

KCOM BUSINESS LIGHTSTREAM

TERMS AND CONDITIONS

1 TERM

- 1.1 This Contract will come into effect on the Contract Date and shall continue until the expiry of all of the Unit Agreements.
- 1.2 Each Unit Agreement will commence on its Service Start Date and continue for its Initial Term. Following the expiry of its Initial Term each Unit Agreement will continue unless and until terminated by either party giving the other no less than 30 days prior written notice, such notice to expire on or after the expiry of the Initial Term.

- 1.3 If You have requested a free trial, We agree to provide the Services to You for a period of 30 days without any charge (the "Trial Period"). The terms of this Contract, as applicable, shall apply to You during the Trial Period. At any time during the Trial Period, You may terminate the Services without any liability and You shall cease to use the Service. Any Charges You have paid in advance will be refunded to You.

2 PROVISION OF THE SERVICE

- 2.1 Provision of the Service is subject to availability and Our survey of Your Site. We shall use reasonable endeavours to provide the Services in accordance with this Contract and will use reasonable skill and care in the provision of the same. However, You acknowledge that the Services cannot be provided fault free and We do not warrant error free or uninterrupted use of the Services. We will use Our reasonable endeavours to repair any faults in accordance with the Service Standard.

- 2.2 We shall use reasonable endeavours to make each Service available for use by You from its Proposed Start Date provided the Proposed Start Date allows for Our standard lead time for the Service, as detailed in the Service Standard, and unless We are unable to do so as the result of: (a) a failure by You to fulfil Your obligations under this Contract (including the correct completion of the Data Capture Form); (b) any delay caused by a nominated third party (including, without limitation, other Network Operators); (c) delays caused by planning permission and/or OFCOM approvals that may be required and/or (d) any technical issues that may arise during installation.

- 2.3 We may need to:

- (a) change the technical specification of the Services where necessary for operational reasons, subject to such change not materially adversely affecting the performance of the Service (except where it is reasonable to do so);
- (b) suspend the Services for operational reasons (including, without limitation, in case of emergency; or
- (c) give You instructions which We believe to be necessary for health and safety reasons or for maintaining the quality of the Services or other services, but before doing any of these things, We will give You as much notice as possible.

- 2.4 Where Your DNS records are to be transferred to Us We shall not be liable for any loss or damage suffered by You:

- (a) due to Your inability to receive or send any e-mails;
- (b) for any website unavailability where the same is caused by any act or omission on the part of the ISP from whom Your e-mail (or other application) or DNS address is to be transferred from any relevant registration authority; or
- (c) by Your failure to give consent to the originating ISP to carry out such transfer.

- 2.5 You acknowledge that We may be dependent upon third parties (including, without limitation, other Network Operators) to provide the Services. Notwithstanding any other provisions of this Contract but subject to clause 15 We will not be liable to You in contract, tort (including negligence) or otherwise for the actions of any Network Operator (or other third parties) that affect or otherwise impact upon the provision of the Service.

- 2.6 You must obtain the necessary consents (at Your own expense) in order for You to receive the Service in advance of installation, including but not limited to consents to building alterations at the Site and any landlord or neighbour's permissions to enable Us, or Our subcontractors to install or maintain the Equipment. In the event that either party is not able to procure any necessary consent(s) to provide the Services within 3 months of the Proposed Start Date of a Unit Agreement, We will be able to terminate that Unit Agreement without any liability to You. You must provide an appropriate environment for the installation of the Equipment in accordance with any requirements advised to You in advance.

- 2.7 If We discover that We are not able to provide the Service for any technical reason (including, without limitation, the fact that the exchange line over which any Service is to be provided is unsuitable for use with the Services) and We

cannot resolve the issue within 3 weeks of the Proposed Start Date of a Unit Agreement, We may terminate that Unit Agreement without liability to You.

- 2.8 Where in order to provide You the Service, We consider it necessary in the circumstances to provide the Service, wholly or in part, by non-standard or exceptionally expensive methods or at a substantially greater cost than usually incurred so as to render Our standard tariff inappropriate, We may decide to make further charges in addition to the standard connection charge. If We decide to do so, We will inform You and You may then terminate that Unit Agreement within 7 days of Us notifying You of the increased Charge.

- 2.9 You acknowledge that:

- (a) some technical limitations within the Our network may not become apparent until after the Service has been installed and working for some time. In such instances, We may terminate that Unit Agreement on notice to You. In such circumstances, We will notify You of any alternative services We can provide to You, if any; and

- (b) following activation of Your Communications Line You may suffer a temporary loss of telephone service. This will be reinstated following installation as soon as reasonably possible.

- 2.10 We will supply You with a router and any other agreed Equipment for use with the Service. Title to such Equipment will remain with Us and it will be KCOM Equipment for the purposes of this Contract.

- 2.11 For the purpose of providing You with Our Managed Services, You acknowledge that We will access the Equipment supplied to You, remotely through Our network, in order for You to receive the Services, and You expressly grant a right to Us to (i) access the Equipment through such means; and (ii) monitor the traffic flowing through the Equipment to enable us to provide the Managed Services to You in accordance with Our Service Standards.

- 2.12 You shall be entitled to either purchase additional or alternative Equipment from Us or else arrange for the supply of Your own Equipment for use with the Service. Any Equipment You use must be compatible with Our Service. Title to any additional or alternative Equipment You purchase from Us will pass to You as soon as You have paid Us for it in full. We will use Our best endeavours to pass onto You the benefit of any manufacturer's warranty for any additional or alternative Equipment You purchase from Us.

- 2.13 You acknowledge that in respect of certain Services, We may implement an additional element to the Service, which will:

- (a) scan all incoming and outgoing e-mails for viruses. If We detect a virus, We will not deliver the infected e-mail and/or scan all incoming e-mails to see if they are unsolicited bulk commercial e-mails ("Spam"). If We detect a Spam e-mail, We will deliver it to a separate folder, which You may access using Your password. Spam e-mails will be deleted from this folder after 30 days. If You choose to have Spam e-mails delivered straight into Your inbox, We will identify them as being Spam.

- 2.14 If You use the Service to send or receive emails, We reserve the right to delete any unread emails two months after receipt.

3 ORDERS FOR SERVICE

- 3.1 At any time after the Contract Date You will be entitled to:

- (a) order further services under further Unit Agreements; and
- (b) request a move to the position of the Equipment (where provided by Us as part of a Managed Service), subject to such move not placing the Equipment more than 30 metres from the master socket.

- 3.2 We will respond to any orders pursuant to clause 3.1 within 10 Working Days. We will confirm the availability of the requested Service; the Charges for that Service; the Initial Term for that Service; the likely Proposed Service Start Date of that Service and any other relevant details. Such details shall not constitute an offer and You must confirm to Us in writing if You wish to contract with Us for such Services. No order pursuant to this clause 3 shall be accepted unless and until We confirm it in writing to You. Once accepted by Us, any order made under this clause 3 shall be a Unit Agreement for the purposes of this Contract. We are not obliged to respond to, process or accept any such order submitted by You. If required, You will complete a Data Capture Form in respect of the Service You are ordering.

- 3.3 Unless otherwise agreed by the parties in writing all Unit Agreements shall be governed by the terms of this Contract only.

4 USAGE ALLOWANCE

- 4.1 If the Service You receive is subject to a Monthly Usage Allowance, You shall have sole responsibility for the monitoring of Your Usage and shall pay any Charges for each gigabyte or part thereof, of Usage over and above the Monthly Usage Allowance for the Service as detailed in the Service Standard. We do not accept any liability or responsibility for the Charges that You may incur as a result of Usage of the Service, whether made innocently or with, or without, Your consent or knowledge.

- 4.2 We will send regular warnings to You by email to the email address You provide for this purpose when You place Your Order. We will send email warnings to You when You reach and/or exceed a set proportion of Your Monthly Usage Allowance, depending on the Service You take and as detailed in the Service Standard. You must ensure that You access Your email account regularly in order to receive such notices.

5 YOUR OBLIGATIONS IN RESPECT OF THE SERVICES

- 5.1 In order to enable Us to fulfil Our obligations under this Contract You shall, at Your own cost, provide Us or Our nominated third party with such access to the Site and facilities as We may reasonably require in order to install, inspect, test, adjust, maintain, modify, repair or replace any Equipment, provide the Services or otherwise perform Our obligations under this Contract.

- 5.2 You shall accurately complete the Data Capture Form and return it to Us. In the event that the information You provide is incomplete or inaccurate, You will submit the complete accurate information to Us upon request.

- 5.3 You shall advise Us in writing of all health and safety at work rules and regulations, of all dangerous objects and substances, and any other reasonable security requirements or rules applicable at the Site, which We agree to observe.

- 5.4 You will provide Us with a suitable and safe working environment whilst at the Site.

- 5.5 You shall not move, add to, modify or interfere with or attempt to repair, or cause to be repaired or serviced by any person any KCOM Equipment other than by Us or Our nominated third party.

- 5.6 You will at all times ensure that the Equipment is kept in a good and proper state of repair, is secure whilst on the Site and maintain the necessary environmental and other conditions for any Equipment as may be specified by Us from time to time.

- 5.7 We will be entitled to modify and/or replace any KCOM Equipment or the Services from time to time if We consider such modification and/or replacement reasonably necessary for the continued provision of the Services.

- 5.8 You must maintain a contract for the use of a business exchange line in respect of each Service if required for the provision of the relevant Service, as specified in Part 3. In the event that You fail to maintain such a line, We may terminate that Unit Agreement immediately on notice.

- 5.9 You will provide any electricity and connection points We may require in the provision of the Service. In the event that You fail to do so, We may terminate that Unit Agreement immediately on notice.

- 5.10 You must be the account holder for the telephone line that You intend to use with the Broadband Services. We will provide any telephone line provided as part of a voice package on the terms of Our Standard Conditions of Telephone Service for business customers, which are available at www.kcomhome.com except that we will provide any SmartComms line provided as part of a voice package on the terms of Our Standard Terms and Conditions for SmartComms Services, which are also available at www.kcomhome.com. The minimum contract period for any voice package taken with the KCOM Business Lightstream Service will be the same as the Initial Term applying to Your KCOM Business Lightstream Service.

- 5.11 You will, if so requested by Us, promptly provide such information as We may reasonably require in order to fulfil Our obligations pursuant to this Contract.

- 5.12 It is Your responsibility to correctly configure Your LAN and all connected devices and to protect Yourself adequately from virus and other system attacks (using up-to-date software). The consequence of inadequate anti-virus or firewall systems could be that You unintentionally cause interference or damage to other Internet connected devices. We may have to suspend Your Service if such interference occurs.

- 5.13 You will be responsible for restoring the condition of the Site after any of Our installation or deinstallation work, including any redecorating that may be necessary.
- 5.14 We will usually carry out the Services during Our normal working hours but may agree, exceptionally, to carry out work outside Our usual working hours subject to Your agreement to pay an additional charge.
- 5.15 Further, We may raise an additional charge if:
- Our approved engineer is called out because of faults that are found upon examination not to be faults with Our Equipment (including without limitation, power supply fluctuations or faults on another network system or apparatus to which Our Equipment is connect) or the Network; or
 - We arrange an appointment for Our approved engineer to attend Your Site but You (i) fail to provide access to the Site, or (ii) cancel the appointment for any reason; or
 - if You report the Equipment faulty and We consider (acting reasonably) that it is not, or the fault is not covered by Our warranty with the relevant third party manufacturer.
- 6 RATE ADAPTATION AND STABILISATION**
- 6.1 You acknowledge and agree that the speed and the stability of the operation of the Service is determined by:
- the characteristics of Your Communications Line, which includes its physical length, quality and susceptibility to interference from other Communication Lines;
 - the specific IP application protocol used;
 - electrical, electromagnetic or radio frequency interference;
 - Rate Adaptation and the Line Rate of the Customer Equipment;
 - the capacity available within Our network or the internet generally; and/or
 - the management of Our network traffic and the priority that may be applied to the Service that You have purchased from Us.
- 6.2 You acknowledge that Your Line Rate will be subject to Rate Adaptation. Rate Adaptation can occur several times each day and may change the Line Rate available to You. Such changes in the Line Rate may re-set Your connection to Our network or the DSLAM.
- 6.3 The Service may provide upstream (and downstream) Rate Adaptation. If so, there shall be a maximum and minimum Line Rate available for the Service. Information regarding the maximum and minimum Line Rate available for the Service can be obtained from Us, if required.
- 6.4 Where applicable to the Service You have selected, You acknowledge that the Stabilisation Period cannot commence and, if Your Communication Line is provided by another Network Operator, We will not be able to establish a Maximum Stable Rate until You have installed the appropriate Equipment and the Communication Line is synchronised to the relevant DSLAM. We will notify You once a Maximum Stable Rate has been established. However, You acknowledge that the Maximum Stable Rate may be subject to change.
- 7 KCOM EQUIPMENT**
- 7.1 We will supply the KCOM Equipment in accordance with the Acts and will comply at all times with any relevant standards.
- 7.2 Title to KCOM Equipment will remain with Us (or Our lessors, as the case may be) at all times and nothing will operate to transfer ownership of or rights in the KCOM Equipment to You.
- 7.3 You undertake and agree to:
- take all reasonable and proper care of the KCOM Equipment;
 - comply with all reasonable instructions communicated by Us to You for the safe and proper use of the KCOM Equipment from time to time;
 - not operate the KCOM Equipment in the event that it has become defective, damaged or in a dangerous state; and
 - not add to, modify or interfere with the KCOM Equipment.
- 7.4 Risk in the KCOM Equipment will pass immediately to You on delivery and You will indemnify and keep Us indemnified from and against all loss or damage caused by You to the KCOM Equipment to its full replacement value, except where this is due to fair wear and tear or is caused by Us (or anyone acting on Our behalf).
- 7.5 You will for the duration of this Contract (without prejudice to Your liability to Us), at Your own expense, effect and maintain insurance in relation to the KCOM Equipment with a reputable insurance company and such insurance will be in an amount equal to the full new replacement value of the KCOM Equipment (including all taxes duties and other payments incidental to any replacements) and on fully comprehensive terms (including third party liability) against loss or damage from any cause, including, but without limitation, all risk of third party liability arising out of the presence or use of the KCOM Equipment. You will provide Us written proof of such a policy within 10 Working Days of Our written request for the same.
- 7.6 On termination of each Unit Agreement, if You fail to allow Us to collect the KCOM Equipment You will be liable to Us for:
- a sum equivalent to the full retail value of the KCOM Equipment; and
 - the hire charges for the unreturned unit of KCOM Equipment until the sum specified in has been received by Us.
- 7.7 Any software contained in the KCOM Equipment and any software or documentation provided by Us in connection with the provision of the Services is and will remain Our property or that of Our licensors. You and Your authorised users are granted a non-exclusive, non-transferable right to use such software and manuals for the purpose of accessing the Services during the continuation of the Unit Agreement under which it is provided. Save as permitted by law, You will not copy, de-compile or modify such software and/or manuals. You will indemnify and keep Us indemnified against any costs, losses, damages, or liability We may incur due to You amending or in any way altering the software.
- 8 CUSTOMER EQUIPMENT**
- 8.1 Any Customer Equipment must: (a) be technically compatible with the Service; (b) not harm Our network, any KCOM Equipment or the equipment of any third party; and (c) be connected and used in line with any relevant instructions, standards or laws.
- 8.2 You will make any modifications to the Customer Equipment as We may determine necessary and instruct You to do so in order to provide the Services, and comply with the requirements of the Acts.
- 8.3 Where You purchase any Equipment from Us under the terms of this Contract, We will supply the relevant Equipment with the benefit of the manufacturer's standard product warranty for that Equipment.
- 9 WEB SPACE**
- 9.1 The web space made available to You as part of the Services will be as specified in the Service Standard.
- 9.2 Details or logs of who visits any site You create using Your web space will not be made available to You.
- 9.3 Returning copies of any content or data stored on any web site You create using Your web space is Your responsibility. We will not keep back up copies of Your web site. We accept no responsibility for loss of any such data or content which results from Your use of the Services.
- 9.4 The passwords that You use with Your web space are Your responsibility and should not be disclosed to any third party.
- 9.5 Your must only reference the pages on Your web space using the Domain Name allocated to You. Your must not reference Your web space by a dotted IP address (eg. 194.152.67.11).
- 10 DOMAIN NAME REGISTRATION**
- 10.1 If You choose to take a Domain Name from Us, You must tell Us the Domain Name that You would like to use with the Service and We will use Our reasonable endeavours to allocate it to You or, if it is unavailable, such other Domain Name as is reasonably acceptable to You and available for use.
- 10.2 A Domain Name in the form www.domain.co.uk with an associated email address in the form of user@domain.co.uk will be allocated to You for use with the Services. If You want to use a Domain Name with a different suffix, We will use Our reasonable endeavours to arrange the registration and/or transfer of the relevant Domain Name so that You can use it with the Service. We will make additional charges calculated at Our standard rates for providing this service.
- 10.3 We will use Our reasonable endeavours to make any changes to the Domain Names You use with the Service, at Your request. You agree to pay any additional charges, calculated at Our standard rates, for providing this service. We do not accept any responsibility for any changes that You make to Your Domain Name, the Equipment or the Services, without Our express agreement.
- 10.4 We will automatically renew the registration of any Domain Names You use with the Service, unless You give Us at least one month's written notice prior to the relevant renewal date. We will make additional charges calculated at Our standard rates for every renewal that We carry out.
- 10.5 On the termination of any Unit Agreement, We will continue to renew the registration of the Domain Names You used with the terminated services in accordance with clause 10.3 until such time as You tell Us not to by giving Us at least one month's written notice prior to the relevant renewal date. You must continue to pay charges calculated at Our standard rates for every renewal that We carry out. For the avoidance of doubt, the provisions of this clause 10.5 shall continue to have effect after the termination of this Contract.
- 10.6 We will route any IP addresses that were previously assigned to You only if those addresses were assigned to You directly and not through any other ISP. We will not be held responsible if any other ISP's refuse to accept these addresses. We shall assign new or additional TCP/IP addresses as requested by You upon being provided with satisfactory documentation justifying the need for those addresses. The documentation must be in accordance with the policies set forth by RIPE. In certain circumstances, it may be necessary for TCP/IP addresses to be approved by RIPE, and in such cases those addresses are only assigned for the duration of the Service and become invalid at such time as We no longer provides the Service to You. We shall not be responsible for any decision made by RIPE. When We assign addresses to You, a temporary extension (usually thirty (30) days after the end of the Service) may be granted at Our sole discretion. Following termination or any further period (if any), those TCP/IP addresses may be reassigned by Us to other customers. If You wish to apply for addresses that will subsist beyond the duration of the Service, You must do so directly to RIPE. Any decision by RIPE or by another ISP relating to TCP/IP addresses is the responsibility of RIPE or of that other ISP and We accept no responsibility for such decision.
- 10.7 We will not accept responsibility for any loss of ownership of any Domain Name where You have instructed Us not to renew the registration and We will not be liable for any losses You incur as a result of this.
- 10.8 On Your request, We will arrange for the transfer of any Domain Names You use with the Services to an alternative service provider. You must pay additional charges calculated at Our standard rates for every such transfer that We carry out. We will not accept responsibility for any failure to re-register or renew the registration of any Domain Names that occur after they have been transferred from Us.
- 11 USE**
- 11.1 You are only entitled to use the Services for business purposes. The Services are not available for domestic or residential use.
- 11.2 You will not re-sell the use of the Services to any third parties.
- 11.3 You will comply with any restrictions set out in the Service Standard with regard to the number of PC's that You are able to connect to the Services or the networking of the Services with a LAN.
- 11.4 You must use and You must procure that Your authorised users use, the Services only in accordance with Our instructions as may be notified in writing from time to time and in accordance with the relevant provisions of the Acts, Our Acceptable Use Policy and any other relevant Legislation.
- 11.5 You will not use and You will procure that Your authorised users will not use, the Service:
- in any way that is unlawful or fraudulent or, to Your knowledge, has any unlawful or fraudulent purpose or effect, which shall include (without prejudice to the generality of the foregoing) the carrying out of a fraud or criminal offence against Us or any other Network Operator;
 - in any way that contravenes any licence or third party rights;
 - to knowingly or recklessly transmit any material which contains software viruses or any computer code, files or programs designed to interrupt, damage, destroy or limit the functionality of any computer software, hardware or telecommunications equipment;
 - in any way which (in Our reasonable opinion) brings Our name into disrepute or in any way which intentionally causes damage or disruption to the Service or Our network;
 - to send, knowingly receive, upload, download, use or re-use material which is abusive, indecent, offensive, defamatory, obscene or menacing, or in breach of copyright, confidence, privacy or any other rights or is intended to, cause annoyance, inconvenience or worry or needless anxiety or which is defamatory, an act of treason or intended to be a hoax call to any emergency services;
 - in a way that does not comply with any instructions We give pursuant to clause 2.3(c) and/or 11.4;
 - in a way that, in Our reasonable opinion, could materially affect the quality of, or be detrimental to, any telecommunications services, including the Service;
 - to spam or send or provide unsolicited advertising or promotional material or knowingly receive responses to any spam, unsolicited advertising or promotional material sent or provided by any third party; or
 - for high traffic applications which (in Our reasonable opinion) are an unsuitable use of the Service.
- 11.6 Both parties agree to fully co-operate with the Police and any other relevant authorities (including but not limited to the Inland Revenue, the Trading Standards Office and/or OFCOM and any successor from time to time) in connection with any misuse or suspected misuse of the Service and You consent to Us co-operating with any other telecommunications operators in connection with any suspected fraudulent activity related to or connected with the Service and agree that We will be entitled to divulge the name and address and account information relating to You to such third parties.
- 11.7 You will indemnify Us against any claims or legal proceedings, which are brought or threatened against Us because the Service is used by You in breach of this clause 11.
- 12 CHANGES**
- 12.1 We may from time to time makes changes to the Service Standard and the Acceptable Use Policy. You will be able to obtain a copy of the most up-to-date versions of the

Service Standard and the Acceptable Use Policy from Our website at www.kcomhome.com at any time or by writing to Us at KCOM, 37 Carr Lane, Hull, HU1 3RE.

- 12.2 If We change the location of any Equipment at Your request, You shall pay to Us all applicable charges for any re-connections and associated work.
- 12.3 We may change this Contract (and any Unit Agreements pursuant to it) at any time in order to:
- comply with any legal or statutory obligation including, but not limited to, any requirements from time to time under the Acts;
 - comply with any final order, direction, notice, specification, designation or consent made by the Director General of OFCOM relating to the Service;
 - implement a change pursuant to clause 12.2;
 - introduce or withdraw Service features;
 - maintain the integrity or security of the Service or a Network;
 - introduce process changes, provided they are not to Your material detriment;
 - improve clarity, or make corrections to typographical errors; and/or
 - protect the use of any trade names or trademarks,
- provided that any change introduced pursuant to sub-clauses 12.3(e) to 12.3(h) shall not materially affect the Service or its performance insofar as it is reasonable to do so. We will give You at least 30 days' notice before the changes are to take effect.
- 12.4 If We materially change the conditions of this Contract pursuant to this clause 12 and such changes are to Your detriment, You shall be entitled to terminate this Contract and all Unit Agreements under it by giving Us notice, such notice to be given during the 30 day period after We have given You notice of the relevant change.

13 CHARGES

- 13.1 You will pay the Charges to Us in accordance with the Order and the Price Manual. In the event of any conflict between the Charges for the Services stated the Order and the Charges for the Services stated in the Price Manual, the Charges stated in the Price Manual shall apply. The Charges will be subject to change in accordance with this clause 13. You will pay the Charges, as follows:

- the purchase price of any Equipment purchased by the Customer will be payable on delivery to the Site;
- any connection Charges will be payable upon installation;
- any rental or other fixed monthly Charges will be payable in advance at the frequency set out in the Order from the Service Start Date unless otherwise agreed in writing; and
- a cease Charge, where payable in accordance with the terms set out in clause 14.5.

In the event that the Service Start Date for a Unit Agreement is not the same as Your monthly invoice date, We will charge You a pro rata monthly rental Charge for the first and last month, to ensure that all Unit Agreement monthly rental Charges are due on the same date.

- 13.2 We reserve the right to vary the Charges at any time on 30 days notice to You. We will give You notice of any changes to the Charges by publishing the changes in Our Price Manual. We will also give You notice of any significant changes by writing to You at the correspondence address for You set out in the Order. If We make a significant increase to the Charges under this clause, You may terminate this Contract without penalty by giving Us 30 days notice at any time within 30 days of the date We give You notice of the change if:

We increase the amount of the fixed monthly charges You pay for the service; or
 We fail to pass on any reduction in VAT (or any other direct and/or mandatory taxation); or
 We reduce the services We provide to You without making a proportionate reduction in the Charges, then We will always treat this as a significant increase in the Charges.

- 13.3 All Charges due under this Contract will be payable within 30 days of the date of the relevant invoice and will be paid in full without any set-off, deduction or withholding of any kind. We reserve the right to charge daily interest on any outstanding amounts until payment is received in full at a rate equal to 4% per cent per annum above the base rate of National Westminster Bank Plc as current from time to time whether before or after judgement and/or suspend the Service until all Charges have been paid in full.
- 13.4 All Charges are exclusive of value added tax and any other applicable taxes which may from time to time be levied.
- 13.5 Where any Charges properly due to Us under this Contract and/or a Unit Agreement are outstanding We will be entitled to offset such payments against any payments due from Us to You under any other agreements under which We provide You with telecommunications or data services.
- 13.6 If a Unit Agreement is terminated by either party prior to the expiry of its Initial Term (other than pursuant to clauses 2.6, 2.7, 2.8, 2.9, 2.10, 12.2, 14.2(b) or 16.1) You shall pay Us a termination payment ("Termination Payment") for each terminated Unit Agreement. The Termination Payment

shall be the monthly rental and other fixed charges Charge multiplied by the number of remaining months of the Initial Term.

- 13.7 You acknowledge that Our Charges have been calculated on the basis that:
- each Unit Agreement will continue until the expiry of its Initial Term; and
 - each IP address option will continue until the expiry of the IP Minimum Term,
- as We may have spent money on set up costs, and accordingly agree that it is reasonable for Us to require payment of the Termination Payment as calculated above.
- 13.8 We will repay or credit You with the appropriate proportion (on a pro rata basis) for any rental Charges You have paid in advance (other than for any part of the Initial Term if a Termination Payment is due) for the period ending after Your liability to pay the rental Charges ceases.
- 13.9 If at any time during this Contract Your financial standing changes adversely compared to Your financial standing at the date You entered the Contract, or You persistently default in paying the Charges due to Us, We may request a security deposit against non payment of any amounts due and payable to Us. If You fail to provide such a security deposit within 5 Working Days of being asked to do so, We reserve the right to terminate this Contract and/or Unit Agreements on written notice.

14 TERMINATION

- 14.1 If either party is:
- in breach of any provisions of this Contract (other than any of clauses 11.4 or 11.5) and fails to remedy such breach within a reasonable time of written notice to do so, such time being specified in the notice; and/or
 - unable to pay its debts as they fall due or threaten to suffer any resolution to wind up its business or enter into involuntary or compulsory liquidation or have an administrator, administrative receiver, receiver or any analogous officer appointed over all or part of its assets,
- then the other may immediately upon notice in writing (without prejudice to any other rights and remedies it may have) terminate (either in whole or in part) this Contract and/or any Unit Agreements.
- 14.2 We may terminate this Contract (either in whole or in part) and/or any Unit Agreements with immediate effect if:

- You are in breach (or We reasonably believe that You are in breach) of clauses 11.4 or 11.5 as such breach may be a criminal offence and/or cause serious harm to Our reputation;
- Our ability to provide the Services is altered in a way that is material to the Service (including, for the avoidance of doubt, Our Authorisation);
- the circumstances in clause 13.9 occur.

- 14.3 We reserve the right to suspend the Services prior to any termination if any of the circumstances in clauses 2.3(b), 5.12, 13.3, 14.1, or 14.2 occurs, without prejudice to any right to terminate the Contract. For the avoidance of doubt You will be liable for the Charges during any such period of suspension.

- 14.4 Upon termination of this Contract or a Unit Agreement You will cease to use all the Services or any individual Service(s) under the terminated Unit Agreement(s) as directed by Us and will pay to Us all outstanding Charges due up to and including the date of termination.

- 14.5 You will pay Us the cease Charge if (a) You terminate this Contract or any Unit Agreement (or they end) for any reason; (b) You move to another ISP; and/or (c) You move and ask Us to provide the Service at another Site.

- 14.6 The expiry or termination of this Contract will be without prejudice to any other rights either party may be entitled to and will not affect any accrued rights or liabilities of either party.

15 LIMITATION OF LIABILITY

- 15.1 Nothing in this Contract shall exclude or limit either party's liability for:
- fraud or fraudulent misrepresentation; or
 - death or personal injury resulting from its own negligence or that of its employees, subcontractors or agents; or
 - breach of the terms implied into this Contract by section 12 Sale of Goods Act 1979 or Section 2 Sale of Goods and Services Act 1982; or
 - the indemnity set out in clauses 7.4, 7.7 and 11.7.
- 15.2 Except as expressly provided in this Contract, all conditions, warranties, terms, representations, undertakings and obligations express or implied by statute (including, without limitation, those of satisfactory quality or of fitness for a particular purpose (even if that purpose is being known expressly or by implication to Us)), common law, custom, trade usage or otherwise and all liabilities (if any) are excluded to the fullest extent permitted by law.
- 15.3 Save as permitted by clauses 2.13 and 2.14, You acknowledge that We do not exercise control over or monitor in any way the content of any information, data or software which is stored or transmitted via the Service or

which You send or receive. We exclude all liability for the accuracy or inaccuracy of any information or data stored or transmitted through the Service, or the sending or receipt or failure to send or receive any e-mail, information, data or software.

- 15.4 Without prejudice to clause 15.1, We shall not be liable to You in contract or tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any:
- loss of business; or
 - loss or corruption of data or information; or
 - loss of profits; or
 - loss of goodwill; or
 - loss of business opportunity; or
 - loss of anticipated savings even when advised of the possibility,
- suffered by You under or in connection with this Contract.

- 15.5 Without prejudice to clause 15.1, We shall not be liable to You whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any special, indirect or consequential loss or damage (including legal and other professional fees and expenses) or expenses of any nature.

- 15.6 Subject to the provisions of this Contract, each party hereby accepts liability in respect of damage to the other party's tangible property resulting from its own or its employees' negligence up to an aggregate amount of £2,000,000 (two million pounds) during the term of this Contract.

- 15.7 Without prejudice to clauses 15.1 and 15.6 each party's maximum liability in connection with this Contract whether arising in contract, tort (including negligence) or restitution or for breach of statutory duty or misrepresentation or, otherwise, shall be limited in the aggregate in each Contract Year to the greater of:

- £100,000 (one hundred thousand pounds) in respect one incident or a series of related incidents and £250,000 (two hundred and fifty thousand pounds) for all such incidents in any 12 month period; or
- the aggregate value of the Charges paid by You under all of Your Unit Agreements in the previous Contract Year (the "Liability Sum").

- 15.8 With reference to clause 15.7, in the event that a Contract Year has not elapsed, the Liability Sum shall be calculated by calculating the aggregate monthly average Charges incurred under all of the Unit Agreements multiplied by 12.

- 15.9 We will in no circumstances be liable to You in contract or tort (including negligence) or otherwise if We fail to renew Your domain name.

- 15.10 You acknowledge and accept that We do not have control over, nor are responsible for any third party information, software, content or services obtained by You whilst using the Services. Use of the Services is solely at Your risk and We shall not be liable to You for any loss or damage of any nature whatsoever You suffer as a result of the use or reception of such materials.

- 15.11 The limitations of liability set out in this clause 15 shall not limit Your liability to pay any Charges that are properly due under this Contract. Further, Your liability to pay the Charges shall not be taken into account for the purposes of applying the limitations set out in this clause 15 to any other liabilities You may incur under or in connection with this Contract.

- 15.12 This clause sets out each party's entire financial liability (including any liability for the acts or omission of their respective employees, agents or subcontractors) to the other in respect of:

- any breach of this Contract; and
- any use made or resale of the Equipment and/or Software, or of any product incorporating the said Equipment and/or Software; and
- any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Contract.

16 FORCE MAJEURE

- 16.1 Subject to clause 15.1, We will not be liable to You for any loss or damage caused to or suffered by You as a direct or indirect result of the supply of Services being prevented, restricted, hindered or delayed by reason of any circumstance outside of Our control (including, without limitation, if there are technical conditions in the network which prevent Us from delivering the Service). If either party is prevented from performance of its obligations for a continuous period of three months, it may terminate this Contract and all Unit Agreements under it by giving written notice.

17 CONFIDENTIALITY AND DATA PROTECTION

- 17.1 During this Contract and after its termination or expiration for any reason, both parties shall hold in confidence all information relating to the activities or affairs of the other party to which they gain access in the course of carrying out their respective obligations pursuant to this Contract ("Confidential Information"), save to the extent that:

- (a) the relevant information comes into the public domain other than by breach of this clause 17;
- (b) the relevant information is or has been generated independently by the receiving party, otherwise within the course of performing its obligations pursuant to this Contract; or
- (c) the receiving party is obliged to disclose the relevant information pursuant to a statutory obligation, court order or instruction from a competent regulatory body or the rules of the UK Listing Authority.

17.2 Neither party may make or send a public announcement, communication or circular concerning the transactions referred to in this Contract unless it has first obtained the other party's written consent (not to be unreasonably withheld or delayed).

17.3 The obligations under this clause 17 shall survive the termination of this Contract.

17.4 Where We are processing data on Your behalf We shall only process such data in accordance with the Data Protection Laws and Our Data Protection Commitment.

We may contact Your organisation (including individuals within Your organisation) by letter, telephone or e-mail with details of Our services that may be of interest. If an individual does not wish to receive marketing material from Us then please notify us by calling 0800 1386000.

As We continue to develop our business, members of the KCOM Group may be sold and any relevant Customer Information may be transferred as part of the sale, subject to the terms of this clause.

18 GENERAL

18.1 This Contract constitutes the entire agreement and understanding of the parties and supersedes any previous agreement between the parties relating to the subject matter of this Contract.

18.2 Each of the parties acknowledges and agrees that in entering into this Contract it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Contract or not) other than as set out in this Contract. Nothing will operate to limit or exclude any liability for fraud.

18.3 Should any provision of this Contract be held to be void or voidable the remaining provisions of this Contract will continue in full force and effect.

18.4 No forbearance, delay or indulgence by either party in enforcing the provision of this Contract will prejudice or restrict the rights of that party nor will any waiver of its rights operate as a waiver of any past or subsequent breach.

18.5 We shall use reasonable endeavours to meet any delivery time, date or period. However, such dates shall be regarded as estimates and We shall have no liability to achieve any such time, dates or periods.

18.6 Members of the KCOM Group may enforce their rights under clause 13.5 but no other person or body who is not a party to this Contract has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of the Contract (but this does not affect any rights or remedies of a third party which exist or are available apart from that Act).

18.7 You may not assign the whole or part of this Contract without Our prior written consent such consent not to be unreasonably withheld.

18.8 We may assign this Contract to any company which from time to time is a member of the KCOM Group.

18.9 Subject to clause 18.8, We may not assign this Contract to any other third party without Your prior written consent such consent not to be unreasonably withheld.

18.10 We reserve the right to vary these terms and conditions to the extent necessary to take into account any changes to Industry Agreements and any relevant Legislation. Any other variations must be in writing and agreed between the parties.

18.11 Any notice under or in connection with this Contract shall unless otherwise agreed be in writing and may be delivered by hand or sent by first class post or by facsimile (confirmed by post) to the Company Secretary at the address of the party concerned set out in this Contract or any other address notified from time to time.

18.12 Any notice addressed as provided in clause 18.11 shall be deemed to have been given or made on the second Working Day after posting if sent by first class post upon delivery if delivered by hand and if sent by fax on the next Working Day after the date of transmission provided the sender's facsimile machine produces a report showing successful transmission to the correct facsimile.

18.13 Unless expressly stated, nothing in this Contract entitles You to use any of Our or any of Our other supplier's names, logos, trade marks or other intellectual property rights without prior written consent. Intellectual property rights shall remain the property of the owners and nothing in this Agreement shall be deemed to confer any assignment or licence of such rights except where expressly stated.

18.14 We shall be entitled to carry out credit checks on You. We may use information that We hold about You from Our own records and/or We may request information from a credit reference agency. We accept no liability for the accuracy or otherwise of information provided to Us from credit reference agencies. If at any time before or during the term of this Contract You fail to meet the standard of creditworthiness deemed acceptable by Us, We shall be entitled to:

- (a) terminate this Contract, in whole or in part immediately on written notice to You;
- (b) require You to make a deposit as security against future payments or such regular instalment payments in advance on account of any future charges as We shall deem appropriate;
- (c) impose credit limits on You in respect of Charges and to suspend the Service at any time when such limits are reached until payment in full of such outstanding Charges has been made; and
- (d) impose such other measures on Your right to use any of the Services as We shall deem appropriate.

18.15 In respect of any pre-contract questionnaires or forms submitted by Us to You or any enquiries We have made of You (such as, for example, as part of any government scheme run in connection with the Services (including, without limitation, any connection voucher scheme)), You warrant, represent and undertake to Us that Your answers, responses and statements are truthful, accurate and complete. You will co-operate with Us, the government and relevant third parties in respect of any investigations made by Us, the government or other third parties in connection with such. If You have provided any incorrect information to such questionnaires, forms or enquiries as part of any government scheme run in connection with the Services, You may be required to re-pay the value of any voucher or grant given in relation to such a scheme.

18.16 This Contract will be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

19 DEFINITIONS

19.1 Except where the Contract otherwise requires the following terms shall have the following meanings:

"Acceptable Use Policy" Our acceptable use policy which We may amend from time to time and which We will publish on Our website (www.kcomhome.com);

"Acts" means the Communications Act 2003, the Telecommunications Act 1984 and the Electronic Communications Act 2000 (each as amended);

"Bolt-on" a service option selected by You as specified in Part 1 and further described in the Service Standard;

"Charges" all connection charges, rental charges, usage charges, abortive visit charges, IP address Charges (if any), additional charges and any other charges payable by You pursuant to this Contract;

"Communications Line" the telecommunications system that You have notified Us that You use to obtain telecommunications services over Your telephone network at the Site;

"Contract" these Terms and Conditions, together with the Order, the Service Standard, the Data Processing Commitment and any other appendices and the Data Capture Form;

"Contract Date" the date that We accept Your Order and agree to enter into this Contract, which will be the date of Our email or letter to You that states that We agree to enter into this Contract;

"Contract Year" a period of 12 months commencing on the Service Start Date and each consecutive 12 month period thereafter;

"Customer Equipment" any equipment at the Site owned by You or a third party which when operated in conjunction with the KCOM Equipment allows You to obtain and/or receive the Services;

"Data Capture Form" means the form that We require You to complete pursuant to clause 3.2, which shall contain the information that We require in order to provide the Services;

"Data Processing Commitment" means the Data Processing Commitment contained in this Contract;

"Data Protection Laws" means all applicable laws and regulations relating to the processing of Personal Data and privacy including the Data Protection Act 1998, the General Data Protection Regulation 2016/679 and any statutory instrument, order, rule or regulation made thereunder, as from time to time amended, extended, re-enacted or consolidated and the terms "Data Controller", "Data Processor", "Data Subject", "Data Subject Access Request", "Supervisory Authorities", "process" and "Personal Data" shall have the meanings given to those terms in such data protection laws and regulations;

"DNS" (Domain Name System) the mechanism used to resolve IP addresses against domain names;

"Domain Name" a node name and associated email address allocated to You for use with the Services;

"DSLAM" digital subscriber line access multiplexer;

"Equipment" means KCOM Equipment and Customer Equipment.

"Industry Agreements" any standard industry agreements or third party agreements which impact on Our ability to provide the Services;

"Initial Term" the period of time stated in each Unit Agreement, or if none is stated, the period of time stated in the Order, which commences on each Service Start Date;

"ISP" means an Internet service provider, other than Us;

"KCOM Group" means Us, Our holding company, Our subsidiaries, and any subsidiary of Our holding company. The terms "subsidiary" and "holding company" have the meanings given to them by section 1159 and Schedule 6 of the Companies Act 2006 (as amended);

"KCOM Equipment" any equipment located at the Site which is supplied by Us or a third party as part of the Services;

"Legislation" all Acts of Parliament and statutory regulations, instruments or orders and codes of practice and all applicable European Union laws, treaties, directives and other legislation as any of the same may be amended or replaced from time to time;

"Line Rate" the rate of connection between the Customer Equipment and the DSLAM located at the local exchange;

"Managed Services" any Services described as such in the Service Standard;

"Maximum Stable Rate" the maximum Line Rate the Service is expected to achieve on Your Communications Line, calculated on a per line basis;

"Metallic Pair" means a circuit comprising a pair of twisted metal wires which allows electrical signs to be conveyed;

"Monthly Usage Allowance" the Usage included with the Service, as detailed in the Service Standard;

"Network Operators" any authorised public telecommunications operator used by Us to deliver the Services;

"Order" means the order for the Services placed by You via the telephone, the material details of which will be confirmed to You in writing by email or letter on or after the Contract Date;

"Price Manual" the price manual published on Our Website that sets out the detailed charges for Our services;

"Proposed Start Date" the date specified as such in the Order or Data Capture Form;

"Rate Adaptation" the automatic negotiation of the best Line Rate between the DSLAM and the Customer Equipment, based on the settings within Our network, as applicable, line characteristics and conditions. Rate Adaptation can occur several times a day, thus resetting the rate between the Customer Equipment and the DSLAM;

"RPI" means the Retail Price Index;

"Services" provision by Us of internet access services, including broadband, as more particularly defined in the Service Standard and any Unit Agreements;

"Service Standard" the Service level document incorporated into this Contract;

"Service Start Date" the date upon which We activate the Service and/or Additional Service as applicable in accordance with the terms of this Contract;

"Site" the premises to which the Services are to be provided, as described in the Order or Data Capture Form;

"Stabilisation Period" a period of up to 10 Working Day commencing from the date that You first use the Service following the Service Start Date, during which time the Maximum Stable Rate will be established for Your connection;

"Termination Payment" has the meaning given at clause 13.6;

"Unit Agreements" Your agreement with Us for each individual Service, whether as detailed in this Contract or in any further orders accepted by Us in accordance with clause 3;

"Usage" the amount of data transferred over the Services to You measured in gigabytes (GB);

"We/Us" KCOM Group Limited, trading under the name KCOM (registered number 2150618) whose registered office is at 37 Carr Lane, Kingston Upon Hull HU1 3RE;

"Website" Our website at www.kcomhome.com or any other replacement site;

"Working Day" Monday to Friday inclusive except for UK bank and public holidays;

"You/Your" means the person or company to whom Service is provided.

Data Processing Commitment

This Schedule represents Our commitment to You in regard to processing of Personal Data. It forms part of the Contract and should be read in conjunction with the Contract and any associated documentation.

1 DEFINITIONS

1.1 In this Data Processing Commitment Schedule, unless the context otherwise requires:

“**Data Subject**” has the meaning given to it in the Data Protection Laws;

“**Data Subject Access Request**” has the meaning given to it in the Data Protection Laws;

“**Personal Data**” has the meaning given to it in the Data Protection Laws;

“**Permitted Sub-Processor**” means any third party supplier or other sub-processor appointed by Us for the provision of Services to You pursuant to the Contract, as such third party supplier or sub-processor is expressly identified to You or as otherwise agreed between the parties.

1.2 Any other definitions used in this Data Processing Commitment Schedule shall have the meaning ascribed to it in the Contract.

2 DATA PROTECTION

2.1 Both Parties hereby warrant, represent and agree that in relation to the performance of the Services during the term of the Contract each Party will comply with the Data Protection Laws.

2.2 Both Parties acknowledge and agree that in relation to Your Personal Data, You are the Data Controller and We are the Data Processor. We agree and accept that We will process the Personal Data pursuant to and in accordance with the Contract, as applicable, and the Data Protection Laws.

2.3 The Data Processing Details set out the information regarding Our processing of Your Personal Data as required by article 28(3) of the General Data Protection Regulation 2016/679. We may make reasonable amendments to this Data Processing Details by written notice to You from time to time as We reasonably consider necessary to meet those requirements. Nothing in the Data Processing Details (including as amended pursuant to this section 2.3 of this Data Processing Commitment) confers any right or imposes any obligation on either You or Us.

2.4 We shall:

- (a) only process the Personal Data for the purposes of performing its obligations under the Contract, as applicable, and in accordance with Your documented instructions;
- (b) not transfer the Personal Data outside of the United Kingdom or the EEA, unless permitted to do so as follows:
 - (i) in provision of the Services to the relevant Permitted Sub-Processor, subject to

- ensuring that either: (a) such Permitted Sub-Processor implements appropriate technical and organisational measures to safeguard against unauthorised and unlawful processing of Personal Data and to ensure a level of security appropriate to the risk; or (b) the Sub-Processor enters into the Standard Contractual Clauses for the Processing and transfer of Personal Data outside of the United Kingdom or the EEA with You; or
- (ii) with Your prior written consent; and/or
- (iii) if required to do so by any legislation or regulation, in which case We shall inform You of such requirement if it is able to do so;
- (c) ensure that all of Our employees who process the Personal Data are subject to an obligation of confidentiality in relation to the Personal Data;
- (d) implement appropriate technical and organisational measures to safeguard against unauthorised and unlawful processing of Personal Data and to ensure a level of security appropriate to the risk, including but not limited to:
 - (i) pseudonymising and encrypting Personal Data, as appropriate;
 - (ii) ensuring the ongoing confidentiality, integrity, availability and resilience of its processing systems and services;
 - (iii) enabling the restoration, availability and access to Personal Data in a timely manner in the event of a physical or technical incident and, without prejudice to the foregoing, in accordance with any service level agreement between Us and You;
 - (iv) regularly testing, assessing and evaluating the effectiveness of the technical and organisational measures for ensuring the security of the processing; and
 - (v) taking steps to ensure that any of Our employees who have access to Personal Data does so in accordance with Our rights and obligations as expressly detailed in this Data Processing Commitment or otherwise on Your express written instructions unless otherwise required by legislation or other applicable regulation;
- (e) inform You of any new sub-processor and/or change of a Permitted Sub-Processor. You shall inform Us within five (5) Business Days of any objection to such appointment or change. If You do not raise any such objection, We shall ensure that such sub-processors shall comply with the provisions of this Schedule or terms which are substantially similar;

- (f) assist You in the timely response to requests from Data Subjects exercising their rights, including but not limited to:
 - (i) where We are required to assist You with a Data Subject Access Request You have received, responding to such request for assistance within twenty (20) days of receiving notice of such request from You;
 - (ii) where We receive a Data Subject Access Request directly from the Data Subject, We shall notify You within one (1) Business Day after receipt and shall respond to the Data Subject within the time limits specified within the Data Protection Laws and where You are required to assist Us with such Data Subject Access Request, You shall respond to Us within twenty (20) days of receiving notice of such request from Us;
 - (iii) assisting You, as applicable, with a request for access, rectification and/or erasure by a Data Subject; and
 - (iv) enabling You to comply with a request for data portability of a Data Subject;
- (g) assist You in complying with its obligations relating to security of Personal Data as set out in the Contract, as applicable, or as otherwise may be reasonably requested by You, including but not limited to:
 - (i) notifying You of any Personal Data breach as soon as reasonably practicable and no later than twenty four (24) hours after We become aware of the breach (such notice by email and/or telephone and followed up by email), and including all relevant detail. We agree and accept that You may use any detail included in the notification of a Personal Data breach, or otherwise given in its communication to Data Subjects, to the extent that such information does not breach the rights of any other individual;
 - (ii) at Your request and expense assisting with the communication to the Supervisory Authorities, any of Your customers and/or Data Subjects following a Personal Data breach and/or implementing any measures required as a result of such breach;
 - (iii) at Your request and expense, consulting with the Supervisory Authorities and/or assisting You to consult with the Supervisory Authorities, including providing You with any information relating to Our processing of Personal Data and/or Our compliance with the Data Protection Laws as You may be reasonably request.
- (h) upon the expiry or termination of the Contract, delete or return all Personal Data to You (as requested by You), unless otherwise required or permitted by Data Protection Laws and provide written confirmation You in this respect;
- (i) make available to You all information reasonably necessary to enable You to demonstrate compliance with Your obligations under the Data Protection Laws, including such records of all categories of processing carried out on Your behalf, as such is requested by You;
- (j) co-operate with any request of the Supervisory Authority;
- (k) allow You to undertake audits of Us on 30 days' notice and at Our expense, subject to any reasonable requests We may have regarding the timing and conduct of such audit (including, without limitation, such audits to be conducted during Our Business Hours and allowing Us to supervise such audit), to ensure Our compliance with this Schedule;
- (l) contribute to any audits or inspections carried out on You by any Supervisory Authority or any of Your suppliers or customers, as such contribution and/or inspection is reasonably necessary to demonstrate compliance with Your and/or Our obligations in this Data Processing Commitment, subject always to the provisions in Section **Error! Reference source not found.** above;
- (m) at Your expense, implement any reasonable recommendations and/or remedial actions necessary to ensure compliance with the provisions of this Schedule and/or the Data Protection Laws, as such recommendations and/or remedial actions are deemed necessary by You (acting reasonably) or any Supervisory Authority, as applicable, following an audit or inspection in accordance with Section **Error! Reference source not found.** above, or otherwise as You deem reasonably necessary.
- (n) Subject to clause 15, each Party shall indemnify the other Party in the event of any claim by a third party arising as a consequence of the other Party's breach of this Data Processing Commitment and/or Data Protection Laws.

3 GENERAL

- 3.1 We shall be entitled to amend this Data Processing Commitment either: (i) immediately to ensure Our commitment is in compliance with Data Protection Laws; or (ii) upon giving You 30 days' prior written notice of such change, provided that such change shall not (in Our reasonable opinion) cause a material detrimental effect to You).

DATA Processing Details

Description	Details
Subject matter of the processing	Provisions of Services pursuant to the Contract between Us and You
Duration of the processing	During the Term of the Contract and for up to 7 years after the expiry or termination of the Contract
Nature and purposes of the processing	<p>To facilitate the fulfilment of Our obligations arising under the Contract including</p> <ul style="list-style-type: none"> i. Ensuring effective communication between Us and You; ii. Maintaining full and accurate records of all Services arising under the Contract; iii. Dealing with any rights, actions, incidents or disputes arising under the Contract;
Type of Personal Data	<p>Includes:</p> <ul style="list-style-type: none"> i. Contact details of, and communications with You, and Your employees, directors or contractors concerned with management of and/or receipt of Services pursuant to the Contract ii. Contact details of, and communications with Your associated or group companies, and such parties staff concerned with management of and/or receipt of Services pursuant to the Contract iii. Contact details of, and communications with Your sub-contractors and third parties and such parties staff concerned with either the fulfilment of Your obligations arising from the Contract or the receipt of Your rights under the Contract
Categories of Data Subject	<p>Includes:</p> <ul style="list-style-type: none"> i. Your directors, employees and/or staff concerned with the delivery of the Service ii. The directors, employees and/or staff of Your group and/or associated companies concerned with the delivery of the Service iii. The directors, employees and/or staff of Your sub-contractors and/or other third parties concerned with either the fulfilment of Your obligations arising from Contract or the receipt of Your rights under the Contract

KCOM BUSINESS LIGHTSTREAM

SERVICE STANDARDS

1. INTRODUCTION

These Service Standards define the commitments we make to you.

Any changes, modifications, additions or deletions to these Service Standards will be provided to you in writing 30 days prior to such change coming into effect.

2. BROADBAND SERVICES

2.1 Service Description

KCOM Business Lightstream provides You with Ultrafast and Superfast broadband services using fibre optics nearer to Your premises to deliver faster broadband services than are normally available over copper based ADSL services.

The service can be deployed by KCOM in two methods depending on where You live and KCOM's roll-out programme. This will either be a fibre installation directly to Your premises (Fibre To The Premises – FTTP) or You may be provided service using Fibre to a nearby street cabinet (Very High Speed Digital Subscriber Line - VDSL).

The maximum download and upload speeds capable from these services is detailed in the Price Manual and Table 2 & 3 below.

These services do not include a telephone line rental or call charges, which must be taken in conjunction with these services.

2.2 Service Bolt-ons

The following Bolt-ons can be provided with Your Service for an additional charge;

Table 1 – Service Bolt-ons

Bolt on	Description
Voice	Service includes line rental plus all local & national calls and unlimited landline to mobile minutes for that line, as described in Part 1
Same Day Fix 5 Days per Week	Enhanced fault management as described in Table 5
Security	Enhanced security options, as described in Section 2.8

The Bolt-ons You have selected for Your Service are as specified in Your Order. You can select additional bolt-ons at any time by agreement with Us.

You must take each Bolt-on You select for an initial minimum period of 30 days. You can terminate Bolt-ons after the expiry of this initial minimum period by giving Us no less than 30 days' notice (terminating a Bolt-on in this way will not affect the continuation of the other parts of this Contract).

2.3 Customer Requirements

- A new or existing KCOM telephone line rental is required at the address of the KCOM Business Lightstream service.
- Ethernet LAN running TCP/IP (10 BASE T minimum). For LAN connections customer to supply PC Ethernet cards.
- An internet ready device
- If we connect PC's and laptops using the wireless router, we provide a router to wireless N standards. To optimise Your wireless speed You will require wireless N adaptors or cards for Your PC, rather than older and slower A, B and G standards.

- All customers should consider the security of their PC. KCOM recommends the use of current anti-virus software and firewall protection. Email anti-virus protection is provided with email POP accounts. Contact the business team regarding firewall security and Unified Threat Management hardware.
- FTTP customers will require two power sockets for the Optical Network Terminal (ONT) and the supplied router. VDSL customers will require a single power socket for the VDSL router and a VDSL microfilter supplied. See installation options below.

2.3 Engineer Visit

We will provide You with an AM or PM appointment. Customers who purchase a Security Bolt-on will require two on-site engineer visits and we will try and co-ordinate these on the same working day. Missed Appointment charges apply for any missed installation dates.

2.4 Connection and Hardware Charges

The type of connection We will provide for Your KCOM Business Lightstream Service will be as stated in the Order. Further details of the connections We provide are as follows;

- **Connection 50 meters;** ONT and router located together within 48 meters (usable of fibre length) of entrance.
- **Cat5e Connection;** Dual Ethernet socket and cable to 100 meters (90 meters usable) when your router needs to be located next to your PCs.

The connection charges that apply to Your KCOM Business Lightstream Service will be as stated in the Price Manual and the Order.

The type of hardware We will provide for Your KCOM Business Lightstream Service will be as stated in Table 2 & 3.

2.5 Service Features

The service features for Your KCOM Business Lightstream Service will be as stated in the Price Manual and Table 2 & 3. Where any of these details are varied in the Price Manual, the up to date details published in the Price Manual will apply.

Table 2 – FTTP Superfast

Service		Business Lightstream Basic 150	Business Lightstream Basic Unlimited	Business Lightstream Ultra	Business Lightstream Hyper	Business Lightstream Giga
Monthly Download Allowance		150GB	Unlimited***			
Monthly Upload Allowance		Unlimited***				
Additional Usage Charges		£1.00 per GB	N/A			
Average Peak Time Download Speed	FTTP	75Mbps	75Mbps	400Mbps	750Mbps	900Mbps
Average Peak Time Upload Speed	FTTP	20Mbps	20Mbps	200Mbps	375Mbps	500Mbps
IP Address*		1 IP address only	Single or Multiple IP addresses up to /29			

Email	10 POP mailboxes, each with 10 aliases 250MB storage	20 POP mailboxes, each with 10 email aliases and 250MB storage			
Webspace	50MB basic webspace	100MB business webspace	500MB business webspace	1GB business webspace	1GB business webspace
Included Services	Email anti-spam and anti-virus protection	Email anti-spam and anti-virus protection. Free .co.uk domain			
Telephone Line Rental Required**	Business telephone service required				
Hardware Included	Wireless router - no-NAT & multi-static IP capable (Engineer to install as part of connection charge)				

Table 3 – VDSL

Service		Business Lightstream Basic 150	Business Lightstream Basic Unlimited
Monthly Download Allowance		150GB	Unlimited***
Monthly Upload Allowance		Unlimited***	
Additional Usage Charges		£1.00 per GB	N/A
Average Peak Time Download Speed	FTTP	75Mbps	75Mbps
	VDSL	Dependent on the postcode area of the property	
Average Peak Time Upload Speed	FTTP	20Mbps	20Mbps
	VDSL	Dependent on the postcode area of the property	
IP Address*		1 IP address only	Single or Multiple IP addresses up to /29
Hardware Included		Wireless router – no NAT & multi-static IP capable (Engineer to install as part of connection charge)	
Email		10 POP mailboxes, each with 10 aliases 250MB storage	20 POP mailboxes, each with 10 email aliases and 250MB storage
Webspace		50MB basic webspace	100MB basic webspace
Included Services		Email anti-spam and anti-virus protection	Email anti-spam and anti-virus protection. Free .co.uk domain
Telephone Line Rental Required**		Business telephone service required	

Table 2 & 3 Notes

*Multiple static IP addresses included in the price subject to RIPE approval.

** Our FTTP service requires a KCOM business telephone line service to be situated at the Site. This can be an Analogue, ISDN or Smartcomms telephone line. Our FTTC service requires a KCOM business analogue telephone line service.

***References to “unlimited” are to the unlimited download and upload allowances with this service. No other aspect of the service is “unlimited”

**** “Peak Time” is between the hours of noon and 2pm. The “Average Peak Time Download/Upload Speed” is the download/upload speed that 50% of our business customers taking the relevant product can expect to achieve during Peak Time.

If You take a non-managed KCOM Business Lightstream service, You will be responsible for managing and maintaining the router You use with the service.

2.7 Lightstream and Voice Bolt-on Description

The Lightstream Voice Bolt-on provide the ability to incorporate both a Lightstream service and exchange line into a single monthly rental. Further information about Our voice Bolt on is available in the Price Manual.

- 1 Multiple static IP addresses are subject to RIPE approval and require a no-NAT configuration.
- 2 Lifetime replacement router available whilst the customer remains a Managed Service Bolt-on customer. This does not apply to Bolt-on's that take a KCOM firewall as the firewall provides the routing capacity.

2.8 Security Bolt-on Description

KCOM Business Lightstream Secure packages are designed to provide the above features in section 2.7 along with a managed internet security appliance. The Secure package has the following extra features included:

- SoHo Blue 10 and 25 user managed security appliance including firewall & Unified Threat Management (UTM)
- Monthly subscription includes: (i) firewall hardware and hardware support, (ii) software updates/upgrades and (iii) installation and fault management
- Includes initial 12 month warranty firewall swap-out by next working day

Secure Office comes with UTM Standard and Secure Premium comes with UTM Premium software licences as detailed in Table 4 below:

Table 4

Component	UTM Standard	UTM Standard
Advanced Firewall	Yes	Yes
Premium Content Filtering - URL Filtering	Yes	Yes
Wide Area Network (WAN) Optimisation - caching	Yes	Yes
Email Anti-Virus	Yes – Clam AV	Yes - Sophos
Email Anti-Spam	Yes	Yes
Email Policy Filtering	Yes	Yes
Software & Firmware Updates	Yes	Yes
Virtual Private Network (VPN) capable – OpenVPN		Yes
Anti-spyware	No	Yes
Browsing Anti-Virus	No	Yes
Intrusion Detection	No	Yes

3 HARDWARE

3.1 Provided Hardware

We will provide hardware to You, for You to use with the KCOM Business Lightstream service, You acknowledge that any free hardware provided shall remain the property of KCOM. If the service is cancelled You must allow us access to the premises to collect the hardware, if required.

You must take reasonable care of the hardware whilst it is at the premises and, in particular, must protect it from accidental damage and theft. In addition, You must not allow anyone other than us to carry out any repairs or maintenance work on the hardware.

You will be responsible for the cost of repair or replacement hardware if it is lost or damaged as a result of accidental damage or You failing to take proper care of them. However, we will be responsible for any problems You experience with the use of the hardware that can be attributed to any defects with the materials or manufacture. We will repair or replace any defective items free of charge within the initial 12 months with a new or as new hardware of similar specification as the hardware being replaced. Beyond the initial 12 month warranty You will be required to purchase replacement hardware, excluding the KCOM Business Lightstream Managed service which we provide with a lifetime warranty on a suitable router.

3.2 **Purchased and Replacement Hardware**

If You purchase Hardware to use with the Service from Us or are required to purchase replacement Hardware after the initial 12 months service, the ownership of the hardware shall be Yours once You have paid for the hardware in full. We will assign the benefit of any product warranties given by the manufacturer or supplier of the Hardware to You; and You shall be entitled to replacement hardware if You experience any problems with the Hardware, during the initial 12 month period following on from the date on which We supply the Hardware to You, if such problems can be attributed to any defects with the materials or manufacture of the Hardware.

4 **LINE SPEEDS**

4.1 The throughput speeds for Our KCOM Business Lightstream Services are as set out in Table 2 &3 above. For our VDSL Services, the throughput speed You actually receive will be dependant on a number of factors including the quality of the line and the distance from the exchange.

4.2 We are a signatory to Ofcom's Voluntary Code of Practice for ISP's. We shall apply the same best practice principles for the benefit of our business customers

4.3 For further information regarding Throughput Speeds, the Ofcom Code of Practice for ISP's or for further information regarding the actual throughput speed that You will receive, please contact The Business Team.

5 **USAGE ALLOWANCE**

5.1 **Usage Periods**

Some of Our broadband products have a Monthly Usage Allowance, as set out in Table 2 &3 above.

The Monthly Usage Allowance commences on the Service Start Date. The Monthly Usage Allowance will normally run for the same duration as the calendar month. However, the Monthly Usage Allowance in Your first month of Service may run for up to 6 weeks.

You can view and monitor Your Monthly Usage Allowance and check the applicable dates of the Usage period for the particular month, through KCOMOnline.

5.2 **Additional Usage**

Any Usage above Your Monthly Usage Allowance will be chargeable at a rate per each GB as set out in Table 2 and 3, above.

We will send email notifications to the email address You provide for this purpose when You place Your Order. When your monthly Usage reaches 80% of Your Monthly Usage Allowance and then again when Your monthly Usage reaches 100% of Your Monthly Usage Allowance.

6. **FAULT MANAGEMENT**

In the event that you become aware of any Fault or a breakdown in the operation of the Services, you should notify us immediately by contacting the KCOM Network Support team.

Faults can be reported to us either:

- via email; or
- telephone the KCOM Network Support team as detailed in the Table 5 below.

Please ensure when contacting the KCOM Network Support team you have the following relevant details to hand.

1. Organisation name & address.
2. Details of the Services provided to you by us.
3. Contact name and relevant security details.
4. The nature of the fault.

Table 5 – Network Support Availability and Service Standards

Service	Business Lightstream Basic 150, Basic Unlimited, Ultra, Hyper & Giga	Same Day Fix 5 Days per Week Bolt-on	Same Day Fix, 7 Days per Week Bolt-on
Technical Support	Contact hours – Mon to Fri 0800 to 2100 Saturday 0900 to 1700 Sundays and Bank Holidays 1000 to 1800	Contact hours – Mon to Fri 0800 to 2100 Saturday 0900 to 1700 Sundays and Bank Holidays 1000 to 1800	Contact hours – Mon to Fri 0800 to 2100 Saturday 0900 to 1700 Sundays and Bank Holidays 1000 to 1800
Service Level Agreement the KCOM Business Promise	Repair time (or "TTRF"): Next Working Day ¹ 85% of calls answered in <60 sec 95% of emails replied to within 1 working day 75% of issues fixed at first point of contact	Repair time (or "TTRF"): Same Day Fix 5 days per week ^{1 2} 90% of calls answered in <60 sec 95% of emails replied to within 1 working day 85% of issues fixed at first point of contact	Repair time (or "TTRF"): Same day fix, 7 days per week ^{1 3} 90% of calls answered in <60 sec 95% of emails replied to within 1 working day 85% of issues fixed at first point of contact

Notes

- 1 Excluding network outages, telephony faults or faults that require ongoing monitoring, working days are Monday to Friday and exclude bank holidays
- 2 Same day fix for faults reported before 1200 Monday to Friday
- 3 Same day fix for faults reported before 1200 Monday to Sunday

Table 6 – Packages ‘SmartComms One’ Service Standards

Type of Fault	Business Care TTRF
Access Network Faults	16:00 hours, next working day
Service Feature Failure	16:00 hours, next working day
Faulty DECT Base station	16:00 hours, next working day
Faulty DECT Telephone*	1 Year Return to base Warranty

*DECT telephones are consumable items and are not maintained and covered by a 1 year return to base warranty. Replacement telephone pricing is published on the KCOM online price book

6.1 **Faults Procedure**

The following processes outline Our faults procedure:

1. You contact the KCOM Network Support team to report a fault on the appropriate Support telephone number you have been given.
2. The KCOM Network Support team will log details of the fault on Our Faults system and issue You with a unique Fault Reference Number.
3. The fault is diagnosed and if a Service engineer is required to carry out a Customer Site visit this will be arranged with You.
4. The fault is resolved and passed back to the KCOM Network Support team to confirm the Service has been restored to close.

6.2 **Our Obligations**

The Time to Resolve Faults (TTRF) obligations for Faults are shown in Table 5, above.

Table 5 also details the KCOM Promise. The KCOM Promise states the levels of service You can expect to receive from Us if You raise a fault,

6.3 **Restrictions**

We will not be responsible for rectifying any fault which is caused by:

1. Your fault or negligence (including without limitation where You have attempted to affect repairs to any Equipment or the Service unless such repairs have been expressly approved by Us);
2. The fault or negligence of another Network Operator;
3. Any failure by You to carry out Your obligations under this Contract;
4. The connection of any KCOM Equipment to any other telecommunications networks or to any Customer Equipment, including any building distribution wiring, not approved by Us; or
5. The use of any Customer Equipment or any other Equipment or software not supplied by Us.

You may request Us to rectify any faults caused by circumstances described in paragraphs 1 to 5 (above) but We reserve the right to charge You for such services at our standard rates in force from time to time. Further to the above, We reserve the right to charge You Our standard abortive visit Charge whenever:

1. One of Our engineers attends an incorrect Site address as provided by You;
2. You have not complied with any of the requirements set out in this Service Standard;
3. Entry is refused to any Site or no access can be gained at the appointed time, as agreed between the parties;
4. One of Our engineers attends a Site and discovers that the fault is not caused by the KCOM Equipment or Our Services; or
5. You report a fault which cannot be verified or confirmed by Us.

6.4 TTRF

The TTRF period shall begin once You notify the KCOM Network Support team of the fault and this being logged as a fault and a Fault Reference Number being allocated.

The TTRF period shall cease upon notice to You by the KCOM Network Support team of fault resolution. We will record the duration of the TTRF period for all Faults.

The TTRF shall not apply in respect of Customer Responsible Faults, Planned Outages, Third Party Responsible Faults or any events of Force Majeure.

6.5 Faults Logged by Us

We may raise faults against alarms on the KCOM Network. If a fault affects the Services then We will use reasonable endeavours to promptly inform the named contact(s). If You wish to change these arrangements You must contact a representative.

The start time of a fault is the time it is detected by us We will allocate a Fault Reference Number.

6.6 Fault Reference Numbers

When You report a fault, the KCOM Network Support team will give You a unique Fault Reference Number. You must quote this number in subsequent communications.

6.7 Progress Reports

We will contact you if we have any relevant updates or when the fault is cleared. You may request additional updates at any time by contacting the KCOM Network Support team on your usual Support telephone number and quote your Fault Reference Number.

6.8 Confirmation of Fault Clearance

We will contact You as soon as possible and not more than 15 (fifteen) minutes after notification from Our engineering staff that Service has been restored. In the event You contact us to report that the fault has disappeared or been traced to a third party's infrastructure, We will cancel processes in action.

6.9 Faults Not Involving KCOM Network

If the fault cannot be traced to Our Services, network or equipment, and appears to be a problem with resources or equipment for which We are not responsible, We will provide You with a report of tests that have been carried out and an explanation of how the fault was traced. This report will be supplied in writing to You if requested.

6.10 Fault Escalation

Fault escalation procedures can be invoked in the following situations:

- If a reported Fault exceeds the TTRF
- Where an individual Fault condition is particularly sensitive and is deemed to be business affecting and a quicker resolution may be necessary.

You may at any time during the Fault request immediate escalation. Escalation may be via the appropriate KCOM Group contact or on a direct peer to peer level. All requests are to clearly state the reason for escalation and any subsequent actions will be recorded on the KCOM Group Fault management system. We will use our best endeavours to respond as promptly and quickly as possible.

7. CUSTOMER AVAILABILITY AND COMPATIBLE SERVICES

KCOM Business Lightstream services are only available to business customers who contract directly with KCOM for a telephone service at the premises where this service is to be installed. VDSL customers must take a standard KCOM telephone line. Customers who can purchase KCOM Business Lightstream over Fibre to the Premises (FTTP) can contract for any telephone service including Analogue, Centrex, ISDN2/2e, ISDN30/30e, or Smartcomms telephone services. KCOM Business Lightstream prices apply to Your high-speed Internet rental only, normal line rental and call charges apply to any telephony services You receive from KCOM over Your telephone line.

KCOM Business Lightstream over VDSL is not suitable for connection on ISDN2/2e, ISDN30/30e or Business Superway lines. Customers with ISDN2/2e or Business Superway will have to have their lines ceased and converted to normal phone lines for KCOM Broadband Max. ISDN30/30e customers will also need an additional analogue line in order to receive the service.

KCOM Business Lightstream over VDSL on a fax line is not recommended. Fax users should note that Group 3, 2 or 1 fax machines may not function correctly due to frequency crossover problems. Therefore an additional analogue (telephone) line should be ordered when You still intend to use a fax machine.

KCOM Business Lightstream over VDSL may interfere with caller display equipment. To check whether Your caller display unit or telephone is compatible with broadband, please refer to the manufacturer or supplier.

KCOM Business Lightstream over VDSL may interfere with alarm systems. Most alarm systems will operate as normal, but some which use 'out of band' (greater than 4kHz) signalling will be incompatible. To check whether Your alarm system is compatible, please refer to Your alarm system manual or provider.

All KCOM Business Lightstream services are subject to availability, line test and confirmation.

All customers and end-users are subject to and must abide by KCOM's Acceptable Use Policy.

8. DEFINITIONS

The following words/acronyms shall have the following meanings for the purposes of this Contract:

Time To Resolve Fault (TTRF)

The length of time from the issue of the Fault Reference Number to restoration of the Service and/or associated equipment, measured in accordance with this Service Standard

Customer Responsible Faults

In the event that a Fault is identified as being attributable to Customer Equipment, customer network, software, content, any actions or omissions of you or your employees or agents the fault shall be deemed your responsibility.

Fault Reference Number

The unique number issued when logging a fault with us.

Planned Outage

All necessary equipment maintenance or network upgrades will, wherever possible, be planned to avoid any interruption to the provided Service. In general planned work would be scheduled at low traffic periods to minimise any disruption.

Except in an emergency, or when events outside our control do not allow, We will provide 24 hours notice to You of any planned works that will affect the availability of the service via the Status Page on the portal All maintenance operations are controlled by internal procedures. All notifications will be notified to you via the Status Page on the portal.

Third Party Attributable Faults

A Fault that is identified as being attributable to a third party (i.e. neither you nor us). In such circumstances, We will try to rectify such Third Party Attributable Faults as soon as reasonably practicable.