

Ring2 Standard Terms (UK&E)

Version UK&E 060608, last updated 6 June 2008

IMPORTANT: YOU MUST READ THESE STANDARD TERMS CAREFULLY. UNLESS OTHERWISE AGREED BY US IN WRITING, YOU WILL BE BOUND BY THESE STANDARD TERMS IN ADDITION TO ANY SERVICE TERMS THAT APPLY TO EACH SERVICE.

1 Interpretation

1.1 In this agreement:

'Administrator' means your representative, who will be the main point of contact with us and from whom we may accept instructions on your behalf.

'Affiliate' means any company controlling, controlled by, or under common control with the identified entity.

'Allowed Number' means a number: relating to a geographic area in the UK (beginning 01 or 02) or other destination listed in the Rate Sheet (**'Geographic Number'**); relating to apparatus on a mobile telephony service in the UK (beginning 077 to 079 inclusive) or other destination listed in the Rate Sheet (**'Mobile Number'**); in the UK beginning 07 that allow a person to receive calls at a Geographic Number or Mobile Number (**'Personal Number'**); in the UK beginning 080, 0844, 0845, 0870 and 0871; and any other number as identified on the Rate Sheet, but excludes all other numbers, including: 999 and 112 in the UK and similar, non-geographic numbers for emergency services worldwide (**'Emergency Number'**); any premium rate service (including those in the UK beginning 09); and any UK directory service number in the format 118XXX.

'Business Day' means a day from Monday to Friday, excluding any bank holiday or public holiday applying in London, UK and **'Business Hours'** are 09:00 to 17:00 London time on a Business Day.

'Charges' means the fees and charges for each Service, including the call rate for Dial-in Numbers (**'Dial-in Rates'**) and other Allowed Numbers and non-telephony charges (together the **'Rates'**) as set out in, and calculated in accordance with, the rate sheet applicable to that Service (**'Rate Sheet'**).

'Confidential Information' means any information of a confidential nature, whether or not identified as such in writing, disclosed by one party (**'Disclosing Party'**) to the other party (**'Recipient'**), including: trade secrets; the terms of this agreement; pricing for a Service; and strategic, marketing, financial, employee or other secret information regarding a party's business. Confidential Information does not include information that: is in or enters the public domain other than due to breach of this agreement or breach of a duty of confidentiality owed to a party to this agreement; the Recipient can demonstrate was in its possession prior to disclosure to it by the Disclosing Party; or is provided to the Recipient by a third party who is not under a duty of confidentiality regarding that information.

'Customer Content' means any content that you or an End User uploads, records or otherwise transmits through the Services, including voice, data, photographs, caricatures, illustrations, designs, icons, articles, text, audio clips, and video clips.

'End User' means a person you allow to use a Service under this agreement.

'Force Majeure' means any circumstance not within the reasonable control of a party including any: strike, labour dispute; war; riot; act of terrorism; act of God; breakdown or disruption to any computer or telecommunications system (for the avoidance of doubt not including our or our suppliers' or contractors' computers or telecommunications systems); and governmental action.

'Helpdesk' means the support service provided by us on 0845 0800 877 and support@ring2.com or such other telephone number and email as we may notify to you.

'Intellectual Property Right' or **'IPR'** means any copyright, design right, database right, trade mark, trade name, domain name, patent, topography right, right protecting goodwill, Confidential Information or know-how, an application or registration for any of the above, and rights of a similar nature or equivalent effect worldwide.

'Material' means any information, documents, data or other materials provided by us to you in any current or future medium.

'My Account' means your secure, personal web-pages at our Website which you access to update your profile and review your account.

'Order Form' means your request for a Service in our standard form, including your name and address.

'Our Account' means account number 46003460 in the name of Ring2 Communications Limited at NatWest Bank plc, sort code 60-07-29, IBAN: GB03 NWBK 6007 2946 0034 60 ,branch address 141 Ebury Street, London SW1W 9QW, UK.

'Ring2 Group' means us and any of our Affiliates.

'Service' means a service provided by us to you, including: our audio conference calling service whereby each End User is issued with a card relating to their personal, always-available dial-in conference room and enabling person-to-person calls, and impromptu and scheduled conference calls, to be initiated and controlled through a PC or mobile device (**'Audio Conferencing Service'**); our web conferencing service whereby End Users can host virtual meetings online (**'Web Conferencing Service'**); and our carrier pre-selection or indirect access services (**'CPS Service'**).

'Service Terms' means our terms and conditions that apply to a particular Service, in addition to these Standard Terms.

'Software' means any software provided or licensed by us to you under this agreement in any current or future format.

'Standard Terms' means these terms and conditions that apply to all our Services.

'Support Hours' means between 09:00 and 00:00 London time on a Business Day.

'System' means the system we use to provide any of our Services.

'Us', 'we' and 'our', whether capitalised or not, means Ring2 Communications Limited of Token House, 12 Tokenhouse Yard, London EC2R 7AS, UK, incorporated in England, company number 4677393, VAT registration number 832 3613 49.

'Website' means our website, currently available at www.ring2.com.

'You' and 'your', whether capitalised or not, means the customer identified in the Order Form as requesting a Service.

'Your Group' means you and your Affiliates.

- 1.2 Headers are provided for convenience only and will not affect the interpretation of this agreement. The schedules to this agreement are incorporated into and form part of this agreement. In this agreement, a reference to: a person includes a reference to a body corporate, association or partnership and that person's successors and permitted assigns; the singular includes the plural, the masculine includes the feminine and vice versa; **'including'** means 'including without limitation'; and **'writing'** means any legible, visible and permanent form including handwritten and printed documents, facsimile and electronic mail communications (including printed records thereof).

2 Formation of Contract

- 2.1 You must first send us an Order Form requesting a Service. If we accept your Order Form, this agreement will be legally binding from the date we notify you of our acceptance. If you otherwise make any use of a Service, this agreement will be legally binding on you from the date of your first use of the Service. Together with any terms separately negotiated with us, your Order Form, these Standard Terms and any applicable Service Terms form your agreement with us. The following order of priority will apply in cases of conflict: separately negotiated terms; your Order Form; Service Terms; then these Standard Terms.
- 2.2 We may, at our sole discretion, treat any written request from you for a Service as an Order Form. If we do so, no terms or conditions other than these Standard Terms and any Service Terms will form part of this agreement unless separately identified, negotiated and agreed to by us. In no event will any non-negotiated terms of yours form part of this agreement.

3 Services

- 3.1 In consideration of your payment of the Charges, and continued compliance with this agreement, we will provide you with Services in accordance with the terms of this agreement.

4 Support

- 4.1 At any time, and free-of-charge, you and End Users may access the help pages in your respective My Account area and contact the Helpdesk. However, you will use reasonable efforts to ensure that End Users contact your Administrator or in-house IT support team for all first-level technical support. The Helpdesk is manned during Support Hours and we will attend to any query received outside Support Hours as soon as reasonably practicable. We may monitor and record any communication between you or End Users and the Helpdesk for lawful business reasons including security, training and quality assurance.

5 IPR Ownership

- 5.1 You acknowledge that all Intellectual Property Rights in and title to the System, Software, Materials and our Confidential Information are owned by us or our licensors and that you have no right in the same other than the licence granted in any applicable Service Terms for the limited purpose of using a Service. Any such licence to Software is limited to the object code and you acknowledge that you have no right in or title to the source code of the Software. RING2, the Ring2 logo, RING2 CONFERENCING, the RING2 CONFERENCING logo, RING2 CALL CONTROLLER, RING2 CONFERENCE CONTROLLER, RING2CPS and TEXT2RING2 are our trade marks. Nothing in this agreement should be construed as granting any licence, right of use of, or title to any of the above trade marks to you or End Users. The RIM and BlackBerry family of related marks, images and symbols are the exclusive properties of and trademarks of Research In Motion Limited – used by permission. WINDOWS is a registered trademark of Microsoft Corporation in the United States and other countries.
- 5.2 You will not, and you will ensure that End Users will not: copy, reverse engineer or decompile the Software or Services; translate, modify, rent, lease, sub-licence, distribute copies of, adapt, or create derived works based on the Software or Materials; import or export the Software or Services any copy or adaptation in violation of any applicable laws or regulations; nor

use the Software or Materials for any use which is not purely to receive a Service. This is without prejudice to any right you may have which, under any applicable law, may not be excluded by contract (including the right to make a back-up copy of, or decompile the Software in the limited circumstances provided by sections 50A and 50B of the Copyright, Designs and Patents Act 1988).

6 Charges

- 6.1 We will invoice the Charges to you monthly in arrears or as otherwise set out in your applicable payment plan. We will deliver invoices by way of email, and reserve the right to issue invoices by post or in such other manner as may be agreed by the parties, to the person identified in the Order Form or otherwise notified by you to us.
- 6.2 Our invoices are due and payable 30 days from the date of issue and will be paid by you in pounds Sterling or the currency set out in your applicable payment plan. Unless otherwise agreed in writing by us, you will pay the Charges by way of cheque, direct debit or electronic funds transfer to Our Account.
- 6.3 We have appointed our subsidiary, Ring2 Communications LLC, as our agent to collect certain payments due under this agreement, so you may be billed by Ring2 Communications LLC, acting as our agent.
- 6.4 You will pay invoices without any set-off or counterclaim and without any withholding or deduction unless required by law, in which case you will provide us with any document necessary to enable us to recover or obtain a credit for the amount withheld or deducted.
- 6.5 If you have reasonable grounds to dispute any portion of an invoice, you must pay the undisputed portion, and notify us of the grounds for disputing the remainder. Our records of your usage will be presumed accurate unless proved otherwise. If such a dispute is resolved against you, you will pay the relevant portion of the invoice and interest according to clause 6.6. You waive any right to challenge invoices not disputed within one (1) year of the date of the relevant invoice, in accordance with this clause 6.5.
- 6.6 Interest will accrue and be paid by you on any sum invoiced but not paid in accordance with this agreement from the date it is payable until payment (whether before or after any judgement) at the annual rate of 2% above the base rate from time to time of the National Westminster Bank. If you do not pay any part of an invoice in accordance with this clause 6, we may, at our sole discretion, suspend the provision of any or all of the Services or serve a notice on you under clause 18.4(b).
- 6.7 Charges for a call are calculated by applying the relevant Rate to the call duration. If you add parties to a call, each call leg will be charged accordingly. We may change the Charges on 30 days' notice. The new Charges will take effect on the date set out in the relevant notice.

7 Deposit & Minimum Spend

- 7.1 If a deposit is required under your agreement and you do not pay any invoice in accordance with clause 6, we will be entitled to apply part or all of the deposit as payment of any outstanding invoice. No interest is payable on any deposit. If you fail to maintain the required deposit, we may suspend any or all Services and serve a notice to you under clause 18.4(b).
- 7.2 If a minimum spend applies to your agreement and the Charges arising from your use of the Service in question and based on the Rates are less than the minimum spend in any calendar month, we will invoice, and you will pay, the minimum spend in respect of such Charges for that calendar month. If such Charges are equal to or more than the minimum spend in any calendar month, you will pay

the actual Charges. This clause does not apply to, and is without prejudice to, your obligation to pay any Charges you incur other than those based on the Rates.

8 Tax

- 8.1 All Charges are stated exclusive of and subject to any applicable tax (including value added tax or "VAT"), duty, regulatory fee or other government levy, which will be invoiced by us and paid by you at the prevailing rate. If a party is required to make a payment by way of indemnity or reimbursement to the other party under this agreement, the payment will only include any VAT incurred by the other party to the extent that it is not available as a VAT credit to that party or any person treated as a member of a group with that party for VAT purposes. If a party is required to repay or refund all or any part of a payment to the other party, and is entitled to issue a valid VAT credit note, that party will issue an appropriate VAT credit note when it makes the repayment or refund, which will include the VAT paid on that part of the original payment

9 Permitted Use

- 9.1 You will not, and you will use reasonable efforts to ensure that End Users do not, use the Services, Software or the Website to make any communication or call or upload, record or otherwise transmit, distribute or store any Customer Content that in whole or in part: (a) infringes any third party's copyright, patent, trademark, trade secret or other intellectual property or proprietary rights or rights of publicity or privacy; (b) violates any law, statute, ordinance or regulation (including without limitation the laws and regulations governing export control, unfair competition, anti-discrimination or false advertising); (c) is defamatory, trade libellous, unlawfully threatening or unlawfully harassing; (d) is obscene, an illegal threat, harmful to minors or child pornographic; (e) is an automated or unsolicited communications or communication broadcast or blasting unless in accordance with all applicable laws (f) contains any viruses, Trojan horses, worms, time bombs, cancelbots or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information including making use of a Service, using memory space, sending emails, corrupting files and compromising or affecting authentication and security information and procedures; (g) is materially false, misleading or inaccurate; or (h) is otherwise contrary to this agreement.
- 9.2 You will not, and you will use reasonable efforts to ensure that End Users do not: (a) use the Services, Software or Website in connection with chain letters, junk mail, surveys, contests, pyramid schemes, or any use of distribution lists to any person who has not given specific permission to be included in such a process (commercial or otherwise); (b) harvest or otherwise collect information about others, including e-mail addresses, without their consent; (c) use, download or otherwise copy, or provide (whether or not for a fee) to a person or entity that is not a user of the Services any directory of other users or usage information or any portion thereof other than in the context of your use of the Services; (d) knowingly interfere with or disrupt networks connected to the Services, Software or Website or violate the regulations, policies or procedures of such networks; (e) attempt to gain unauthorized access to the Services, Software, Website, other accounts, computer systems or networks connected to the Services, through password mining or any other means; or (f) use the Services, Software or Website for illegal purposes (including without limitation, gambling or betting).
- 9.3 You will not, and you will use reasonable efforts to ensure that End Users do not: use any Service or the Website in any way that is contrary to this agreement or that may have a material detrimental effect on our goodwill or any Service or the Website, including their performance, accessibility, security, or use by any other person; rent, lease, grant a security interest in, resell or otherwise transfer any rights in the use of the Services to any person; sub-license the Software or Materials to any

person; act as a service bureau for any Service; or allow access to the Software, Services or Materials to any person other than in accordance with this agreement.

10 End Users

- 10.1 You will be liable for all use of the Services by End Users and will use reasonable efforts to ensure that all End Users comply with the terms of this agreement, including that End Users will only: use the Software and Materials in accordance with this agreement; and use the Software on computers or devices provided by you or, if you so agree, on an End User's personal computer or device. A person may only become an End User if they are: your director, officer (including, if you are a partnership, a partner), employee, agent, subcontractor or consultant and you have adequate contractual rights to enforce compliance with this agreement.

11 Your Group

- 11.1 This clause 11 applies only if you have entered into this agreement on your own behalf and on behalf of each member of Your Group. You warrant that you are authorized to enter into this agreement (and to accept notices under clause 26) as agent on behalf of each member of Your Group. Therefore, apart from this clause 11, this agreement will be interpreted as if "You" refers to each member of the Your Group.
- 11.2 The details you notify to us concerning the Administrator, your billing, notice and other details will apply to all members of Your Group unless you notify us otherwise. We will invoice you for all Charges incurred by Your Group unless you notify us that any particular member of Your Group must be invoiced directly. However, you will remain liable for all Charges and liabilities incurred by any member of Your Group and their End Users under this agreement and you will ensure that each member of Your Group complies with this agreement.
- 11.3 If a person or undertaking ceases to be a member of Your Group, this agreement (and the licences contained in this agreement) will immediately terminate in respect of that person or undertaking. If a person or undertaking becomes a member of Your Group after the date of this agreement and wishes to use the Service, you will notify us of the new member, request provision of the Service to it, and will accept this agreement on its behalf. This agreement will govern the new member's use of the Service.

12 Your Acknowledgements

- 12.1 YOU ACKNOWLEDGE AND AGREE THAT: WE MAY ACCESS ANY SERVICE AS YOU AND AN END USER TO MONITOR AND TEST A SERVICE (PROVIDED THAT WE WILL NOT BECOME A PARTY TO ANY CALL WITHOUT YOUR EXPRESS CONSENT IN EACH INSTANCE); THE PERFORMANCE OF A SERVICE IS DEPENDENT ON THE PERFORMANCE OF YOUR AND END USERS' OWN TELEPHONE, COMPUTER OR OTHER DEVICE, SOFTWARE AND INTERNET CONNECTION AND YOU HAVE SOLE RESPONSIBILITY FOR THE PROVISION OF AND USE OF THE SAME, AT YOUR OWN COST; ALTHOUGH 0800 FREEPHONE OR TOLL-FREE NUMBERS CAN BE CALLED USING CERTAIN SERVICES, WE WILL CHARGE FOR SUCH CALLS ACCORDING TO THE RATE SHEET; AND THAT THE SERVICES ONLY SUPPORT OR ALLOW CALLS TO ALLOWED NUMBERS AND DO NOT, FOR THE AVOIDANCE OF DOUBT, SUPPORT OR ALLOW CALLS TO ANY OTHER NUMBERS, INCLUDING EMERGENCY NUMBERS.

13 Warranties

- 13.1 We warrant that we will provide the Services to you in accordance with this agreement and with reasonable care and skill.
- 13.2 You warrant that: you and End Users are authorised to provide any personal data that you provide to us; any such personal data is accurate and up-to-date, and any relevant consent has been obtained for the processing of the same by us (including transfer overseas and outside the European Economic Area) in accordance with this agreement.
- 13.3 You warrant and represent that you or the End User are the owner or licensee of any and all Customer Content and have the legal right to upload, record or otherwise transmit the Customer Content through the Services.
- 13.4 Each party warrants that: the person signing this agreement has been fully authorised to do so on that party's behalf; and that execution of this agreement is not in conflict with any law, article of association or any agreement to which that party is bound.

14 Exclusion of Warranties/Disclaimer

- 14.1 ALTHOUGH WE USE REASONABLE EFFORTS TO ENSURE THAT THE SOFTWARE AND SERVICES ARE ERROR-FREE AND VIRUS-FREE, YOU AGREE THAT THE SOFTWARE AND SERVICES ARE PROVIDED ON AN 'AS IS' BASIS AND WE DO NOT WARRANT THAT THE SOFTWARE OR SERVICES WILL BE AVAILABLE AT ALL TIMES, OR ARE FREE OF ERRORS, VIRUSES OR OTHER POTENTIALLY HARMFUL CODE. TO THE EXTENT PERMITTED BY LAW, WE EXCLUDE ALL CONDITIONS OR WARRANTIES THAT MAY OTHERWISE BE IMPLIED BY LAW INTO THIS AGREEMENT INCLUDING WITHOUT LIMITATION WARRANTIES AS TO MERCHANTABILITY AND FITNESS FOR PURPOSE.

15 Limitation of Liability

- 15.1 Nothing in this agreement limits or excludes our liability for fraudulent misrepresentation or for death or personal injury due to our negligence.
- 15.2 SUBJECT TO CLAUSE 15.1, OUR LIABILITY TO YOU IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE IS LIMITED TO THE TOTAL SUMS PAID BY YOU UNDER THIS AGREEMENT IN THE ONE YEAR PRIOR TO YOUR NOTIFICATION TO US OF ANY CLAIM.
- 15.3 SUBJECT TO CLAUSE 15.1, IN NO EVENT WILL WE BE LIABLE TO YOU IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE FOR ANY LOSS OR DAMAGE DUE TO OR CAUSED BY: SUSPENSION OF ALL OR ANY PART OF A SERVICE UNDER CLAUSE 17; ANY ACT OR OMISSION OF YOURS OR YOUR OFFICERS, AGENTS, SUBCONTRACTORS OR END USERS IN BREACH OF THIS AGREEMENT; OR THE INTERRUPTION, SUSPENSION OR TERMINATION OF ANY SERVICE DUE TO FORCE MAJEURE.
- 15.4 IN NO EVENT WILL WE BE LIABLE TO YOU FOR ANY CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES, INCLUDING LOSS OF DATA AND LOSS OF PROFIT, EVEN IF WE HAVE PREVIOUSLY BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.
- 15.5 THE SERVICES DO NOT SUPPORT OR ALLOW CALLS TO EMERGENCY NUMBERS. IN NO EVENT WILL WE BE LIABLE TO YOU FOR ANY CALL OR FAILURE TO MAKE A CALL TO ANY EMERGENCY NUMBER.
- 15.6 YOU MUST GIVE US NOTICE OF ANY CLAIM UNDER THIS AGREEMENT WITHIN ONE YEAR OF THE CLAIM ARISING.

16 Indemnities

- 16.1 You will indemnify the Ring2 Group, our officers, employees, agents and contractors against all reasonable costs (including reasonable lawyers' costs), damages and losses that we and the above may suffer (including damage to the Services, the Website, the System, a claim by a third party or otherwise) arising out of or connected to any: act or omission by you, your officers, employees, agents, contractors and End Users (including any operation or malfunction of your computer or communications systems) other than in accordance with the terms of this agreement; your breach of this agreement; and any use of a Service other than in accordance with the terms of this agreement or any applicable law.
- 16.2 Subject to clause 15, we will indemnify you against any reasonable damages and costs (including reasonable legal costs) incurred by you as a result of a claim brought by a third party alleging that the Software directly infringes that third party's Intellectual Property Rights, provided that you: notify us of any such claim promptly in writing; give us sole control of any defence; cooperate with us in the defence; do not settle without our prior written approval (which will not be unreasonably withheld or delayed); and are not in breach of any of your obligations under this agreement. If such a claim is made, we may, at our sole discretion: change the Software to avoid any potential infringement; obtain the rights for you to continue using the Software; or terminate this agreement. This clause 16.2 sets out your sole remedy in relation to such third party claims.

17 Maintenance & Suspension

- 17.1 You acknowledge that we will need to suspend any or all of the Services from time to time for planned or emergency maintenance. We will provide you with as much notice as is reasonably practicable of any planned or emergency maintenance, noting the services affected and the period for which they are expected to be affected.
- 17.2 We may, at our sole discretion, without prejudice to any other right or benefit we may have under this agreement, immediately suspend the provision of any or all of the Services to you or End Users, if we: have reasonable grounds to believe that a Service is being used in breach of clauses 9 or 10; have reasonable grounds to consider we are entitled to terminate this agreement under clause 18.4; believe your conduct may create liability for us or our suppliers; or are obliged to comply with an order, instruction or request of a court, government agency, emergency service organisation or other legally competent administrative or regulatory authority.

18 Term & Termination

- 18.1 You acknowledge that term, termination and cancellation rights in any separately negotiated terms or Service Terms will take priority over those set out below. You may terminate this agreement in respect of a particular Service without prejudice to the continuation of any other Service under this agreement. However, if on such termination you are receiving no other Service under this agreement, this agreement will immediately terminate.
- 18.2 You may terminate this agreement without cause on one month's notice, such notice not to take effect before the end of any minimum term set out in any separately negotiated terms or Service Terms.
- 18.3 We may terminate this agreement without cause on three months' notice.
- 18.4 Either party may terminate this agreement:

- 18.4(a) immediately by notice due to a material breach of this agreement by the other party which is incapable of remedy;
- 18.4(b) immediately by notice due to a material breach of this agreement by the other party which is capable of remedy, but which that party has not remedied within one month of having been given notice to do so;
- 18.4(c) immediately by notice if, regarding this agreement, Force Majeure has continued for a period of at least three months; and
- 18.4(d) immediately by notice if the other party has a receiver or administrative receiver appointed over it or any part of its assets, business or undertaking or passes a resolution for winding up (other than for a bona fide scheme of reconstruction or solvent amalgamation) or a court of competent jurisdiction makes an order to that effect or if the other party becomes subject to an administration order or enters into any voluntary arrangement with its creditors or ceases or threatens to cease carrying on its business, has a liquidator appointed, enters into liquidation, or suffers or undergoes an analogous proceeding under any foreign law.
- 19 Consequences of Termination**
- 19.1 On termination of this agreement: all un-invoiced Charges will become due; we will issue an invoice to you regarding the same and you will pay the invoice according to clause 6; all licences granted under this agreement will immediately terminate; you will immediately cease (and ensure End Users cease) all use of the Services, System, Materials and Software; you will immediately return or destroy, at our sole discretion, all Materials, Software, our Confidential Information and any copies made by you or End Users in any current or future medium; any rights and obligations to which the parties are entitled or subject prior to termination will continue in force; clauses 5, 6.5, 8, 14, 15, 21, 23 and 27 will continue in force; and all other rights and obligations of the parties under this agreement will cease.
- 20 Privacy & Data Protection**
- 20.1 We will only act as a data processor regarding personal data provided to us under this agreement. As such, we will only process the personal data in accordance with this agreement and any instructions notified to us by you. We will take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data and against accidental loss or destruction of, or damage to, the personal data. In relation to all other data, we will follow our then-current privacy policy published on the Website, which is hereby incorporated into this agreement. Your continued use of a Service indicates your acceptance to the then-current privacy policy and its incorporation into this agreement.
- 20.2 You acknowledge that the personal data provided to us by you and End Users may be processed for the purposes of this agreement outside the European Economic Area, in particular to our subsidiary Ring2 Communications LLC and our subcontractors in the USA, and you consent, and have obtained any other necessary consent, to such processing.
- 21 Confidentiality**
- 21.1 The Recipient will maintain the Disclosing Party's Confidential Information in the strictest confidence, will not make use of the Confidential Information other than for the purpose of carrying out this agreement, and will only make such copies of any of the Confidential Information as are reasonably necessary for carrying out this agreement.
- 21.2 The Recipient will not disclose any of the Disclosing Party's Confidential Information to any third party without the Disclosing Party's prior written consent, save that the Recipient may disclose the Confidential Information: to those of its employees, agents or contractors who need to have access to it for the Recipient to carry out its obligations under this agreement, provided that the Recipient ensures that such person is bound by written obligations (in an employment contract or otherwise) to keep the Confidential Information confidential and to use it solely for carrying out this agreement; and in accordance with any law or order of a court or other legally competent authority or regulatory body, provided that the Recipient gives the Disclosing Party as much notice of the disclosure as is reasonably practicable.
- 21.3 The Recipient will, on the Disclosing Party's request at any time, immediately return or destroy all such documents or other material containing or embodying the Disclosing Party's Confidential Information, together with all copies in any medium, and will ensure compliance with this clause by any person to whom such information has been disclosed.
- 21.4 The Recipient acknowledges that disclosure of any of the Disclosing Party's Confidential Information in breach of this clause may cause irreparable damage to the Disclosing Party, that damages may not be an adequate remedy, and that the Disclosing Party will be entitled to apply for an injunction to prevent or minimise any threatened or actual breach of this clause 21.
- 22 Access and Audit**
- 22.1 You will, at your own cost and as we reasonably request from time to time, provide us and our representatives with access to information, documents, premises and personnel: as are necessary to determine whether any Service can be provided to you; concerning the use of a Service and the System by you and End Users; and for us to confirm that your and End Users' use of a Service is in accordance with this agreement. If you challenge all or any part of an invoice under clause 6.4, we will provide you with the relevant information concerning the challenged invoice or part thereof, as you may reasonably request.
- 23 Entire Agreement & Counterparts**
- 23.1 This agreement constitutes the entire agreement between the parties relating to its subject matter and supersedes any prior agreements, undertakings, representations, warranties and arrangements of any nature, relating to the same. Each party acknowledges that it has not been induced to enter into this agreement by any representation or warranty other than those contained in this agreement and agrees that it has no remedy in respect of any other such representation or warranty except in the case of fraud. For the avoidance of doubt, this is an agreement for services and the United Nations Convention on Contracts for the International Sale of Goods is hereby expressly excluded. Each party acknowledges that its legal advisers have explained to it the effect of this clause.
- 23.2 This agreement may be executed in any number of counterparts, which will together constitute one agreement. A copy of this agreement that is executed by a party and transmitted by that party to the other party by facsimile or email will be binding upon the signatory to the same extent as a copy hereof containing the signatory's original signature.
- 24 Changes**
- 24.1 The parties may amend any separately negotiated terms forming part of this agreement at any time, such amendment only to take effect when made in writing and signed by both parties. We may change the Standard Terms and Service Terms at any time by notice to you or by posting a new version of the relevant terms on the Website. The new terms will take effect from the date of the notice or when posted on the Website (or as otherwise specified in the new terms), will replace and supersede all previous versions of the relevant terms, and be incorporated into this agreement. Your continued use of a Service is your agreement to any such new terms.

25 Export & Government Use

- 25.1 You acknowledge that the laws and regulations of the United States restrict the export and re-export of commodities and technical data of United States origin, including the Software and Services. Without limiting the foregoing, you understand that the Software and Services are an "encryption item" subject to controls under the Export Administration Regulations promulgated by the U.S. Department of Commerce. You agree that you will not export or re-export the Software or Services in any form in violation of the export laws of the United States, the UK or any other jurisdiction. You will defend, indemnify, and hold harmless us and our suppliers from and against any violation of such laws or regulations by you or any of your End users, agents, officers, directors, or employees.
- 25.2 For the avoidance of doubt, use of the Software and Services by the United States Government or other governmental agencies shall be as "restricted computer software" or "limited rights data" as set forth in "Rights in Data - General" at 48 CFR 52.227-14, or as "commercial computer software" or "commercial computer software documentation" under DFARS 252.227-7015, or under such other similar applicable terms and conditions to prevent the transfer of rights in and to the technology to the government other than under normal commercial licensing terms and conditions.

26 Notices

- 26.1 Any notice given under or in connection with this agreement must be given in writing, in English, properly addressed and either: hand-delivered (deemed given when delivered); sent by first class pre-paid post (deemed given two Business Days after the date of posting, if posted within the UK, or seven Business Days if posted from outside the UK); sent by fax (deemed given when sent, provided no report of unsuccessful transmission is received by the sender); or sent by email (deemed given when sent, provided no message of non-delivery is received by the sender). Any notice delivered or sent outside Business Hours will be deemed delivered or sent at the start of the next Business Day.
- 26.2 Subject to notification of any change, your notice details are set out in your Order Form and our notice details are: Token House, 12 Tokenhouse Yard, London EC2R 7AS, UK, for delivery or posting; 020 7968 4931 for fax; and legal@ring2.com for email.

27 Dispute Resolution & Governing Law

- 27.1 If any dispute arises in connection with this agreement, the parties will follow the applicable regulatory dispute resolution service: in the UK, this is set out in our Complaints Code of Practice; in Germany, disputes over matters stipulated in Section 47a (1) Telekommunikationsgesetz (TKG) will be resolved using the dispute resolution procedure offered by the Bundesnetzagentur ('BNA') in Bonn by filing an application with the BNA. If no regulatory dispute resolution service is applicable, the parties will first attempt to settle it by negotiation, failing which they will refer the dispute to mediation in accordance with the Model Mediation Procedure of the Centre for Effective Dispute Resolution ('CEDR'), Exchange Tower, 1 Harbour Exchange Square, London E14 9GB. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR. The commencement of mediation will not prevent a party commencing or continuing legal proceedings for interim relief, including an injunction, to protect its Confidential Information or Intellectual Property Rights.

- 27.2 This agreement shall be governed by, and construed in accordance with, English law. In relation to any legal proceedings arising out of or in connection with this agreement, subject to clause 27.1, each of the parties irrevocably submits to the exclusive jurisdiction of the English courts and waives any objection to such courts' jurisdiction on the grounds that such proceedings have been brought in an inappropriate forum.

28 Miscellaneous

- 28.1 Neither party will be in breach of this agreement or otherwise liable to the other party as a result of any delay or failure in the performance of its obligations under this agreement to the extent that such delay or failure is caused by Force Majeure and the time for performance of the relevant obligation shall be extended accordingly. Nothing in this clause exempts you from paying any invoiced Charges due to Force Majeure and interest will continue to apply to unpaid amounts according to clause 6.6.
- 28.2 Save for our Affiliates in respect of the indemnity in clause 16.1, no person who is not a party to this agreement will have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.
- 28.3 We may use contractors to provide any Service to you. Such use of contractors will not release us from any obligation or liability under this agreement. We may assign this agreement, or any or all of our rights under this agreement, on notice to you. You may assign this agreement in its entirety to any other person on prior written notice to us. This agreement shall be binding upon, and shall inure to the benefit of, the heirs, successors, assigns, and personal representatives of each of the parties.
- 28.4 No failure or delay by either party to exercise or enforce any right or benefit under this agreement will be deemed a waiver of such right or benefit, nor operate to prevent or limit the future exercise or enforcement of that right or benefit. If any term or condition of this agreement is held invalid, void or otherwise unenforceable by any court, governmental agency or authority of competent jurisdiction, the remainder of this agreement will remain valid and enforceable.
- 28.5 The parties are independent contractors and nothing in this agreement, and no action taken by either party, will constitute or be deemed to constitute a partnership, agency or joint venture between the parties.
- 28.6 Either party may at all times state that you are (or were) our customer and a user of the relevant Service(s), including by statements to that effect in either party's marketing material, press releases, brochures and websites, provided that such statements are in good faith and not prejudicial to the other named party.