

Conditions for Ethernet Services

YOUR AGREEMENT WITH US (this "AGREEMENT") IS MADE UP OF THE FOLLOWING DOCUMENTS:

- (i) THESE CONDITIONS FOR ETHERNET SERVICES;
- (ii) THE GAMMA CONDITIONS FOR COMMUNICATION SERVICES;
- (iii) THE GAMMA SERVICE AGREEMENT(S);
- (iv) THE RELEVANT GAMMA TARIFF(S) FOR THE SERVICES WE AGREE TO PROVIDE TO YOU; AND
- (v) ANY FURTHER GAMMA CONDITIONS RELATING TO SPECIFIC SERVICES.

The terms of this agreement form part of the conditions of sale, and shall be incorporated into the Service Agreement signed by the customer. These terms are to be read in conjunction with the Conditions for Communication Services. No individual set of terms will individually constitute a full service contract for this Service. In the event of any conflict or inconsistency between the terms within these conditions and the Conditions for Communication Services, then the terms within these conditions will prevail.

1. THE SERVICE

1.1 We will supply you with the services in accordance with our conditions and the accompanying signed Service Agreement and fully completed customer requirements form. The combination of which will form a service contract between the parties.

1.2 All details specified on the Service Agreement are based on information supplied by you and/or collected during a site survey, and may be subject to amendment in accordance with Clauses 1.4 to 1.6 below.

1.3 We and/or our subcontractors may conduct surveys to clarify whether the Service, Equipment, Service Commencement Date, Installation Fee, or Service Fee require amending.

1.4 Where we determine that amendments are required, we will submit to you a replacement Service Agreement, reflecting any such changes. If the replacement Service Agreement is agreed by you, that replacement Service Agreement will immediately supersede the original Service Agreement (which will be immediately cancelled). If you do not agree the replacement Service Agreement, both the original Service Agreement and replacement Service Agreement will be cancelled by us 14 days after notification of such amendments. In some cases we will not provide a replacement Service Agreement and any amendments to the Service or the charges may be agreed instead by email correspondence.

1.5 Following the completion of the surveys and, if required, the agreeing of the replacement Service Agreement or email confirmation, we will confirm the Contractual Delivery Date to you. The Contractual Delivery Date may be later than your Required Date if the Required Date falls before the minimum order lead times.

1.6 We will use reasonable endeavours to meet any agreed times or dates, but time is not of the essence in respect of those times or dates and you acknowledge that all timeframes are estimates only and that service levels are target service levels only.

1.7 Throughout the provisioning process, we will need to communicate with named member(s) of your staff to arrange access to your premises. Any delays to these requests by you will delay Service Commencement Date and we will not be liable for any such delay.

1.8 To enable us to provide the Installation Service, you will:

1.8.1 prepare the Sites and your networks in accordance with our instructions. For the installation a minimum of two 13 amp AC outlets will be required for each NTE. The installing engineer will require access to further sockets for test equipment and commissioning. You are responsible, at your own cost, for the

power supply and arranging alternative power supplies if any temporary supply fails. Installing engineers may refuse to install equipment if they perceive a hazard or risk,

1.8.2 connect any tail circuits to your network in accordance with our instructions,

1.8.3 provide us with full access to your sites and networks and make available such office and technology facilities as may be necessary for us to provide the Service,

1.8.4 provide a suitable operating environment for the equipment in accordance with the manufacturer's operating instructions,

1.8.5 promptly furnish us with such information and documents as we may reasonably require for the proper performance of the Services,

1.8.5 obtain all third party consents, licenses and rights reasonably required in order to allow us or our subcontractor to provide the Service and be responsible for complying with any applicable laws, statutes, regulations and codes of practice, in relation to the Services, and

1.8.6 put in place adequate security and virus checking procedures in relation to any computer facilities to which it provides us with access.

1.9 All Equipment provided by us will remain our property and we reserve the right to request return of the Equipment at your cost. You agree to return the equipment to us on termination of your contract for any reason.

1.10 We reserve the right not to provide the Service to any Site and to withdraw our provisional acceptance of an order for reasons including, but not limited to:

1.10.1 the distance between a site and the point of presence of Gamma or its underlying service provider,

1.10.2 if a site survey finds that a site is not suitable for the provision of the Service,

1.10.3 if you do not agree to pay the excess construction charges or any other charges reasonably levied by us in addition to the charges initially proposed.

1.11 We or our nominated subcontractor will install the Service and will perform a series of commissioning tests to ensure that the configured Service is functioning correctly. On successful conclusion of the commissioning tests and, where applicable, the router installation the Service will be deemed to be ready for use and we shall be entitled to invoice you for such Service from this date ("the Installation Date"). The Service Commencement Date is subject to the installation of the required router (whether such is supplied and / or installed by us or not) and the completion of successful testing of the final installation with us and may be subsequent to the date when the Service is deemed ready for use as set out above. Where the Service is being used to provide connectivity to an IP telephony service the Service Commencement Date will be further contingent on you having successfully completed all necessary work on the provision of such IP telephony service.

1.12 Provision of the Service will be subject to the completion of a satisfactory site survey(s) by us or our subcontractor. You acknowledge that it will be necessary for us or our subcontractor to visit the installation Site or Sites to conduct such survey(s) and for the purposes of installation.

1.13 Where an appointment is made for us or our subcontractor to visit your Site, including for the purposes of a site survey or for installation and the visit cannot be successfully completed due to:

1.13.1 the inability of us or our subcontractor, through no fault of our / their own, to complete the work,

1.13.2 the inability of us or our subcontractor to gain access to the site or sites or any part thereof which is necessary for the work,

1.13.3 the appointment is broken by the you,

1.13.4 your failure to prepare the site in accordance with Clause 1.8 or any other preparatory instructions we may have

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given you, or

1.13.5 any other reason where we or our subcontractor is not at fault,

we will charge you with our standard aborted visit charge which may be applicable at the time. Rescheduled appointments following an aborted visit will be subject to new lead-times and will be confirmed to you at the time.

1.14 Unless otherwise agreed in writing between the parties you must agree an appointment for installation at a Site within 14 days of notification by us of our preferred installation date. In the event that you do not agree such an appointment, the appointment will be deemed to have been fixed for our preferred installation date unless a revised Required Date is subsequently agreed.

1.15 Unless you have ordered an installation of the router, it is your responsibility to install a router at the Site or Sites where this is required and neither we nor our designated subcontractor shall bear any liability for failure to meet any Service Commencement Date due to delay in the installation of such router.

1.16 We will maintain your Service to the Service Demarcation Point.

1.17 Where we agree you may use/supply your own router for the Service then you agree that all responsibility and liability for such equipment remains with you. Should we or our subcontractor visit your Site due to a fault which is later found to be caused by equipment not provided by us then we will charge you for such site visit and any additional costs incurred as a direct result.

1.18 If you request and we agree to upgrade your bandwidth then additional charges may apply and we will advise you of these at the time.

1.19 The FTTC Ethernet Service requires a Gamma PSTN line for service delivery and that line should have no other services or features attached to the line. The line should have a minimum Level 4 maintenance care. We will not accept an order for this Service if no such line is present. Where we install a new PSTN line for the Service this will affect the lead times for delivery of the service. The line will be subject to a separate charge.

1.20 Any FTTC Ethernet Service will cease automatically if the underlying PSTN line is ceased. However you will remain liable for any recurring fixed charges for the remainder of the contract for the affected FTTC Ethernet Service.

1.21 Any internal line shift carried out on the underlying PSTN line supporting the FTTC Ethernet Service may impact on the FTTC Ethernet speed (either slower or faster speed).

1.22 The fault resolution time for the FTTC Ethernet Service does not include any time taken to first resolve any PSTN faults affecting the availability or performance of the FTTC Ethernet Service. The target fault resolution time will commence from the time that it is established that the PSTN line is in working order and is not affecting the FTTC Ethernet Service. If you do not have Level 4 maintenance care then you accept and agree that any fault resolution will be in accordance with the specific care level on the line at the time.

1.23 Orders for the FTTC Ethernet Service will only be accepted where the predicted line speed is greater than 2Mbps in the downstream direction. Any orders with a predicted line speed below this will be cancelled and any Charges invoiced to you will be credited.

1.24 Actual available FTTC Ethernet line speed will be confirmed during the provisioning process. If the maximum upstream line speed is lower than originally ordered, we will process the order to allow the confirmed highest available downstream speed. For example, if a 20Mbps service is ordered but the maximum available upstream line speed is 18Mbps, the order will be processed as a 20Mbps service however the actual usable line speeds will be 20Mbps in the downstream direction and 18Mbps in the upstream direction.

1.25 The Broadband backup service requires a live analogue line provided by us and clear of any other Broadband services for service delivery. This line must also be located within 2 metres of the Ethernet termination point and router location.

1.26 The Broadband backup option is based on underlying Broadband technology and as such does not carry the same guaranteed service levels as the Ethernet Service. If the requirement is for a guaranteed secondary service then a secondary Ethernet Service should be considered.

1.27 The Broadband backup Service is offered based on suitability. In the event that the backup Service should prove inadequate following installation, we will modify the backup Service to an alternative backup Service or cease the original backup Service and supply an alternative, backup Service where availability permits. We reserve the right to charge a reasonable price for the installation of any such alternative backup Service.

1.28 Maximum line speeds for the Broadband backup Service are constrained by the maximum line speed subject to the availability of the same as set out in BT's advertised coverage of exchanges in the UK.

1.29 Simultaneous provision of the BT line together with the Broadband backup option is not available.

1.30 For a Fibre Ethernet with Fibre Ethernet backup Service, the actual resilient path of both fibre connections will only be confirmed following a site survey. In the event that, following such site survey, it is found that the two connections would have a shared route (or partial shared route) you have the option of cancelling the Order.

1.31 For a Fibre Ethernet with an EFM backup Service, both services will terminate in the same exchange as it is not possible to route to different exchanges (Fibre with Fibre backup must be used for this requirement).

1.32 FTTC Ethernet is not currently available as a backup to either Fibre Ethernet or EFM.

1.33 In the event of a fault on the primary Ethernet service, the Broadband backup services will automatically become effective. Use of the secondary backup service is not permitted other than in the event of a primary link failure. In the event of a failure of both the primary and secondary links, we will initially resolve the fault on the primary Ethernet link in accordance with our SLA.

1.34 If you fail to connect both the primary and secondary services to the router, the SLA will not come in to effect until such failure has been remedied.

1.35 The router we provide for the broadband backup service may be a refurbished router.

1.36 Where the Broadband backup Service is taken both the Ethernet primary Service and the Broadband backup Service will be delivered on the same day. If you opt to take delivery of these services on different days and also opt for the onsite router installation option, each visit will incur our standard visit charge unless you opt to connect the second service to the Gamma provided router. For the avoidance of doubt where the Broadband backup Service is added to an existing Ethernet primary Service and you require the onsite router installation such addition and installation will be subject to our standard charge for such work available on request.

2. ACCEPTANCE

2.1 We will notify you when the Installation Service has been completed. Within five (5) Working Days of the date of such notification, you will inspect and test the Service for the purpose of Acceptance ("Acceptance Testing").

During Acceptance Testing, you may notify us by email, telephone or fax of any material non-conformity of the Service.

2.2 To the extent that such non-conformities will have, in our opinion, a material detrimental effect on the Service, we will use its reasonable endeavours to remedy such non-conformities.

2.3 Acceptance shall take place on the earlier of:

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- a) your written confirmation to us or our subcontractor that the Acceptance Testing has been completed,
 - b) where you have not notified us under Clause 2.2, five (5) Working Days from the date of our notification to you that the Installation Service has been completed, or
 - c) where you have notified us under Clause 2.2 of material non-conformities, five (5) Working Days from the date on which the notified non-conformities were remedied, or immediately upon our demonstration that the notified non-conformities will not, in our opinion, have a detrimental effect on the Service.
- 2.4 Any additional time incurred by us remedying non-conformities notified by you under Clause 2.2 above shall, at our sole discretion, be reflected in corresponding extensions to the Service Commencement Date and the affected timescales in the project plan (if any). Any additional time incurred by us investigating any notified non-conformities which later are found not to exist, will be charged to you as a professional service on a time and materials basis in accordance with our then current standard rates.

3. YOUR OBLIGATIONS

- 3.1 You will be responsible for procuring any third party consents that may be required by us (and/or our subcontractors) to provide the Installation Service and/or the Service, including, for example, landlord consents, wayleave consents, tail circuit installation consents, and access consents. You will be responsible for the costs of procuring any such third party consents.
- 3.2 You will be responsible for providing named contacts (and any replacement contact(s)) and ensuring that they have the appropriate level of authority to make decisions relating to the Installation Service and the Service.
- 3.3 Where any part of the Service is a professional service to be provided at a Site, you will ensure that our staff and contractors have a safe place to work, and you will notify us (and our contractors where applicable) of any health and safety rules which apply to that Site. We will use our reasonable endeavours to ensure that our staff and contractors comply with such rules when working on your premises.
- 3.4 You will:
- 3.4.1 perform all your obligations under the Contract,
 - 3.4.2 follow our reasonable instructions,
 - 3.4.3 provide us with up-to-date information, cooperation, support, and access, at your cost, to enable us to perform our obligations under the Contract,
 - 3.4.4 provide us with office, information technology, and telecommunications facilities (including full remote access), at your cost, to enable us to perform our obligations under the Contract,
 - 3.4.5 supply on an ongoing basis, at your cost, all space, power supply access points, cables, trunking, electricity, air conditioning and any other facility as may be defined following the site survey required to receive the Installation Service and the Service, and
 - 3.4.6 keep full and up-to-date secure backup copies of the data on the Network in accordance with good industry practice;
 - 3.4.7 comply with and maintain compliance with all such laws and regulations that relate to their provision of telecommunications and other products or services supplied by us.
- 3.5 You will not allow any unauthorised user or any third party to access or use the Equipment and / or the Service, and shall take all reasonable security precautions to avoid such unauthorised access or use, and / or add to, modify, or interfere with in any way, the Equipment and / or the Service.

4. YOUR USE OF THE SERVICE

- 4.1 You will not use the Service in any way that would constitute or contribute to the commission of a crime, tort, fraud,

or other unlawful activity (including activities deemed unlawful under a complainant's legal jurisdiction) ("Laws"). You will indemnify, and keep us fully indemnified, against all costs, claims, demands, expenses, and liabilities arising out of, or in connection with, any claim that the Service (or its use) infringes any Laws.

4.2 You warrant that any material and / or communication transmitted, hosted, or otherwise processed using the Service will not be menacing, of a junk mail or spam like nature, illegal, obscene, threatening, defamatory, discriminatory, promote illegal or unlawful activity, or be otherwise actionable or in violation of any rules, regulations, or laws to which the Service is subject, and will not infringe the intellectual property rights of Gamma Business Communications or any third party. You will indemnify and keep us fully indemnified against all costs, claims, demands, expenses and liabilities arising out of or in connection with any breach or reasonably suspected breach of this Clause 4.2.

5. EQUIPMENT MAINTENANCE

- 5.1 If ordered, the Equipment Maintenance service level will be as detailed in the Service Agreement or customer requirements form.
- 5.2 Equipment Maintenance covers Equipment provided as part of the Installation Service but for the avoidance of doubt it excludes, but is not limited to, the following: Ethernet routers, cabling or telephone handsets where provided.
- 5.3 Equipment Maintenance cover must be taken at the time of ordering the Service and cannot be added subsequently.
- 5.4 Equipment Maintenance cover is provided in accordance with the Equipment Maintenance Service Description which is available on request.
- 5.5 Equipment Maintenance cover is provided for the duration of the initial minimum term as specified on the Service Agreement. At the end of the initial minimum term, the contract will automatically renew for a further period of twelve (12) months, on a rolling twelve (12) month basis, unless we receive prior notice from you giving a minimum of sixty (60) days written notice of your wish to terminate the Equipment Maintenance cover. Termination of the Equipment Maintenance cover does not constitute termination of the Service unless specifically requested by you.
- 5.6 We shall not be liable for any failure to achieve the required service level to the extent that such failure results from:
- 5.5.1 your breach of any of your obligations under these terms,
 - 5.5.2 a failure attributable solely to the use of public telecommunications links,
 - 5.5.3 an event of force majeure or matter beyond our reasonable control as defined in our Conditions for Communication Services.
- 5.7 Without prejudice to any other right or remedy you may have under this Agreement, if we fail to meet any of the service level commitments we will use reasonable endeavours to remedy such failures which will include us or our subcontractor:
- 5.6.1 investigating the cause of the failure or problem and discussing investigation results with you;
 - 5.6.2 finding a solution to such failures that is acceptable to you;
 - 5.6.3 advising you of the status of all remedial efforts.
- 5.8 In the event that the failure to achieve the required service level is only partially the result of any matter falling within clause 5.5 the actual performance of us or our subcontractor in relation to the required service level shall be adjusted to such level as the parties agree would have been achieved but for the impact of such matters. In the event that the parties are unable to agree upon the appropriate adjustment the matter shall be referred to an expert for determination.
- 5.9 Equipment Maintenance is subject to a fair use policy. We may have to curb the usage of the Equipment Maintenance service should you become a persistently high user of the

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Equipment Maintenance service whereby it can be shown that the causes of the usage are down to configuration changes initiated by you and not network faults or errors. We will engage with you to ascertain the reason for persistent high usage and work on solutions that will allow the usage to return to a more reasonable level. In cases of sustained high usage due to configuration changes initiated by you then we reserve the right to notify you that the work will become chargeable and then charge you the hourly rate as applicable at the time.

5.9 If Equipment Maintenance has not been ordered, then the replacement of the faulty Equipment is dependent upon the warranty offered by the relevant manufacturer. If an additional engineer visit is required, then this will be chargeable to you and will be arranged within usual working hours. Except where a relevant Equipment Maintenance contract is entered into, we will provide assistance to you in dealing with manufacturers but we will accept no liability in respect of any defect or breakdown of Equipment or any losses, financial or otherwise, as a direct result of such defect or breakdown.

5.10 Save as expressly provided by this Clause 5 we do not give any warranty condition or undertaking as to the state of such Equipment other than that the configuration work will be performed correctly.

6. RISK AND WARRANTY

6.1 On delivery of the Equipment to you full risk of damage to, or loss of, such equipment shall pass to you.

6.2 For a minimum period of thirty (30) days from delivery, if any Equipment materially fails to comply with the manufacturer's specifications (a "defect"), you will immediately notify us of such defect, and we will investigate such defect. If we agree that the Equipment has a defect, we will replace the Equipment.

6.3 Where a fault reported is deemed to be caused by a router provided by us, we will replace this as long as the current router is within its warranty period. We will despatch a new router to you as soon as possible, pre-configured with the username and password and any IP Addressing requested on the original order. At this point a charge for the new router will be raised and only credited back on receipt of the original faulty router. If the router is outside of the warranty period, we will provide a new router and the new router will be chargeable in accordance with the tariff applicable at the time.

6.4 Where we agree you may provide your own router at the outset or as a replacement, you will, at your own cost, be responsible for repairing, maintaining, and replacing any equipment that no longer operates in accordance with its manufacturer's specifications. Where you replace the Equipment, the replacement shall be (i) equivalent to the original's functionality and performance, and (ii) approved by us in writing. You will be responsible, at your own cost, for (i) reconfiguring any replacement of the Equipment to the same or equivalent configuration as the original (if agreed by the parties, such reconfiguration work may be provided by us as a professional services at our then current standard rates), and (ii) installing such reconfigured replacement in place of the original.

6.5 Any impact on the Service caused by substandard performance or non-availability of the Equipment under Clauses 6.2 or 6.3 shall be excluded from our service level obligations under the Agreement, and such exclusion shall continue for as long as any of the circumstances in Clauses 6.2 or 6.3 continues.

7. FEES AND PAYMENT

7.1 All pricing will be indicative only and is not binding until confirmed by us. The pricing given is valid at the point of quote, but it can only be confirmed at the point of order with the tail provider. Additional charges, such as but not limited to excess construction charges, may be applied, following the site survey. All prices are quoted are exclusive of VAT. Prices are valid for 30

days only. You will have ten (10) days to accept or refuse any excess construction charges, failure to do so will result in immediate cancellation of your order. Although excess construction charges are typically identified following site survey, it is possible in certain circumstances that they may arise later on during the provisioning process if, following an attempt to deliver the Service, additional infrastructure, work is required to provide the Service.

7.2 Unless otherwise specified on the Service Agreement, starting from the Service Commencement Date, you must pay the Service Fee monthly in advance, the Installation Fee upfront and any usage fees, if applicable, monthly in arrears.

7.3 Unless otherwise agreed by us in writing, any discount specified on the Service Agreement shall only apply during the Initial Term, and shall not apply to subsequent Service periods.

7.4 After the Initial Term, we shall be entitled to revise any fees under the Service Agreement with effect from any anniversary of the Service Commencement Date to reflect our then current standard rates by giving you not less than thirty (30) days' written notice.

7.5 We shall be entitled to increase the Service Fee at any time with immediate effect where we can reasonably demonstrate that such an increase is due to an increased cost of providing the Service caused by a third party supplier, or legal or regulatory change. Any such increase in the Service Fee will not exceed the increased cost incurred by us in providing the Service.

7.6 We may require you to pay a deposit and / or require you to procure that your parent company or related company guarantees the payment of any fees under the Agreement. You agree to enter into (and / or procure the execution of) any agreement or deed reasonably required for any such purpose.

8. SERVICE SUSPENSION

8.1 By giving reasonable notice to you, or if this is not practicable, such notice as is reasonably practicable in the circumstances, we may suspend the Service (or any part of the Service) for reasons to include but not limited to:

8.1.1 for operational reasons in accordance with the service levels, or

8.1.2 if required because of a regulatory or legal change, or

8.1.3 if we are obliged to comply with the order, instruction, or request of a court, government, agency, emergency service organisation, or other competent administrative or regulatory authority, requiring suspension to the Service, or

8.1.4 if your use of the Service may damage or disrupt the proper functioning of the infrastructure and / or equipment used to provide services to our other Customers, or

8.1.5 if we have reasonable grounds to believe that you are in breach of your obligations, and you either fail to remedy that breach or fail to demonstrate to our reasonable satisfaction that no breach took place within two (2) Working Days of written notice of the suspected breach for a serious breach (serious breach to include, but not limited to, a breach likely to cause serious damage to us or our brand, or that of our contractors, or result in legal action by a third party) or within ten (10) Working Days of written notice of the suspected breach for other breach, or

8.1.6 if an undisputed invoice (or an undisputed part of an invoice) is not paid in full by the due date, provided that we have given you at least five (5) Working Days' notice of such non-payment.

8.2 Suspension of the Service shall cause our service level obligations to be excluded for the period of the suspension. Such suspension of the Service shall continue for as long as any of the circumstances in Clauses 8 continues.

9. TERM AND TERMINATION

9.1 The term of the contract as indicated on the Service Agreement will not start until the Service Commencement Date

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but you agree that you may be charged from the Installation Date. The contract will then continue for the initial minimum term stipulated within the Service Agreement. For the avoidance of doubt, if not specified on the Service Agreement the initial minimum term of contract is 12 months. At the end of the initial minimum term, the contract will automatically renew for a further period of twelve (12) months, on a rolling twelve (12) month basis, unless we receive prior notice from you giving a minimum of sixty (60) days written notice of your wish to terminate the Service. Such termination is not to take place earlier than the expiry of the current term or renewed term.

9.2 We shall have the right, by giving written notice to you, to terminate the Agreement immediately if you:

9.2.1 commit any material breach of your obligations, and fail to remedy that breach within twenty-eight (28) days of written notice of that breach the twenty-eight (28) day period only applies where a breach is capable of remedy; if it is incapable of remedy, the Agreement may be terminated by written notice immediately), or

9.2.2 have a winding up petition presented, or enter into liquidation whether compulsorily or voluntarily (otherwise than for the purposes of amalgamation or reconstruction without insolvency), or make an arrangement with your creditors or petitions for an administration order, or has a receiver or manager appointed over any of your assets, or generally becomes unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986.

9.3 We may terminate the Service or part thereof on 60 days written notice to you provided that such notice extends the termination date beyond the end of the minimum term as set out in the Service Agreement.

9.4 Where the Agreement is terminated or otherwise brought to an end, all Service Fees for the remainder of the initial term or the renewed term (as applicable) shall become payable immediately.

9.5 If you cancel an ordered Service or any part of it, notwithstanding that such order has only been provisionally accepted by us, you agree to reimburse us for any costs we have incurred in preparing to deliver the Service in addition to the standard cancellation charge, as may be applicable at the time. We will take all reasonable steps to mitigate any such costs. If you have had a site survey you will pay the full site survey charges. If the Service includes any excess construction charges such charges will be payable in full by you on cancellation of an ordered Service. If we have provided you with any Equipment you will return such Equipment to us immediately in full working order at your cost.

9.6 If you request a change to the Required Date and/or the Contractual Delivery Date (and this has been accepted by us) and you subsequently cancel the order any cancellation charge will be calculated on the later of the revised Required Date or Contractual Delivery Date, as the case may be.

9.7 If the cancellation of the order is due to our failure to provide the Service within a reasonable time after the agreed Required Date or Contractual Delivery Date, if later, no cancellation charge will be levied.

9.8 We shall have the right to terminate the Agreement immediately if required because of a regulatory or legal change or are required to do so by a direction of Ofcom.

9.9 Any broadband backup service is provided on a minimum 12 month term. Where a service is added to a live Ethernet primary connection that has a remaining contract period of less than 12 months, the broadband backup service minimum 12 month term will still apply and we shall have the right to invoice you for any unexpired part of such minimum term should the Service be terminated within this period.

10. LIABILITY

10.1 We shall not be liable for any delay or failure in

performing our obligations or failure to meet any dates under the Agreement caused by any circumstances beyond our reasonable control (such circumstances including, without limitation, any regulatory or legal change).

10.2 All warranties, conditions, obligations, or implied terms which are implied into the Agreement by statute, custom, or law are hereby excluded to the maximum extent permissible in law.

10.3 We do not exclude or limit our liability for death or personal injury caused by our negligence, and/or

10.3.1 breach of the obligations arising from section 12 of the Sale of Goods Act 1979 (seller's implied undertaking as to title, etc.), and / or

10.3.2 breach of the obligations arising from section 2 of the Supply of Goods and Service Act 1982 (implied terms about title, etc. in certain contracts for the transfer of property in goods), and / or

10.3.3 fraudulent misrepresentation,

10.4 We shall not be liable to you for any loss of profit, loss of revenue, loss of anticipated savings, loss of goodwill, loss of data and / or perceived damage to reputation.

10.5 We have no liability for any failure to meet the Contractual Delivery Date or for any failure to meet any service levels or to repair a fault within any given timeframe.

11. DEFINITIONS

"Acceptance" – acceptance by you that the Service has been completed successfully, in accordance with Clause 2.3.

"Contractual Delivery Date" means the date the physical tail circuit is connected to your site.

"Equipment" – the router, switches, power over ethernet switches (POE) or any other Equipment we may provide as part of the Service.

"Equipment Maintenance" – an optional feature providing ongoing maintenance of some Equipment provided as part of the Service and the Installation Service as further detailed in the **"Equipment Maintenance Service Description"**.

"Network(s)" – the Local Area Network, network equipment, computer systems, and local cable infrastructure, at the Sites, to which the Service will be connected.

"Installation Fee" – the combined charge for the survey, equipment and the Installation Service, including excess construction charges, as specified on the Service Agreement or other amended documentation following site survey.

"Installation Service" – the work (if any) carried out by us or our subcontractor at each Site to enable you to receive the Service, normally carried out between 0900 and 1730 on a Working Day.

"Installation Service Commencement Date" – the date on which the Installation Service will start, as may be specified on the Service Agreement and / or customer requirements form.

"Required Date" – the date you wish the Service to commence.

"Service Agreement" – our completed and signed order form for services and / or products incorporating the product order form(s) and customer requirements form(s).

"Service" – the services, as specified on the Service Agreement, and as may be further detailed in the Order Form and / or the Customer Requirements Form detailing the Sites, Installation Service, Equipment, and Service, the related configuration, solution design, and setup of these, and any project documentation for the Installation Service.

"Service Commencement Date" – the date on which the Service will start, provisionally set as the target service commencement date and confirmed by us during the Installation Service.

"Service Demarcation Point" - is the customer port of the Gamma-supplied router. Your local area network, its configuration and management is your responsibility.

"Service Fee" – the fee for the provision of the Service, as specified on the Service Agreement.

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"Site" – each of your sites where the Installation Service and the Service will be provided, as may be specified in the Customer Requirements Form.

"Working Day" – any day falling on or between Monday to Friday, but excluding all English public and bank holidays.

"You" – the entity which contracts with us.

"We" or **"Us"** – Gamma Business Communications Ltd, incorporating Gamma Network Services, and / or our chosen subcontractor(s).