

STANDARD TERMS AND CONDITIONS

1. INTERPRETATION

1.1 In these Conditions:

“Company”	means Asset Services Limited a company incorporated and registered in England & Wales with company number 02896329 and whose registered office is at 115 Victoria Road, Ferndown, Dorset, BH22 9HU trading as Message Direct.
“Charges”	means the Subscription Charge, the Connection Charge, charges for Extra Services and any other charges payable to the Company.
“Conditions”	means the Standard Terms and Conditions set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Company and the Customer including those set out in the Order Form.
“Connection Charge”	means the price payable for account set up.
“Contract”	means the Contract for the provision of the Services as governed by the Conditions.
“Customer”	means the company firm or person named as such on the Order Form.
“Extra Services”	means all and any services provided by the Company to the Customer excluding the Services.
“Force Majeure”	means acts of God explosion flood lightning storm tempest fire or accident war hostilities civil war riot civil commotion or disorder acts restrictions regulations by-laws refusals to grant any licences or permissions prohibitions or measures of any kind on the part of a local state national governmental or supra governmental authority strikes lock-outs or other industrial actions or trade disputes of whatever nature whether involving employees of the supplier or a third party defaults of suppliers or sub-contractors any failure default delay in performance or any act or omission of any nature whatsoever on the part of the Customer or its employees agents suppliers or sub-contractors or, any cause or circumstance whatsoever beyond the Company's reasonable control.
“Network”	means the public telecommunications service used from time to time by the Customer via which (inter alia) the Services are provided by the Company.
“Order Form”	means the Customer order, quotation or proposal form of the Company duly completed or in the case of a telephone order the Customer order/quotation completed by the Company at the time of the phone call and sent to the Customer.
“Price”	means the published price charged by the Company for the Services as revised by the Company from time to time.
“Services”	means the telephone answering and message processing services (including any part or part of them) agreed to be provided by the Company in accordance with these Conditions and which are detailed on the Order Form.
“Subscription Charges”	means the monthly charges made by the Company to the Customer for the provision of the Services.
“System”	means the Company's system for the provision of the Services.

1.2 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

1.4 Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2. BASIS OF THE PROVISION OF SERVICES

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 The Company shall provide the Customer with the Services (and Extra Services as applicable) in accordance with the details in the Order Form subject to these Conditions which shall govern the Contract to the exclusion of all and any other terms and conditions including any terms and conditions of purchase of the Customer or any other terms and conditions on which the Customer claims or purports govern the Contract.
- 2.3 Other than under clause 5.2 below no variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Company and the Customer.
- 2.4 The Company's employees or agents are not authorised to make any representations concerning the Services unless confirmed by the Company in writing. In entering into this Contract the Customer acknowledges that it does not rely on and waives any claim for breach of any such representations which are not so confirmed.
- 2.5 The advice or recommendation given by the Company or its employees or agents to the Customer or its employees or agents not confirmed in writing by the Company is followed or acted upon entirely at the Customer's own risk and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.

3. CONTRACT AND CONTRACT TERMS

- 3.1 No Order Form submitted by the Customer shall be deemed to be accepted by the Company unless and until confirmed in writing by the Company's authorised representative.
- 3.2 The Customer shall be responsible to the Company for ensuring the accuracy of any details given on the Order Form or otherwise (including any applicable specification) submitted by the Customer and for giving the Company any necessary information relating to the Network equipment and requirements relating to the provision of the Services within sufficient time to enable the Company to perform the Contract in accordance with its terms.
- 3.3 The Company reserves the right to make any changes in the Services which are required to conform with any applicable statutory requirements.
- 3.4 The Contract shall (subject to earlier deemed start date as herein provided) start from the date as provided on the Order Form and continue until cancelled by either the Customer or the Company. The Contract between the Company and the Customer can be cancelled by either party in writing by giving 30 days notice from the next billing date, such notice to be sent by registered post to the other parties registered office. Cancellation by any method other than by registered post is not accepted.
- 3.5 Any additional geographic and non-geographic numbers from the Company remain the property of the company.
- 3.6 By diverting a telephone line to the number provided by the Company, the Customer is agreeing to the Conditions as stated in this document.

4. SERVICES

- 4.1 Upon acceptance by the Company of the Customers Order Form the Customer shall take such steps as requested by the Company to enable the Company to begin providing the Services.
- 4.2 Subject to the Customer complying in all respects with these Conditions the Company shall subject to the terms herein provided use all reasonable endeavours to maintain the Services.

5. PRICE

- 5.1 All sums payable to the Company hereunder (including the Charges) are exclusive of any applicable value added tax which the Customer shall be additionally liable to pay to the Company.
- 5.2 The Company reserves the right to amend the cost of the provision of the Services at any time by notification in writing to the Customer.
- 5.3 The Company will allow up to 30 minutes programming when setting up a new account. For any initial script development above this amount the Client will be charged in increments of £15.00 per 15 minutes.
- 5.4 Any screen changes to existing accounts will be charged at a rate of £15.00 per 15 minutes after the initial 15 minutes of free script development time.
- 5.5 If an excess of 15 or more calls are taken outside of Standard Office Hours (8am-6pm Monday-Friday) in a billing period an additional £39.99 charge will apply. All transferred calls are charged at 30p, regardless of call length. SMS are charged at 12p per SMS.

6. TERMS OF PAYMENT

- 6.1 Subject to any special terms agreed in writing between the Company and the Customer the Customer shall pay the Connection Charge on or before connection to the System and shall pay the Subscription Charges monthly in advance.
- 6.2 Where the customer takes Extra Services these shall be paid for in addition to the Charges in accordance with the Company's published price list then current. VAT shall be payable in addition and payments shall be made against the Company's invoice and payable within 14 days of the date such invoice.
- 6.3 The Company reserves the right to invoice the Customer on a weekly basis if the chargeable minutes exceed 100 minutes per week. All invoices raised on a weekly basis are not subject to any credit and must be settled on the date the invoice is raised.
- 6.4 Where credit card and/or debit card details have previously been provided by the Customer the Customer agrees to the Company collecting all outstanding and recurring invoices from the credit card and/or debit card details provided.
- 6.5 If the Customer fails to make any payment on the due date then without prejudice to any other right or remedy available to the Company the Company shall be entitled to:
 - 6.5.1 Cancel the Contract or suspend provision of the Services to the Customer;
 - 6.5.2 appropriate any payment made by the Customer for such of the Services (or services supplied under any other contract between the Customer and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Customer);
 - 6.5.3 charge the Customer interest (both before and after any judgment) on the amount unpaid at the rate of 4% per annum above the base rate of Lloyds Bank plc from time to time until payment in full is made (a part of the month being treated as a full month for the purpose of calculating interest);
 - 6.5.4 charge a reconnection fee of £25.00 if the service is reinstated after a period of non-payment; and
 - 6.5.5 recover from the Customer the Company's costs of recovering overdue payments to include, non-exhaustively, legal fees and costs.

7. OBLIGATIONS OF THE CUSTOMER

- 7.1 The Customer accepts and acknowledges that the provision of the Services is reliant upon the System being used with the approval and under licence from the regulatory authority/authorities who operate the Network and the Customer here by undertakes:
 - 7.1.1 not to use the System or the Services for any unlawful immoral or improper purpose;
 - 7.1.2 not to act or omit to act in any way which may injure the System or cause the quality of the Services to be impaired or to jeopardise the provision of the Services or the System in any way.

- 7.2 The Customer accepts and acknowledges that the System and the Services:
- 7.2.1 are to assist in the general communications of the Customer and must be used in conjunction with any and all instructions relating to the System and the Services issued by the Company and the Customer shall exercise all care and attention in respect of such matters at all times;
 - 7.2.2 atmospheric conditions under the special circumstances may cause interference to the provision of the Services;
 - 7.2.3 calls may be routed over national and international public telecommunications systems and other networks beyond the control of the Company.
- 7.3 The Customer acknowledges that malfunctioning or defective equipment may cause interruption of the Services or adversely affect the quality of the Services
- 7.3.1 the Customer will observe and comply at all times with any legislation and regulation in force affecting the subject matter of this Contract;
 - 7.3.2 the Customer will indemnify the Company in respect of any costs and legal fees incurred by the Company as a result of any breach by the Customer of this Agreement.
- 7.4 The Customer is liable for any call diversion costs incurred as a process of diverting calls to the Company.

8. LIMITATION OF LIABILITY

- 8.1 Subject to these Conditions, these Conditions shall not be deemed to constitute or imply any warranty by the Company that the System (and therefore the provision of the Services) will at all times operate satisfactorily without malfunction and the Company gives no such warranty.
- 8.2 Nothing in these terms and conditions shall limit or exclude the Company's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); or
 - (d) any matter in respect of which it would be unlawful for the Company to exclude or restrict liability.
- 8.3 Subject to clause 8.2 above the Company shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any:
- (a) pure economic loss; or
 - (b) loss of profits or anticipated savings; or
 - (c) loss of business; or
 - (d) depletion of goodwill or reputation; or
 - (e) any indirect or consequential losses whatsoever and whether arising under or in connection with the Contract or otherwise.
- 8.4 The Company's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount paid to the Customer under the Contract.
- 8.5 If and to the extent that Section 6 and/or 7(3A) of the Unfair Contract Terms Act 1977 applies to the Contract no provision of these Conditions shall operate or be construed to operate so as to exclude or restrict the liability of the Company for breach of the applicable warranties as to title and quiet possession implied into the Contract by Section 12(1) of the Sale of Goods Act 1979 or Section 2(1) of the Supply of Goods and Services Act 1982 whichever Act is applicable.
- 8.6 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 8.7 The Company shall not be liable for the acts or omissions of any other party.
- 8.8 This clause 8 shall survive termination of the Contract.

9. FORCE MAJEURE

- 9.1 Neither the Company nor any of its employees agents or sub-contractors shall be considered in breach of this Contract or under any liability whatsoever to the Customer for no-performance part performance defective performance or delay in performance of any obligation performed or to be performed by the Company its employees agents or subcontractors under the Contract which is directly or indirectly caused or is a result of an event of Force Majeure and the dates and timescale specified in the Order Form and/or the performance of the Services shall be extended by a fair and reasonable period of time which is sufficient to enable the Company to perform or re-perform the relevant contact obligation.
- 9.2 Upon becoming aware of an occurrence of the relevant event of Force Majeure the Company shall promptly issue a notice in writing to the Customer detailing such event and its anticipated effect upon the performance of the Contract by the Company.

10. MODIFICATIONS TO SERVICES/SYSTEM & SUSPENSION OF SERVICES

- 10.1 The Company shall be entitled at any time during the continuance of the Contract to:
- 10.1.1 make such modifications or additions to the Services or the System as the Company in its absolute discretion deems fit provided the Services are not thereby materially prejudiced;
 - 10.1.2 make such modifications to the Services or the System as it may reasonably require giving to the Customer notification of such modifications as soon as reasonably possible after implementation of the same;
 - 10.1.3 at the Company's absolute discretion suspend the provisions of the Services or any part or parts thereof upon:
 - 10.1.3.1 an event of Force Majeure;
 - 10.1.3.2 non-payment on the due date of all and any sums payable by the Customer pursuant to these Conditions;
 - 10.1.3.3 in any circumstances whereby the Company may terminate this Contract and cease providing the Services.

11. TERMINATION

- 11.1 Notwithstanding any other provision of these Conditions and without prejudice to any other rights claims or remedies of the Company the Company may by notice to the Customer terminate the provision of the Services and this Contract immediately upon the happening of any one of the following events:
- 11.1.1 if the Customer shall (in the case of an individual or sole trader) become bankrupt or (in the case of a corporate entity) become insolvent, be wound up, make any arrangements or composition with its creditors or any event should occur which is analogous to the aforementioned events;
 - 11.1.2 if the Customer shall commit any breach of any of its obligations here under and fail to remedy such breach if capable of remedy within 14 days of receipt of the Company's written notice specifying such breach;
 - 11.1.3 upon or subsequent to the happening of an event of Force Majeure.
- 11.2 Termination of this Contract shall not affect the rights and liabilities of either party subsisting at the date of termination.
- 11.2.1 Upon termination as provided by this clause the Company shall be entitled to retain, or claim to the extent that such Charges would be payable, such sums as are payable for the period ending on the earliest date the Customer could terminate this Agreement voluntarily under these Conditions.

12. CONFIDENTIALITY

- 12.1 The Company shall keep strictly confidential and shall not disclose to any third party any information received for and on behalf of the Customer. All information relating to the affairs of the Customer as disclosed by the Customer or the "caller" in the course of the Contract will be subject to this confidentiality clause unless otherwise required by law.

13. DATA PROTECTION

- 13.1 The personal data that you give to the Company under these terms and conditions and any contract entered pursuant to these conditions will be governed by the company's data protection policies and procedures. The Company will comply with its obligations under all applicable data protection laws in the United Kingdom from time to time, included but not limited to the General Data Protection Regulation 2016 and Data Protection Act 2018. The parties acknowledge that the data protection laws may, separately and in addition to these terms and conditions and the data protection policies and procedures for the Company, provide for remedies to either party or third parties in respect of non-compliance. The term "personal data" used in these terms shall have the same meaning as in the General Data Protection Regulation. Personal data means the personal data processed by Asset Services Limited in connection with the Contract with the Customer. By signing these terms and conditions the customer acknowledges that for the purposes of this contract Asset Services is the data processor and the Customer is the data controller.

14. ASSIGNMENT

- 14.1 This Contract is personal to the Customer and shall not be assigned to any third party without the prior written consent of the Company.

15. NOTICES

- 15.1 Any notices to be given hereunder shall be sent by first class post to;
- 15.1.1 in the case of the Company the registered office address; and
 - 15.1.2 in the case of the Customer to the registered office address or last known address.
- 15.2 Notices shall be deemed to be received at 11.00am on the second business day after posting.

16. WAIVER

- 16.1 In no event shall any delay failure or omission on the part of either of the parties in enforcing exercising or pursuing any right power privilege claim or remedy which is conferred by the Contract or arises under the Contract or arises from any breach by the other party of any of its obligations hereunder be deemed to be or be construed as:
- 16.1.1 a waiver thereof or of any such right power privilege claim or remedy; or
 - 16.1.2 operate so as to bar the enforcement or exercise thereof or of any such right power privilege claim or remedy in any other instance at any time or times thereafter.

17. VARIATION OF CONTRACT TERMS

- 17.1 Subject to clause 5.2, the Contract may be amended or modified in whole or in part at any time by notification in writing executed by the parties hereto.

18. NO PARTNERSHIP

- 18.1 Nothing in these terms and conditions is intended to, or shall be deemed to, establish any partnership or joint venture between the Customer and the Company or constitute either party the agent of the other party, or authorise either party to make or enter into commitments for or on behalf of the other party.

19. ENTIRE AGREEMENT

- 19.1 The Contract constitutes the entire agreement between the Customer and the Company and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 19.2 The Company and the Customer agrees that they shall have no remedies against each other in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract.

20. GOVERNING LAW

- 20.1 The Contract and any dispute between the parties arising and/or in connection with it shall be governed by the law of England and any such dispute not amicably resolved shall be subject to the jurisdiction of the English courts.