFON by virtue of any reason whatsoever beyond its reasonable control (including but not limited to epidemic, act of terrorism, riot, explosions, strikes or other labour unrest, unavailability of equipment, power or other commodity, failure or non-availability of Internet or telecommunications facilities, or default of any third party) then such non-performance or delay will not be deemed to constitute a breach by NFON of any term of any contracts made on the basis of these General Terms and Condition and NFON shall not be liable for any loss or damage which the Customer may suffer as a result.

19 General

- 19.1 A waiver of any right or remedy under a Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.
- 19.2 A failure or delay by a party to exercise any right or remedy provided under a Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under a Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 19.3 The rights and remedies provided under this Contract are in addition to, and not exclusive of, any rights or remedies provided by law.
- 19.4 If any provision or part-provision of a Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of a Contract.
- 19.5 A Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 19.6 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in a Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in a Contract.
- 19.7 If there is an inconsistency between any of the provisions of these General Terms and Conditions and an Order Form these General Terms and Conditions shall prevail.
- 19.8 Nothing in a Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 19.9 Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 19.10 No one other than a party to a Contract, their successors and permitted assignees, shall have any right to enforce any of its terms.
- 19.11 Any notice or other communication given to a party under or in connection with a Contract shall be in writing and shall be:

19.11.1 delivered by hand or by pre-paid first-class post or other next business day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

19.11.2 sent by email to the address specified in the Order Form or these General Terms and Conditions.

19.12 Any notice or communication shall be deemed to have been received:
19.12.1 if delivered by hand, on signature of a delivery receipt [or at the time the notice is left at the proper address];

19.12.2 if sent by pre-paid first-class post or other next business day delivery Service, at 9.00am on the second business day after posting or at the time recorded by the delivery service.

19.12.3 if sent by email, at 9.00am on the next business day after transmission.

19.13 Clause 19.12 does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

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

19.15 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with a Contract or its subject matter or formation.

THE CUSTOMER AND NFON SHALL BE BOUND BY THESE GENERAL TERMS AND CONDITIONS WHEN NFON EMAILS WRITTEN CONFIRMATION OF THE CUSTOMER'S ORDER FORM.