

TWISTEDPAIR LTD GENERAL SERVICES TERMS AND CONDITIONS

These terms and conditions are important and should be read carefully. If you have any queries regarding the terms and conditions please telephone 08701636999 or E-Mail info@twistedpair.co.uk

1. DEFINITIONS

In the Conditions (as defined below) the following terms shall have the following meanings unless expressly stated otherwise:

- 1.1. "Charges" means the sums charged by TwistedPair Ltd and payable by the Customer for the provision of the Services (which may include sums charged in respect of both services and materials) in the amount or at the rate notified to the Customer prior to or at the commencement of the Contract (whether in any Quotation or otherwise) or at TwistedPair Ltd's standard rates applicable for the provision of such Services (including TwistedPair Ltd's applicable man hour rate for time expended or the cost of any materials required in connection with the provision of the Services) from time to time.
- 1.2. "Commencement Date" means the date the Contract comes into force in relation to the provision of any Services, being any commencement date specified in any Quotation or the date on which the provision of Services to the Customer commences.
- 1.3. "Conditions" means these terms and conditions, any Quotation, Services Description, Schedule(s) and any written variations thereto and any other agreement in writing relating to the Services signed by TwistedPair Ltd and the Customer.
- 1.4. "Contract" means the agreement made between the Customer and TwistedPair Ltd for the provision of Services which agreement is governed by the Conditions.
- 1.5. "Customer" means the person or persons to whom Services are provided.
- 1.6. "Equipment" means any equipment belonging to the Customer or any equipment or parts installed or provided in connection with the Services.
- 1.7. "Fixed Contract" means a contract for the provision of Services in respect of which a Quotation is provided to the Customer.
- 1.8. "TwistedPair Ltd" means TwistedPair Limited having its office at Collyers Stable, Ridge Common Lane, Petersfield, GU32 1AQ its successors or assigns as notified to the Customer from time to time.
- 1.9. "On-line" means accessible over the world wide web at TwistedPair Ltd's site at www.twistedpair.co.uk or such other site as may be notified from time to time.
- 1.10. "Product Description" means any description and any technical specification of the Service, together with any applicable Customer specific service level agreement, as available from TwistedPair Ltd's offices or On-line or as provided to the Customer.
- 1.11. "Quotation" means any quotation or proposal provided by TwistedPair Ltd to the Customer relating to the provision by TwistedPair Ltd of Services detailing the Services to be provided.
- 1.12. "Schedule(s)" means any schedule(s) from time to time forwarded to the Customer by TwistedPair Ltd detailing the scope of the Services.
- 1.13. "Services" means any and all installation, maintenance, repair, engineering, technical or other services provided by TwistedPair Ltd or its duly appointed agents to the Customer from time to time the provision of which is not made pursuant to other more specific TwistedPair Ltd terms and conditions.
- 1.14. "Services Description" means any description and any technical specification of the Services, together with any applicable Customer specific service level agreement, as available from TwistedPair Ltd's offices or On-line or as provided to the Customer.

2. COMMENCEMENT AND DURATION

- 2.1. Unless otherwise expressly agreed in writing or provided for by law or regulation, the Contract shall have effect in relation to the provision of particular Services on the Commencement Date relating to such Services.
- 2.2. Subject to the provisions of sub-clauses 14.1 and 14.2 hereunder the Contract shall remain in force in relation to the provision of particular Services until terminated by either party in accordance with sub clause 14.3 below.
- 2.3. Save where termination is notified by the Customer to TwistedPair Ltd under sub-clause 14.2 below if the Customer terminates any Fixed Contract the Customer shall pay a sum equal to the Charges and any extra charges which would have been payable to TwistedPair Ltd in respect of the completion of such Fixed Contract.
- 2.4. Nothing in this clause shall prevent either party from terminating the Contract in accordance with clause 14 below.

3. VARIATION

- 3.1. TwistedPair Ltd may from time to time vary the Conditions and any Product Description applicable to Services which variation may relate to, but is not limited to:

- 3.1.1. variation of the Charges;

- 3.1.2. cessation of Services;

and will as soon as practicable before any such variation is to take effect give notice of such variation On-line and / or at TwistedPair Ltd's office.

- 3.2. Notwithstanding the above, TwistedPair Ltd may vary all or any of its standard Charges by publishing any such variation in a schedule of tariffs to be displayed and / or available at TwistedPair Ltd's office and / or On-line such variation to have immediate effect unless stipulated otherwise.

- 3.3. Other than as stated above any variations to the Contract shall be made in writing by TwistedPair Ltd and signed by a duly authorised officer of the same.

- 3.4. Save as herein expressly provided no servant or agent of TwistedPair Ltd shall have the authority to agree any variation or addition to the Contract. Any representation or warranty so made is of no force or effect unless made in accordance with this clause.

4. THE SERVICE

- 4.1. TwistedPair Ltd will provide Services to the Customer and the Customer will pay the Charges on the terms of the Conditions.

- 4.2. The Services do not include goods or services provided by TwistedPair Ltd where the provision of those goods or services is covered by other more specific TwistedPair Ltd terms and conditions, in which case those other more specific terms and conditions shall apply.

- 4.3. Where Equipment or other goods are provided to the Customer by TwistedPair Ltd in connection with the Services, then, as the case may be, the TwistedPair Ltd Equipment Rental / Equipment Purchase Terms and Conditions shall apply to the rental / purchase of such Equipment or other goods (including, without limiting the generality of the foregoing, any provisions therein as to delivery, title and risk and any warranty).

- 4.4. TwistedPair Ltd may require the Customer to provide all reasonable co-operation and assistance to TwistedPair Ltd as may be necessary or desirable in order to facilitate the provision of the Services to the Customer.

5. TELEPHONE ORDERING

- 5.1. TwistedPair Ltd may, at its discretion, provide additional services to the Customer in conjunction with or related to the Services and / or terminate the provision of any services to the Customer, and / or take or not take any other action relating to the Customer on the basis of instructions received by telephone.

5.2. TwistedPair Ltd will use its reasonable endeavours to ensure that instructions purporting to be from the Customer are indeed from the Customer. However, provided that TwistedPair Ltd has acted in good faith, TwistedPair Ltd (other than as provided in clause 10.2 and without prejudice to the generality of clause 10.3) accepts no liability, and the Customer shall be responsible for all and any sums payable, in respect of any services provided or terminated or any action taken or not taken in reliance of telephone instructions received by TwistedPair Ltd.

6. SUSPENSION OF SERVICE

6.1. TwistedPair Ltd may (without prejudice to any other right or remedy) where appropriate suspend or cancel the provision of Services without penalty and with immediate effect:

6.1.1. where it is unable to provide the Services for reasons beyond its control (including the default of failure of co-operation on the part of any other party that provides any part of the Services or upon which TwistedPair Ltd relies in order to provide any part of the Services) or otherwise for reasons not its fault provided that TwistedPair Ltd will use its reasonable endeavours to procure resumption and/or completion of the provision of the Services as soon as reasonably practical;

6.1.2. other than in the case of any Fixed Contract, where TwistedPair Ltd is reasonably of the view that the provision of the Services is or would be impracticable, unduly onerous or uneconomic;

6.1.3. where TwistedPair Ltd is unable through its reasonable efforts to procure any requisite support, software or replacement parts necessary in connection with the provision of the Services; or

6.1.4. if the Customer fails to observe or perform the Conditions.

6.2. Notwithstanding any suspension of Services under this clause the Customer shall remain liable for all charges due hereunder up to the time of suspension of such

7. CHARGES AND PAYMENT

7.1. In addition to the Charges which shall be paid by the Customer for the provision of the Services TwistedPair Ltd may charge additional sums calculated by reference to the cost of materials and to TwistedPair Ltd's applicable man hour rate for time expended in the case where at the Customer's request or where deemed necessary TwistedPair Ltd carries out work which is not expressly covered by any Quotation relating to the Services or where, in the reasonable opinion of TwistedPair Ltd, the nature of the work or materials required differ materially from TwistedPair Ltd's reasonable anticipation of the same when providing any Quotation. For example, TwistedPair Ltd may make extra charges where:

7.1.1. it works at the Customer's request outside TwistedPair Ltd's normal working hours for the provision of the relevant Services;

7.1.2. it corrects any defect or fault arising during the provision of the Services caused by the Customer or its agent or any person other than TwistedPair Ltd, its employees or agents;

7.1.3. performance of TwistedPair Ltd obligations is made more difficult or costly by the actions or omissions of the Customer (including breach of the Customer's obligations under the Contract) or any other party beyond TwistedPair Ltd's reasonable control;

7.1.4. conditions at any place where the Services are to be provided are such as to create unforeseen complications, whether of accessibility, as to the siting of equipment or otherwise; or

7.1.5. the Customer changes its requirements as to, or has misrepresented, the nature or extent of works to be provided by TwistedPair Ltd or restricts or has, in the opinion of TwistedPair Ltd, misrepresented the extent of access, co-operation or assistance which it will provide to TwistedPair Ltd.

7.2. Where more than one person is named as a Customer liability for the Charges or any additional sums relating to the Services shall be joint and several.

7.3. Charges are payable in full on demand or as otherwise agreed between the Customer and TwistedPair Ltd. If payment is agreed in writing to be made by instalments and if the Customer fails to pay any instalment on its due date then TwistedPair Ltd shall be entitled to demand immediate payment of the unpaid balance (including all ar-

7.4. TwistedPair Ltd reserves the right to charge interest on any balances which remain unpaid for more than 30 days from the due date at 3% above the short term base lending rate from time to time prevailing in England.

8. OBLIGATIONS OF THE CUSTOMER

The Customer shall:

8.1. care for and operate any Equipment installed or provided as part of the Services in accordance with TwistedPair Ltd's and manufacturer's instructions provided to it in writing and to use such Equipment only for a purpose for which it was designed;

8.2. not tamper with, modify, or interfere with any Equipment installed or provided as part of the Services or any associated wiring, without the written consent of TwistedPair Ltd;

8.3. comply with TwistedPair Ltd's reasonable requests for assistance in order to enable the provision of the Services by TwistedPair Ltd;

8.4. allow TwistedPair Ltd full and convenient access at all reasonable times to any Equipment and/or premises of the Customer as necessary or desirable in order to enable the provision of the Services by TwistedPair Ltd;

8.5. be responsible for all damage or loss caused to TwistedPair Ltd by misuse of the Equipment other than due to the acts or omissions of TwistedPair Ltd;

8.6. not connect any equipment to any Equipment installed or provided as part of the Services without first obtaining the written consent of TwistedPair Ltd. If such connection makes TwistedPair Ltd's obligations under the Contract more onerous, TwistedPair Ltd may increase the Charges;

8.7. take all reasonable and proper precautions to protect the health and safety of TwistedPair Ltd's personnel while on the Customer's premises;

8.8. promptly advise TwistedPair Ltd in writing of any change of billing address, contact address or contact number;

8.9. provide, if necessary and at their own cost, a suitable power supply, connection points and / or earthing point, acceptable to TwistedPair Ltd, for use with the Services.

9. ASSIGNMENT

9.1. The Customer may not assign the Contract.

9.2. TwistedPair Ltd reserves the right to assign all or part of the Contract to any person upon giving 28 days notice to the Customer.

9.3. Whilst remaining responsible for the provision of the Services, TwistedPair Ltd reserves the right, at its discretion, to appoint agents and / or to or sub-contract any of its obligations hereunder (and to require the Customer to deal with such agents and / or sub-contractors) in which case references in these terms and conditions to TwistedPair Ltd shall be construed, mutatis mutandis, as being to TwistedPair Ltd or its agents or sub-contractors.

10. EXCLUSION AND LIMITATION OF LIABILITY

10.1. The following provisions set out TwistedPair Ltd's entire liability (including any liability for the acts and omissions of its employees agents and sub-contractors) to the Customer in respect of any breach of contract, misrepresentation, tortious act or omission including negligence or otherwise arising under or in connection with the provision of the Services. The Customer's attention is in particular drawn to these provisions.

10.2. TwistedPair Ltd does not exclude or restrict liability for death or personal injury resulting from its own negligence.

10.3. Unless otherwise expressly agreed in writing by the parties (in a service level agreement or otherwise), TwistedPair Ltd shall not be liable to the Customer or to any other person for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with the provision of the Services except as provided in 10.2 above. Whilst TwistedPair Ltd will use its reasonable endeavours to maintain the quality of the Services it makes no representation or warranty in relation thereto.

10.4. Without prejudice to the generality of 10.2 or 10.3, TwistedPair Ltd shall not be liable to the Customer or to any other person for:

10.4.1. any defect in, poor quality of, unavailability, interruption or discontinuance of the Services or any website or e-mail address (and without prejudice to the generality of the foregoing and 10.2, TwistedPair Ltd shall in no circumstances be liable for any defect in, poor quality of, unavailability or interruption lasting less than 3 (three) days);

10.4.2. any loss of profits, business revenue, goodwill or anticipated savings, or any type of special, indirect or consequential loss (including but not limited to loss or damage to data, equipment or property even if in the care, custody or control of TwistedPair Ltd) whether direct, indirect, foreseeable or unforeseeable.

10.5. TwistedPair Ltd is not responsible for maintaining any insurance cover of any nature to cover any loss by the Customer or any other party arising from the provision or unavailability of the Services or otherwise and any such insurance cover shall be the responsibility of the Customer.

10.6. If any exclusion or limitation of liability contained in this clause is invalid and TwistedPair Ltd becomes liable for any loss or damage, the Customer (acknowledging that TwistedPair Ltd is not able to evaluate any potential loss to the Customer) agrees that TwistedPair Ltd's liability shall in any event be limited to the Charges payable by the Customer for the provision of the particular Services giving rise to such liability for loss or damage for any one event or series of events.

10.7. Each provision of this clause shall operate independently of each other provision of this clause.

11. FORCE MAJEURE

TwistedPair Ltd shall not be liable in respect of any breach of the Contract due to any cause beyond its reasonable control including (but without limitation): act of God, inclement weather, lightning, flood or fire; industrial action or lockouts; the act or omission of Government, highway authorities, or any other competent authority; war or armed conflict, military operations, vandalism or riot; the act or omission of any other party (including any other party that provides any part of the Services or upon which TwistedPair Ltd relies in order to provide any part of any Services) and national and / or civil emergencies.

12. ENTIRE AGREEMENT

The Conditions supersede all prior oral or written communications regarding the Services and contain the whole agreement between the

parties relating to the Services, unless specifically otherwise agreed in writing.

13. NOTICES

13.1. Any notice or other communication required to be given or served for the purposes of the Contract except where otherwise provided shall be in writing and shall be deemed to have been duly given and served if sent by post, facsimile or delivered by hand. Notices shall be deemed received 48 hours after posting or transmitting.

13.2. The Customer's address for correspondence shall be the contact address as detailed in any Quotation or an address notified to TwistedPair Ltd by the Customer in writing as an address to which bills may be sent or the Customer's usual or last known place of abode or business or if the Customer is a limited company its registered of-

13.3. TwistedPair Ltd's address for correspondence shall be Collyers Stable, Ridge Common Lane, Petersfield, Hampshire, GU32 1AQ.

13.4. TwistedPair Ltd's facsimile number for notice by facsimile (with confirmation by post or delivery) shall be 08701636998.

14. TERMINATION

14.1. The Contract may be terminated immediately by TwistedPair Ltd if the Customer;

14.1.1. fails to satisfy TwistedPair Ltd with regard to any credit check undertaken in respect of the Customer;

14.1.2. fails to pay when due any sum payable under the Contract or any other agreement or contract made between the Customer and TwistedPair Ltd;

14.1.3. becomes bankrupt or otherwise commits any act indicative of insolvency under the law of any jurisdiction or enters into any composition with its creditors;

14.1.4. fails to observe or perform the Conditions of the Contract or the conditions of any other agreement or contract made between the Customer and TwistedPair Ltd and fails to remedy such breach as soon as possible and in any event within 28 days after the date that TwistedPair Ltd serves written notice on the Customer in relation to

14.1.5. does or allows to be done anything which in TwistedPair Ltd's opinion will or may have the effect of jeopardising the operation of the telecommunications system provided by TwistedPair Ltd to any of its customers; or

14.1.6. enters into a contract with another telecommunications provider for part of the Services and such contract is suspended or terminated.

14.2. The Contract may be terminated by the Customer if:

14.2.1. TwistedPair Ltd unreasonably exercises its rights of variation or suspension under the Contract, by the Customer giving written notice to TwistedPair Ltd within 14 days of the notice of variation or suspension; or

14.2.2. TwistedPair Ltd fails to observe or perform its obligations under the Contract and fails to remedy such breach as soon as possible and in any event within 28 days after the date that the Customer serves written notice on TwistedPair Ltd in relation to such breach, by giving written notice to TwistedPair Ltd of such termination.

14.3. Subject to sub clauses 2.2, 14.1 and 14.2 either party may terminate the Contract provided always that the party wishing to terminate the contract gives to the other party reasonable advanced written notice of its intention to do so prior to the effective date of the purported termination of the Contract and such termination shall not affect any rights of either party to enforce any term hereof which right has accrued prior to the effective date of termination and provided always that the right of termination under this sub clause 14.3 shall not apply in the case of any Fixed Contract.

15. SEVERANCE

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

16. CREDIT

16.1 If credit has been extended to a client, and the credit limit has been reached, TwistedPair reserve the right to stop provision of any further goods or services until the balance of the debt owed falls to an acceptable level.

16.2 TwistedPair Ltd reserve the right to charge interest and to pass on any fees incurred due to late payment to the third party responsible.

17. EQUIPMENT SETUP

17.1 TwistedPair agree to provide a provision detailing their commitment to the client in regards to their setup configuration. Once this provision has been agreed on, the completion of the configuration completes the contract between the two parties. Any further configuration may be chargeable to the client or from their maintenance contract.

18.MAINTENANCE CONTRACTS / CREDITS

18.1 Maintenance shall be at the agreed rate and details as agreed in contract

18.2 If maintenance credits are purchased, they must be purchased within 1 month of the system being commissioned and are valid for 18 months from the purchase date. TwistedPair Ltd may extend this period at its discretion.

18.3 TwistedPair Ltd reserve the right to change / modify or otherwise alter the maintenance credit structure at any time with notification to the client. However TwistedPair will make all reasonable efforts to allow clients to fulfil the original contract details.

18.4 TwistedPair Ltd will make available on request the total number of maintenance credits remaining that any client has. TwistedPair Ltd will not automatically provide any details of credits left except at the clients request.

18.5 Once maintenance credits have been fulfilled by TwistedPair Ltd all further work will be chargeable. No work will be taken out if Credits are completely exhausted.

18.6 If credits are only partially exhausted, and are fulfilled during work, any further work to completion of the work assigned will be charged to the client.

18.7 It is the clients responsibility to obtain all information regarding maintenance credits before work is undertaken.

18.8 Maintenance credits will be charged as one payment.

18.9 Maintenance contracts will be charged monthly.

18.10 It is the clients responsibility to cancel the maintenance contract once the agreed contract length has expired. The maintenance will continue indefinitely until one of the parties involved wishes to terminate the contract and informs the other in writing with 28 days notice.