

Terms and Conditions of Trading Matrix Communications

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1. Interpretation

- 1.1 In these terms and conditions ("the Conditions"):
- 'BULK UPLOAD' means the method of uploading multiple CLIs into the Portal without having to manually input each CLI.
- 'CLI' means the telephone number which identifies the Customer.
- 'CDR' means call data record which provides details of the Customer's monthly use of the Specified Services for the purpose of invoicing as referred to under clause 3.4 below.
- 'CONTRACT' means the Specification Sheet detailing the provision of the Specified Service to the Customer incorporating these Conditions.
- 'CUSTOMER' means the person named on the Specification Sheet for whom Matrix Communications has agreed to procure the provision of the Specified Service in accordance with the Contract
- 'DOCUMENT' includes, in addition to a document in writing, any map, plan, graph, drawing or photograph, any film, negative, tape or other device embodying visual images and any disc, tape or other device embodying any other data.
- 'INPUT MATERIAL' means any Documents or other materials, and any data or other information provided by the Customer relating to the Specified Service.
- 'INTELLECTUAL PROPERTY RIGHTS' means (i) patents, registered trade marks, registered designs, applications and rights to apply for any of those rights; (ii) unregistered trade marks, copyrights (including, where applicable, applications and rights to apply for registration of copyright and rights in computer software), topography rights, database rights, moral rights, know-how rights in designs and inventions; (iii) trade, business and company names, internet domain names and email addresses; (iv) the goodwill attaching to any of the aforementioned rights; and (v) any forms of protection of a similar nature and having equivalent or similar effect.
- 'MATRIX COMMUNICATIONS' means 'Network Partners Limited trading as Matrix Communications' (registered number 3757599) whose registered office is at Moorhawes, Sandhawes Hill, East Grinstead, West Sussex, RH19 3NR.
- 'MATRIX COMMUNICATIONS GROUP COMPANY' means a Matrix Communications subsidiary or holding company, including without limitation a holding company of Matrix Communications, or a subsidiary of any such holding company, all as defined by Section 736 of the Companies Act 1985, as amended by the Companies Act 1989.
- 'OPERATIONAL SERVICES DATE' means the date when the Specified Service is first made available to the Customer.
- 'OUTPUT MATERIAL' means any Documents or other materials, and any data or other information provided by Matrix Communications relating to the Specified Service.
- 'PRIOR PERIOD TRAFFIC' means traffic that has not been captured in the appropriate month's CDRs.
- 'SPECIFICATION SHEET' means the sheet to which these Conditions are appended in which the Specified Services are detailed.
- 'SPECIFIED SERVICE' means the service to be provided by Matrix Communications for the Customer as detailed in the

Specification Sheet.

'SUPPLIER' means the company named in the Contract which has agreed to supply the Specified Services to Matrix Communications.

'PORTAL' means the means by which the Customer may access the Specified Services via the world wide web.

- 1.2 The headings in these conditions are for convenience only and shall not affect their interpretation.
- 1.3 In the event of any conflict between the provisions of these conditions and the Customer's conditions, the terms of these Conditions shall prevail.

2. Supply of the Specified Service

- 2.1 Matrix Communications shall be responsible for the procurement of and for facilitating the non-exclusive supply of the Specified Service to the Customer subject to the Contract. Any changes or additions to the Specified Service or the Contract must be agreed in advance and writing by Matrix Communications.
- 2.2 The Customer shall at its own expense supply Matrix Communications with all necessary Input Material to allow Matrix Communications to provide the Specified Services and shall ensure that all Input Material is accurate to the fullest extent possible. The Customer acknowledges that Matrix Communications will be unable to process any order, or part of order, where Input Material is incomplete.
- 2.3 The Customer shall at its own expense retain duplicate copies of all Input Material. Matrix Communications shall have no liability for any such loss or damage, however caused. All Output Material shall be at the sole risk of the Customer from the time of delivery to or to the order of the Customer.
- 2.4 Matrix Communications may correct any typographical or other errors or omissions in any Document relating to the provision of the Specified Service ensuring the Customer is notified of the said changes.
- 2.5 Matrix Communications may at any time, and by providing reasonable prior notice to the Customer, make any changes to the Specified Service which are necessary to comply with any applicable safety or other statutory requirements or if required to do so under any contractual terms.

3. Charges

- 3.1 Subject to any special terms agreed in advance and in writing, the Customer shall pay to Matrix Communications the amounts charged to the Customer as well as any additional sums which are also agreed in advance and in writing between Matrix Communications and the Customer for the provision of the Specified Service and/or which are required as a result of the Customer's instructions or lack of instructions, the inaccuracy of any Input Material or any other cause reasonably attributable to the Customer.
- Upon the provision of reasonable notice, Matrix Communications shall be entitled to vary any sums specified in the Contract at any time.
- 3.2 All charges to the Customer for the provision of the Specified Service are exclusive of any Value Added Tax, for which the Customer shall be additionally liable at the applicable rate from time to time.
- 3.3 Matrix Communications shall use all reasonable endeavours to

issue CDRs to the Customer by the 8th day of each month.

- 3.4 Matrix Communications shall invoice the Customer for the Specified Service on the 16th day of each month.
- 3.5 CDR's and invoices relating to CDR's may contain Prior Period Traffic and it is the Customer's responsibility to ensure that it confirms all such data provided upon which it may intend to rely.
- 3.6 The amounts specified in Matrix Communications invoices to the Customer and any additional sums payable shall be paid by the Customer (together with any applicable Value Added Tax) via direct debit within 15 days from receipt of Matrix Communications invoice (and receipt shall be deemed to take place 48 hours after Matrix Communications has posted each invoice to the Customer having first properly prepaid and addressed the same).
- 3.7 If the Customer wishes to dispute any invoice or part of an invoice falling due in accordance with Clause 3.6 the customer shall before the invoice is due for payment contact Matrix Communications in writing setting out the nature of its dispute including:
- the date and number of the disputed invoice;
 - the amount in dispute;
 - the reason for the dispute; and
 - supporting documentation, as appropriate.
- 3.8 Any undisputed part of a disputed invoice shall be paid by the Customer in accordance with Clause 3.6.
- 3.9 If payment is not made on the due date, Matrix Communications shall be entitled, and without limiting any other rights it may have, to charge interest on the outstanding amount (both before and after any judgment) at a daily rate of 4% above the Bank of England base rate.
- 3.10 If payment is not made on the due date Matrix Communications shall be entitled, without limiting any other rights it may have, to suspend the provision of the Specified Service until such time as all payments due and payable to Matrix Communications have been paid in full together with such sum as Matrix Communications may charge the Customer in respect of recommencing the provision of the Specified Service. Matrix Communications will give a minimum of 5 working days notice before suspension of the Specified Service is implemented.

4. Customer's Obligations

- 4.1 The Customer must ensure that any equipment connected to or used with the Specified Service must be connected and used in accordance with any instructions, safety or security procedures applicable to the use of that equipment.
- 4.2 It is a strict requirement of the Contract that the Customer supplies the Specified Service on a BT phone line or a BT service provider line.
- 4.3 The Customer agrees to provide Matrix Communications with at least 5 working days notice when placing Bulk Upload orders.
- 4.4 The Customer agrees that when provisioning acceptance of the Specified Service to supply Matrix Communications with either a) for a service provider line the CLI and the service provider postcode or b) for a retail line the CLI and either the installation postcode or the billing postcode.

5. Intellectual Property Rights

All Intellectual Property Rights contained within the Specified Services and any other items supplied pursuant to the Contract will remain the property of Matrix Communications or its Suppliers or sub-contractors.

6. Warranty

- 6.1 Matrix Communications warrants that it will provide the Specified Service with all the reasonable skill and care of a competent telecommunications service provider and in accordance with industry best practice.
- 6.2 Matrix Communications agrees it will use all reasonable endeavours to provide the Specified Service by utilising all current internal support functions.
- 6.3 Matrix Communications will use all reasonable endeavours to ensure that the Specified Service is provided to the Customer within 12 working days from entering correct provisioning information into the Portal. The Customer acknowledges that this date is only an estimate and that Matrix Communications shall not be liable for failure to meet this deadline.
- 6.4 Notwithstanding clause 6.1 above, there may be times when the Specified Service is temporarily unavailable due to routine or emergency maintenance, hardware failure, third party telecommunications failure, internet connection failure or any internet based attacks. Matrix Communications shall use all reasonable endeavours to minimise any such disruptions wherever possible but shall bear no liability to the Customer in respect of the same.

7. Limitation of Liability

- 7.1 Matrix Communications shall have no liability to the Customer for any loss, damage, costs, expenses or other claims for compensation arising from any Input Material or instructions supplied by the Customer which are incomplete, incorrect, inaccurate, or arising from their late arrival or non-arrival, or any other fault of the Customer.
- 7.2 Matrix Communications accepts unlimited liability for death or personal injury resulting from its negligence.
- 7.3 Other than as specified in clause 7.2 Matrix Communications shall not be liable for any direct loss or damage howsoever arising which may be suffered by the Customer in respect of any breach of this Agreement or any representation or tortious act or omission (including negligence and breach of statutory duty) arising under or in connection with this Agreement.
- 7.4 Matrix Communications shall not be liable for any indirect or consequential loss or damage including (without limitation) loss of profit, loss of business, loss of custom, loss of revenue, loss of goodwill and loss of data howsoever arising which may be suffered by the Customer in respect of any breach of this Agreement or any representation or tortious act or omission (including negligence and breach of statutory duty) arising under or in connection with this Agreement.
- 7.5 If notwithstanding the provisions of clauses 7.3 and 7.4 Matrix Communications is found liable for any loss or damage suffered by the Customer for which it would not otherwise have been held liable, the aggregate liability of Matrix Communications (other than the liability referred to in clause 7.2) in respect of all losses, damages, costs, claims or expenses suffered by the Customer during the term or thereafter and arising out of or in connection with any and all breaches of the terms of the Agreement (including claims arising in respect of a breach of warranty) shall not exceed one million pounds sterling (£1,000,000) for any one

incident or series of related incidents and to two million pounds sterling (£2,000,000) for all incidents in any period of 12 months.

8. Security

- 8.1 The Customer is responsible for the security, proper use, and confidentiality of any usernames and passwords allocated to the Customer by Matrix Communications and for passwords administered by the Customer.
- 8.2 The Customer must immediately inform Matrix Communications if there is any reason to believe that a username or password allocated by Matrix Communications or by the Customer has, or is likely to, become known to someone not authorised to use it or is being, or is likely to be, used in an unauthorised way.

9. Termination

- 9.1 The Contract shall come into force on the date of signature of the Specification Sheet and shall continue in force thereafter unless or until terminated by either party giving one months notice.
- 9.2 Either party may (without limiting any other remedy) at any time terminate the Contract by giving written notice to the other if the other commits any breach of these Conditions and (if capable of remedy) fails to remedy the breach within 14 days after being required by written notice to do so, or if the other goes into liquidation, or (in the case of an individual or firm) becomes bankrupt, makes a voluntary arrangement with his or its creditors or has a receiver or administrator appointed (other than for the purposes of bona fide reconstruction or amalgamation).
- 9.3 In the event of service of notice of termination by either party for any reason Matrix Communications shall invoice Customer for all sums due under this Contract and the Customer shall use its best endeavours to pay any outstanding amounts on or before the time due.
- 9.4 Matrix Communications reserves the right to terminate the Specified Service or any part thereof with immediate effect if the Customer uses the Specified Service in connection with the making of malicious calls or other such acts which in the reasonable opinion of Matrix Communications could be considered an unlawful or harmful use of the Specified Services.
- 9.5 Matrix Communications reserves the right to withdraw the provisions of the Specified Services on one month's notice.

10. General

- 10.1 The terms set out in the Contract constitute the entire agreement between the parties, supersede any previous agreement or understanding and may not be varied except in writing between the parties. All other terms and conditions express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.
- 10.2 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 10.3 No failure or delay by either party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either party of any breach of the Contract by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.

10.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

10.5 During this Contract and for a period of twelve (12) months following the termination of the Contract (for whatever reason) neither party shall employ or engage directly or indirectly (without the other party's prior written agreement) nor make or seek to make any offer of employment or engagement to any of the other party's staff, including its sub-contractors, who have dealt with the party in the course of the negotiation, conclusion and performance of the Contract.

10.6 Neither party shall be liable for any breach of the Contract caused directly or indirectly by anything outside its reasonable control including, without limitation to the generality of the foregoing, war, hostilities, government action requirements or regulations, breakdown, delays in transportation, inability to obtain supplies, any form of labour dispute, fire, flood or act of God, provided that the party has promptly given written notice of such occurrence to the other party. If a default due to an event of force majeure shall continue in force for more than 30 days, then the party not in default shall be entitled to terminate the Contract by notice to the other party.

10.7 The Contract shall not be construed as creating a relationship of employer and employee, principal and agent or a partnership or joint venture between the parties.

10.8 Neither party to the Contract shall disclose to any third party details of the Contract without the prior written consent of the other party save that Matrix Communications shall be permitted to disclose details to the Supplier for the purposes of discharging its obligations under the Contract and for the same purposes both Matrix Communications and the Customer shall each be permitted to disclose details to their respective subsidiaries, holding company or subsidiaries of such holding company.

10.9 Matrix Communications and the Customer can transfer this Contract, with the written consent of the other such consent not to be unreasonably withheld or delayed. However and notwithstanding, it is agreed that Matrix Communications can transfer this Contract to a Matrix Communications Group Company at any time upon the provision of notice to the Customer.

10.10 No term of the Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

10.11 The construction, validity and performance of this Contract shall be governed by English Law and subject to the exclusive jurisdiction of the courts of England.