

Vaioni General Terms and Conditions of Business

1 DEFINITIONS

In these General Terms and Conditions of Business the following words and phrases shall have the following meanings;

"Acceptable Use Policies" means the policies set out on the Company's Web Site relating to the use of the Services, as modified or amended from time to time;

"Account" means the Customer's account with the Company for provision of the Services;

"Agreement" means these General Terms and Conditions of Business, the Customer Application, the Acceptable Use Policies, the Price List, the Privacy Policy and the Specific Terms and Conditions, all of which, taken together, constitute the agreement between the Company and the Customer for the supply of the Equipment and/or Services;

"Broadband" means the broadband service as described at <http://www.vaioniwholesale.com>;

"Business User" means a Customer who uses the Services and/or Equipment in the course of any trade or business;

"Charges" means the charges payable by the Customer in return for the Services and/or Equipment in accordance with Clause 8;

"Company or Supplier" means Vaioni Group Ltd (Company Registration Number 4314251) of Floor 6, Tomorrow, MediaCityUK, M50 2AB.

"Company's Web site" means the Web site at <http://www.vaioniwholesale.com>, and references to "our Web site" shall be construed accordingly.

"Customer" means the person, group of persons or other entity whose name and address is or are set out in the Customer Application;

"Partner" means a customer who has been granted partner status after the successful completion of a trade application and either acts as a sales agent, reseller or wholesale customer. The term Partner shall not be seen as the creation of a legal entity and liability and assets remain distinct between the two parties.

"Customer Application" means the application form for the supply by the Company of the Equipment and/or Services, completed by, or in accordance with an order from, the Customer;

"Equipment" means the equipment specified on the Customer Application;

"Insolvency" means in relation to the Customer any of the following (as relevant): the appointment of any nominee, trustee, supervisor, administrator, administrative receiver, receiver or liquidator pursuant to the Insolvency Act 1986 (as modified, amended or replaced from time to time); or the entry into any compromise or arrangement with its creditors or if it commits any act of bankruptcy; or if an order is made or effective resolution is passed for its winding up (except for the purposes of amalgamation or reconstruction of a solvent company); or the occurrence or sufferance of anything equivalent under any jurisdiction other than England or Wales and "Insolvent" shall be construed accordingly;

"Law" means the law of England and Wales, in force from time to time, and shall include (without prejudice to generality of the foregoing) all criminal law, laws relating to intellectual property and all laws, rules and/or regulations relating to the publication or transmission of information or data in electronic form. References to "Law" shall be construed accordingly;

"Location" means a single telephone line or ISDN channel;

"Minimum Cancellation Notice Period" means the minimum period of notice that a Customer must give the Company to terminate a specific Service or this Agreement, as set out in the General Terms and

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Conditions of Business and/or Specific Terms and Conditions;

"Minimum Service Period" means the minimum Service Period as set out in Clauses 3.2 and 3.3 or the Specific Terms and Conditions;

"Name" means any name specifically requested by or allocated to the Customer for the provision of the Services and includes any User Name, Internet domain name or electronic mailbox name;

"Network Connection" means an Internet access service for use by multiple machines;

"Password" means a password issued to the Customer for the Customer's access to the Services;

"Price List" means the Company's price list relating to the Equipment and/or Services set out on its Web site, as amended from time to time;

"Privacy Policy" means the Company's policy regarding privacy, set out on our Web site, as amended from time to time;

"Service Period" means the period of an individual Service provided in accordance with this Agreement;

"Service" means a service provided by the Company to enable the Customer to gain access to the Internet (and other services and facilities provided by the Company in connection with that service as described at <http://www.vaioniwholesale.com>), as are specified on the Customer Application, and described in the Company's literature at the date of completion of the Customer Application together with all services and/or facilities referred to in any Specific Terms and Conditions; All references to "Services" shall be construed accordingly;

"Goods" means the products or subject matter of the relevant order of sale.

"Specific Terms and Conditions" means the Company's specific terms and conditions (if any) applicable to any part of the Services referred to on the Customer Application;

"The supplier" or **"we"** means the Company Vaioni Group Limited, and references to "our" shall be construed accordingly;

"User Name" means any user name allocated to the Customer for access to the Services;

"You" means the Customer, and references to "your" shall be construed accordingly.

2 THE SERVICES

2.1 We shall provide you with the Services and/or the Equipment subject to the terms of this Agreement.

2.2 You can place your order for Equipment and/or Services by;

- a) completing our online application form at <http://www.vaioniwholesale.com>
- b) Completing the appropriate order form online via the myVaioni Portal.
- c) telephoning our sales team on the number set out on our Web site.

2.3 We shall not be obliged to provide the Services and/or Equipment to you unless and until;

- a) we have sent written notice to you (either by post, fax or e-mail) of our acceptance of the Customer Application; and
- b) we have received any initial Charges due from you in respect of the Services and/or Equipment.

Acceptance of the Services and/or Equipment by you constitutes your automatic acceptance of the terms and conditions of this Agreement.

2.4 We will provide you with transit and routing services for e-mail and general Internet access. We will (in consideration of the Charges) deliver IP packets to the Customer network boundary only and will not be, or be held responsible for, the transit, routing and delivery of IP packets to

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individual workstations on the Customer network.

- 2.5** We will endeavour to ensure that the Services are of a high quality. In order to maintain the quality and safety of the Services, and any other services which we provide to our customers, we may from time to time:
- a)** Suspend, close down or restrict the whole or any part of the Services in order to carry out emergency or other repairs, maintenance and/or improvements or to prevent overload of the network or to preserve the safety, security or integrity of the Services and any Internet traffic conveyed (although we will give you as much notice as is reasonably practicable before doing so and will endeavour to carry out such works during the relevant scheduled maintenance periods as published by The supplier); and/or
 - b)** Give you instructions on how to use the Services.

You agree to comply with any instructions we may give you in accordance with this Clause.

- 2.6** We will notify you as soon as possible if either we or our agents, employees, representatives or anyone else involved in providing the Services and/or the Equipment, require access to your premises, to install the Services and/or the Equipment or to carry out repairs, maintenance or upgrades. Where such notice is received by you, you agree to grant The supplier and/or such other persons referred to, access to your premises. We will meet your reasonable requirements, and you agree to meet ours, concerning the safety of people on your premises.
- 2.7** We may make software available to you that enables you to use the Services. This software must not be copied or modified by you or anyone else unless allowed by Law. You undertake and agree that you will access the Services only via use of this software, or in an alternative way permitted by The supplier, and you will not attempt to circumvent any security measures inherent in the Services. Where such software is owned by or licensed to The supplier, we will, where possible, grant you a revocable, non-transferable, non-assignable, non-exclusive license to use it for the duration of the Agreement (or, if shorter the duration of any licence of the software to The supplier). Where the use of such software by you requires you to enter a separate licence you agree to do so.

3 SERVICE PERIOD

- 3.1** We will activate the Services, as soon as possible following completion of the matters referred to in Clause 2.3 above.
- 3.2** Subject to Clause 3.3 or where otherwise specified in the Specific Terms and Conditions or otherwise agreed between the parties (for example, as set out in the agreed Customer Application/order form), and except where terminated or suspended in accordance with this Agreement, the Services will be provided for a Minimum Service Period of 12 months from the date of activation.
- 3.3** Unless otherwise terminated or suspended in accordance with this Agreement all Services shall be provided for a Minimum Service Period of 12 months or whatever is stated on the order form from the date of activation.
- 3.4** Unless otherwise agreed the contract start date on WAN solutions and solutions in general will begin from the activation date of the last installed and activated service.
- 3.5** On expiry of the periods referred to at Clauses 3.2 or 3.3 above (as appropriate) the Services will, unless terminated on or before the date of such expiry, will continue on a rolling contract, on 30 days or back to back with suppliers. Whichever is later.

4 CHANGES

- 4.1** We aim to provide the Services for the relevant Service Period. However, we may have to modify, suspend, vary or discontinue the whole or any part of the Services (including, without limitation, any codes or access details or technical specifications associated with the Services)

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and will endeavour to give you as much notice as is reasonably practicable if we need to do so.

- 4.2** We may have to change the terms and conditions of the Agreement. Where this is necessary we will endeavour to publish details of all changes on <http://www.vaioniwholesale.com/tcaupsla> before they take effect.
- 4.3** We will endeavour to let you know about any change referred to in Clause 4.2 at least one month before it happens. However, if we need to make changes, as soon as possible, for regulatory or legal reasons, we may be unable to meet that timescale. In those circumstances, we will let you know about any changes as soon as we can.
- 4.4** If we have made a change to your significant disadvantage and you decide to terminate this Agreement early with the written consent of The Supplier and before expiry in Clause 4.6, you will not have to pay Charges in relation to the Services, for the remainder of the Minimum Cancellation Notice Period.
- 4.5** The Customer may not at any time, change, transfer or sell a service provided by Vaioni which is still in contract or has outstanding liabilities without the written consent of The Supplier. If a service is transferred or sold to another business, the business must apply for an account to The Supplier in the first instance and will be subject to a new contract of at least 12 months.
- 4.6** These terms and conditions herewith supersede automatically, without signature, any previous terms and conditions that have been issued to you or that you have signed. It is therefore your responsibility to check the Terms and Conditions on our Website from time to time to ensure that you agree with them. Any clarification or dispute required on these terms must be provided in writing within 72 hours of issue of these terms.

5 CONDITIONS OF USE

- 5.1** You agree that you will promptly provide The supplier with all information that we may reasonably require in order to provide the Services and perform all of our other obligations under this Agreement.
- 5.2** You agree that you will be responsible for all use of the Services and (unless, we have agreed to supply it as part of the Equipment) for providing a computer, modem, and all additional equipment and/or services (including, without limitation, a telephone line, if required), and for obtaining any permits and/or licences which are necessary for connecting to, and accessing, the Services. You agree that you are responsible for complying with all terms and conditions (including, without limitation, terms of payment) relating to any telecommunications service which is required by you to access the Services.
- 5.3** You are responsible for ensuring that the Services and/or Equipment are used in accordance with the Agreement. If you breach the Agreement we may, in our sole discretion, either:
- a) suspend or terminate this Agreement and/or any of the Services without notice or refund;
 - b) make an additional charge; or
 - c) block access to any part of the Services.
- 5.4** If, while using the Services, you discover that another person is using the Services, and failing to do so in accordance with the Agreement, you must inform The supplier immediately.
- 5.5** You agree that you will, at all times and for whatever purpose, use the Services and/or the Equipment in compliance with all Laws.
- 5.6** In addition to Clause 5.5, you agree that you will not use, and will take all necessary precautions to ensure that nobody else uses, the Services and/or the Equipment:
- a) fraudulently or in connection with any criminal offence;
 - b) to send, knowingly receive, upload, download, or use any material which is offensive, abusive, indecent, defamatory, obscene or menacing, or in breach of copyright, confidence, privacy or any other rights;

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- c) to cause annoyance, inconvenience or anxiety;
 - d) to "spam" or to send or provide unsolicited advertising or promotional material or, knowingly to receive responses to any spam, unsolicited advertising or promotional material sent or provided by any third party;
 - e) in any way which, in our opinion, is or is likely to be detrimental to the provision of services to you or any of our customers, or to our business and/or reputation;
 - f) in contravention of any licences or third party rights, or in contravention of our Acceptable Use Policies; or
 - g) in a way that does not comply with any instructions provided to you;
- 5.7** You may use the Services to link to other networks world-wide, provided that you comply, at all times, with any policies and/or terms and conditions imposed by the operators of such other networks.
- 5.8** Except where otherwise provided in any Specific Terms and Conditions:
- a) your Account may only be used to gain access to the Internet by either:
 - (i) a single person, from up to two Locations at different times; or
 - (ii) more than one person from a single computer
 - b) your Account may not be used by more than one person dialling in from different Locations but using the same User Name; and
 - c) we cannot allow any form of network access through a single user dial-in account.
- 5.9** You agree that you will not perform or allow anyone else to perform any unauthorised IP or Port multicasting, spoofing, broadcasting, vectoring, filtering translation or routing.
- 5.10** You agree to:
- a) keep any records of your User Name(s) and/or Password(s) in separate places and take all necessary steps to ensure their security;
 - b) keep your User Name(s) and/or Password(s) private and confidential and ensure, at all times, that it (or they) do not become known to anyone else
- 5.11** You agree that you will notify The supplier immediately if you become aware of any change in circumstances which may lead you to believe that your User Name(s) and/or Password(s) have become known to anyone else.
- 5.12** You agree that we may, from time to time, and, where possible, on giving you reasonable notice, suspend and/or change your User Name(s) and/or Password(s). You also agree that you will not change or attempt to change your User Name at any time.
- 5.13** Any managed hardware, and/or routers, which you purchase from The supplier, will be tested by The supplier and configured to meet your basic network and Internet specifications. We cannot support any alterations to the configuration of such Equipment and any such alterations will invalidate our support obligation (if any) relating to such Equipment.
- 5.14** Title to any Equipment, which we have agreed to sell to you, will remain with The supplier unless and until you have paid all sums due to The supplier in respect of such Equipment.
- 5.15** Any fault with the Services and/or the Equipment, which you detect must be reported to The supplier as soon as possible either:
- a) by telephone on 0870 160 0650;
 - b) by e-mail sent to The supplier at: support@vaioni.com;
 - c) online at www.vaioni.com; or
 - d) to such other telephone number or email address or at such other Web site as we may notify to you from time to time for this purpose.
- 5.16** You agree that we may, at any time, scan any IP addresses allocated to you for anything which may affect the security of the Services (including open relays and/or open proxies or equivalent).
- 5.17** If, as part of the Services, you are provided with Web space to enable you to upload your own Web sites:
- a) You are responsible for (and will hold The supplier harmless against) any and all costs,

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- claims, losses, expenses, damages, awards, proceedings, demands and other liabilities (howsoever arising) in connection with any material that either you or anyone else puts on your Web site(s); and
- b) Your contact details must be clearly visible on your Web site(s) and updated as soon as possible after any change.

6 NAMES

- 6.1 In the event that we provide you with domain name services, the following provisions will apply:
- a) You confirm that you are the owner of, and/or that you have full rights to use, any trade (or other) name or mark, or any Name, requested by or allocated to you.
 - b) We cannot guarantee that any Name requested by you will be available or approved for use.
 - c) If we have reasonable grounds to believe that the use by you of any Name is or would be in breach of Clause 6.1 above, we may refuse to allocate or cease to provide you with the Name, and ask you to choose a replacement.
 - d) Internet domain names are registered and/or provided to you in accordance with all terms and conditions issued by the regulatory body responsible for the maintenance of such domain names including, but not limited to, Nominet, Network Solutions, EurID and Melbourne IT, copies of whose terms and conditions are available at:
 - (i) <http://www.nominet.org.uk/>; and
 - (ii) http://www.networksolutions.com/en_US/legal/static-serviceagreement.jhtml ; and
 - (iii) <http://www.eurid.eu/en/general/launch>; and
 - (iv) http://www.melbourneit.com.au/policie_s/gtldtermcond.php3.
- 6.2 You agree that all static IP addresses are allocated to you on a rental only basis and will remain our property at all times.

7 INTELLECTUAL PROPERTY RIGHTS

- 7.1 If, in our opinion, the display of any material or information, provided by you, is or would be in breach of any rights (including intellectual property rights) in that material or information, we may refuse or terminate such display.
- 7.2 You agree that, all copying, redistribution or publication of any material or information subject to any rights (including intellectual property rights) of a third party will be carried out by you (or on your behalf) in accordance with all relevant Laws.

8 CHARGES

- 8.1 Any payment terms will be confirmed in writing on the invoice, Maintenance Contract or order form or any other official document from Supplier, before any goods/services are to be delivered /completed to /for the Customer. However as a guide the Supplier requests all Capex/Goods charges to be made payable immediately via BACS, CHAPS or cheque and any Opex/Services to be paid in advance either quarterly or annually via Direct Debit only upon the Supplier issuing a valid invoice to the Customer.
- 8.2 Any credit facilities (normally 30 days from date of invoice) will be agreed by the Suppliers Accounts department and if agreed will be activated after the first invoice payments are made to the Supplier. Any credit facilities granted may be withdrawn with no notice.
- 8.3 Signatures from the Customer and ideally the Supplier must be present on all documents where applicable, before there are any proceedings of deliveries.
- 8.4 The payment terms must be adhered to fully by the Customer, in order to avoid services becoming void or restricted and to avoid any interest charges or administration charges incurable on the Customer's outstanding balance. An outstanding balance refers and relates to the entire Customer account as a single entity and is not specific to any one particular contract or service.

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- 8.5** The interest that is chargeable on the Customer's outstanding balance will be the current rates according to the late payment of commercial debts (interest) Act 1998.
- 8.6** The administration cost that is chargeable on the Customer's outstanding balance will be £50.00. This charge will be presented upon the THIRD (final) reminder notice, but will only be added if the specified date for the final payment is not adhered to. The final payment date will be on the THIRD (final) reminder notice.
- 8.7** All goods/services that are not fully paid for at the time of delivery/completion remain the property of the Supplier, until they are paid for in the specified time given to the Customer.
- 8.8** The Customer agrees that the Supplier or its representatives may enter the Customer's premises at any reasonable time in order to recover goods originally supplied by the Supplier for which payment is outstanding beyond any previously written, agreed credit term.
- 8.9** The customer accepts all risks and liability in connection with all goods that are in the possession of the Customer or at the Customer's property and the Customer agrees to ensure that they are fully insured in this regard.
- 8.10** Any goods that are damaged or stolen while in the possession of the Customer are solely responsible for the recovery and insurance of the damaged/stolen goods, regardless if the goods are paid for in full or are not paid for in full by the Customer.
- 8.11** When the Customer pays for all payments in full, they will be notified in writing that all payments have been completed.
- 8.12** All methods of payment are subject to conditions and the Supplier may refuse payment terms at any time. The Customer may be subject to payment of a security deposit or to payment, prior to Activation, of all Charges due in respect of the Initial Term. Any security deposit paid by Customer to The Supplier shall be held as security for payment of the Charges and of any other amounts due under this Agreement. On termination of a Contract or this Agreement, The Supplier may apply the security deposit against any amounts owed by The Customer to The Supplier, with the balance being refunded to The Customer. Security deposits paid by Customer shall not attract interest.
- 8.13** Where Customer disputes any amount due under an invoice, The Customer shall notify The Supplier in writing within five (5) Working Days of date of issue of the relevant invoice, such notification to provide a detailed account of why the invoice is disputed, including all calculations, and:
- 8.14** The undisputed sum shall be payable in accordance with Clause 8.1 and 8.2 and the parties shall act in good faith and use reasonable endeavours to resolve the disputed sum within ten (10) Working Days of notification of the dispute by Customer; and
- 8.15** If the dispute is not resolved within the ten (10) Working Day time period, The Supplier may exercise all rights and remedies at law or hereunder including but not limited to suspension of the Service.
- 8.16** The Supplier will also charge for debt collection should it be necessary, following failure to pay by Customer. This will be carried out by an agency registered with the Office of Fair Trading. In this event The Customer accepts additional charges will be levied.
- 8.17** All amounts payable by you in accordance with the Agreement shall be exclusive of Value Added Tax ("VAT"), or any other applicable tax or duty, which shall be payable in addition to all such amounts due from you.
- 8.18** You agree that you will notify Supplier as soon as possible of any change in your credit/debit card or bank account details. Should you terminate Services in accordance with this Agreement, it is your responsibility to terminate any standing order or Direct Debit with your bank.

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- 8.19** Charges, payment terms and contract start dates for any individual service type starts from the live or activation date Vaioni issue you irrespective of when you begin to use the service or when you signed and placed the order. This also includes where Vaioni are in supply of the hardware as we cannot guarantee stock or delivery times as they are beyond Vaioni's control. However we will endeavour to keep adequate stock and delivery on-time to avoid extensive delays.

9 LIABILITY

- 9.1** You agree that, in view of their nature, your use of the Services is at your sole risk. Whilst we will endeavour to ensure that the Services are of a high quality, neither we nor any of our agents, contractors, licensees, employees or information providers involved in providing the Services, give any guarantee that the Services will be uninterrupted or free from error. Where necessary for commercial, technical or other reasons
- a)** A network or service provider connected to the Services may suspend or terminate its connection to the Services; and
 - b)** the Services may suspend or terminate their connection to another network or service provider.
- 9.2** You agree that any such suspension or termination referred to above will not constitute a breach by The supplier of the Agreement and that the Services are provided on an "as is" basis without guarantee of any kind.
- 9.3** You further agree that the Supplier will not be held liable for any costs, expenses, losses, damages or other liabilities (howsoever arising) which you may incur as a result of a suspension of the Services in accordance with Clause 2.5(a) above.
- 9.4** You acknowledge that the Internet is separate from the Services and that use of the Internet is at your own risk and subject to any applicable Laws. We have no responsibility for any goods, services, information, software, or other materials which you may obtain from a third party when using the Internet.
- 9.5** You also acknowledge that we may exercise editorial control over the content of our servers, but that we do not have the resources to ensure, nor are we capable of checking, the full content of our servers at all times. Neither we, nor any of our agents, contractors, licensees, employees and information providers, involved in providing the Services, are able to control the content of the Internet. You, therefore, agree that we shall not be held responsible for the publication, transmission or reception of any defamatory material or information of any kind, other than information which is inserted by The supplier. You specifically acknowledge that we have given no warranties as to the quality, content or accuracy of information received through, or as a result of the use of, the Services.
- 9.6** You agree and acknowledge:
- a)** that you are in a better position than The supplier to foresee and evaluate any potential damage or loss which you may suffer in connection with the Equipment and/or the Services and/or any other service provided to you under the Agreement;
 - b)** that we cannot adequately insure our potential liability to you; and
 - c)** that the sums payable by you under the Agreement have been calculated on the basis that we shall exclude liability in accordance with the Agreement.
- 9.7** In no circumstances whatsoever will we be liable to you (whether in contract, or for breach of duty, or negligence or otherwise) for any indirect, incidental or special loss or damage or any loss of business or of contracts, profit, opportunity, goodwill, reputation, or anticipated savings, or for any loss or corruption of data which arises out of or in connection with any use of, or inability to use, the Services and/or the Equipment.
- 9.8** In any event:
- a)** Our liability to you for any failure of the Services or other event in any Minimum Cancellation Notice Period shall not exceed the Charges payable in respect of such Minimum Cancellation Notice Period.
 - b)** Our aggregate liability to you of any sort (including for breach of contract and negligence)

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in connection with this Agreement shall not exceed the amount of Charges paid by you to The supplier in accordance with this Agreement.

- 9.9** Nothing in this Agreement will limit our liability under Part I of the Consumer Protection Act 1987 or for death or personal injury caused by our negligence.

10 YOUR RESPONSIBILITIES

- 10.1** You agree that you will be responsible for and hold The supplier and our agents, contractors, licensees, employees and information providers, involved in providing the Services and/or Equipment, harmless from and against any and all losses, claims, damages, costs, demands, expenses and other liabilities which we suffer as a result of any breach by you of the terms of this Agreement, and from and against any claim brought by a third party alleging that the use of the Services and/or the Equipment, by you or under your Account, has infringed any intellectual property or other right of any kind, or any applicable legislation or regulation (whether international or domestic) but excluding any liability which we face as a result of criminal prosecution.
- 10.2** You agree to pay all costs, damages, awards, fees (including legal fees), judgements and other sums awarded against, or agreed to be paid by, The supplier in relation to such claims referred to at Clause 10.1 above. You further agree that you will, as soon as possible, notify The supplier of, and forward to The supplier all correspondence received by you in relation to, such claims.
- 10.3** You also agree that we shall have full authority to defend, compromise or settle such claims referred to at Clause 10.2 above, and that you will, at your expense, provide The supplier with all reasonable assistance necessary to defend such claims.
- 10.4** You agree that you are entirely responsible for any form of automated dialling system which you have set up (including, but not limited to, the reliability of such system and any call costs which may be incurred as a result of its use).
- 10.5** You agree that the configuration of your internal network remains your responsibility. Any interruption to the Services resulting from such configuration shall not be regarded as an interruption in or suspension of the provision by The supplier of the Services.
- 10.6** You agree that any equipment connected to or used with the Services will bear the European Consumer Equipment Standards "CE" mark. You will be responsible for ensuring that all such equipment is technically compatible with the Services and is used in compliance with all relevant instructions and safety and security procedures.
- 10.7** Vaioni's support engineers will diagnose the fault remotely. Customer shall carry out all checks requested by Vaioni to help diagnose and resolve a fault, including but not limited to first line checks, such as checking router status - power, carrier (Sync or CD light etc), testing with new cabling and filters as necessary, rebooting site equipment and removing faceplate on BT NTE5 master sockets. Additional checks, such as plugging a PC or laptop directly into the NTE may be necessary. Customer shall provide all assistance and carry out all checks requested by Vaioni promptly and in accordance with Vaioni's reasonable instructions.

11 SUSPENSION AND TERMINATION

- 11.1** You agree that we may suspend or terminate the Services and/or your Account and/or terminate the Agreement at any time, without prior notice or refund to you, and without affecting any of our accrued rights or claims, either:
- a) where we reasonably believe that the Services are being used in breach of Clauses 5.5, 5.6 or 5.9;
 - b) for non-payment (when due) of the Charges or any other sum due from you under the Agreement or any other agreement with The supplier;
 - c) for any other material breach of the Agreement by you;
 - d) where you have breached the Agreement in any other way on three or more occasions;

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- or
- e) where you are or you become Insolvent or suffer any distress or execution or other legal process to be levied or enforced or sued upon or against any part of your property, assets or revenue and which is not discharged or stayed within 7 days, or you cease or threaten to cease to carry on business.

You also agree that where this Agreement or your Account is terminated for any reason the Services will automatically terminate.

- 11.2** If your communications network does not conform to the standards set out in Clause 5.6, to either our or any of our other customers' detriment we may, without prejudice to our other rights under Clauses 5.3 and 11.1, suspend your access to the Services until you have given a suitable undertaking as to use.
- 11.3** You acknowledge and agree that our resources, used in providing the Services, are limited and that any reckless or wasteful use of the Services by you may affect those resources and the services provided to our other customers. You agree that we may suspend or terminate your access to the Services where we decide, acting reasonably, that you are using the Services in a reckless or wasteful manner.
- 11.4** You agree that, notwithstanding the provisions of Clauses 3 and 11.1 (but without affecting our other rights to terminate under this Agreement), we may terminate all or any of the Services at any time, on 14 days notice, and on repayment to you of a proportion of the Charges which reflects the period agreed for provision of the Service(s) which has yet to expire at the point of termination. Any refund that is due to you, will be made by The supplier following the cancellation of the Service(s), and will be made direct to your credit card or bank account (notified to The supplier for this purpose) by BACS transfer. Should you fail to provide suitable bank or credit card details to allow a refund to be made, you will lose the right to such refund.
- 11.5** Any suspension of the Services by The supplier in accordance with this Agreement will not constitute a termination of the Agreement and we may require you to pay a reconnection fee to recommence the Services together with the relevant Charges.
- 11.6** You may terminate all or any of the Services, at any time after the Minimum Service Period, subject to the Minimum Cancellation Notice Period. Should you wish to terminate a Service in accordance with this Clause, you must do so online at <http://www.vaioniwholesale.com> or, via email to cancel@vaioni.com or, where Internet access is unobtainable, give written notice to The Supplier.
Where you terminate within the Minimum Service Period you will be liable to pay the Charges due in respect of that Minimum Service Period in a one-off payment.
- 11.7** The Supplier will acknowledge Customer's cancellation notice within five (5) Working Days and notify Customer of any final charges or outstanding balance on Customer's account. If Customer does not receive acknowledgement within five (5) Working Days, Customer must contact The Supplier to confirm that the cancellation request has been received.
- 11.8** We may terminate all or any of the Services by notice equal to the Minimum Cancellation Notice Period (to expire at any time on or after the Minimum Service Period) without The Supplier incurring any liability.
- 11.9** Unless otherwise stated in the Specific Terms and Conditions or cancellation forms, the Minimum Cancellation Notice Period is 30 days on all services or back-to-back with the supplier. Whichever is later (to expire at any time after the Minimum Service Period).

12 ASSIGNMENT

- 12.1** We may transfer, assign or sub-contract the whole or any part of our rights and obligations under the Agreement. You agree that you will not assign, sub-contract, sell, transfer, lease, licence or

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charge by way of security any of your rights or obligations under the Agreement. Breach of this restriction in any way (whether successful or not), will result in your Account being terminated.

13 PERSONAL DATA

- 13.1** Our Data Protection policies have been updated in line with EU GDPR (General Data Protection Regulation) which came into effect May 2018.
- 13.2** You agree that both we and our employees may hold all names and other information in the Customer Application, in a computerised database. You agree that such data may be processed and may, in certain circumstances, be supplied to and processed by our suppliers, to enable the provision and maintenance of the Equipment and/or Services.
- 13.3** If you request an IP assignment of eight or more real IP addresses we may add your contact details to the Reseaux IP Europeens database.
- 13.4** You acknowledge that we may, from time to time, be required under regulations and/or legislation to co-operate with and/or disclose data to, government or other bodies and/or authorities.

14 FORCE MAJEURE

- 14.1** You agree that we shall not be liable for any and all losses, (including loss of data) damages, costs, claims and other liabilities which arise as a result of any delay or interruption in, or any non-delivery, or missed delivery or failure of the Equipment and/or Services due to circumstances beyond our or any of our suppliers' reasonable control (including, but not limited to, fire, lightning, explosion, war, disorder, flood, industrial dispute, sabotage, weather conditions or acts of local or central Government or other competent authorities).
- 14.2** Should any event, referred to at Clause 14.1 above, continue for more than 90 days, then either we or you may terminate the Agreement forthwith.

15 WAIVER

- 15.1** Neither failure nor delay by either you or The supplier in exercising any of your or our rights under the Agreement shall amount to a waiver of any such right, or operate so as to bar the exercise or enforcement of such right at any time in the future.

16 RESALE

- 16.1** The Supplier agrees that The Partner may resell the Services or use the Services as a basis for the provision of services in each case to its own Customers ("End Users"). In all such cases the provisions of this Clause 16 shall apply.
- 16.2** Nothing shall require The Supplier to deal directly with End Users. Partner shall not pass The Supplier contact and support details to End Users and all communications relating to the installation, operation and maintenance of the Services or otherwise in connection with this Agreement shall be solely between The Supplier and Partner.
- 16.3** Partner shall procure compliance by End Users with the terms of this Agreement and shall be liable for any acts or omissions of such End Users which contravene such terms.
- 16.4** The Partner acknowledges that all and any claims in respect of the Services lie solely between The Supplier and Partner and Partner shall indemnify The Supplier in full in respect of:
- a)** all claims, actions and/or proceedings in contract, tort(including negligence) or otherwise brought or threatened against The Supplier by End Users ("Claims")
 - b)** in respect of all liabilities, damages, costs(including legal costs), losses and expenses incurred by The Supplier directly or indirectly in connection with such Claims.

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- 16.5** Subject to Clause 16.6, The Supplier agrees that it shall not during the term of any Contract relating to an End User solicit or endeavour to entice away from Partner the business or custom of that End User with a view to providing services that replace or compete with the services provided to End User by Partner.
- 16.6** Nothing in Clause 16.5 shall prevent or prohibit The Supplier from, nor shall The Supplier be in breach of any provision of this Agreement in:
- a) soliciting the business or custom of End Users through promotions or general advertising campaigns;
 - b) providing services to an End User, in response to a request from that End User to do so;
 - c) soliciting and/or endeavouring to entice away the business or custom of an End User where Partner is in breach of the terms of this Agreement or a Contract and/or The Supplier has a right to terminate this Agreement or a Contract; and/or
 - d) in the circumstances detailed in clauses 16.9 to 16.11 (inclusive).
- 16.7** Partners acting as Sales Agents or Dealers will receive commissions upon receipt of a correct invoice and paid in arrears based upon the same billing cycle as the end customer.
- 16.8** Partners acting as Resellers or Wholesale Customers shall be responsible for billing the end user and liable for all debts incurred as part of the service supplied to the End User
- 16.9** In the event of an act of Insolvency of the Partner, The Supplier reserves the right to approach End Users directly and take over the supply of services, thus making the End User a direct customer of the Supplier.
- 16.10** In the event that two consecutive outstanding invoices relating to a single service remain unpaid then The Supplier reserves the right to approach End Users directly and take over the supply of services, thus making the End User a direct customer of the Supplier.
- 16.11** In the event that three or more invoices relating to a single service are paid greater than seven days late in any twelve month rolling period then The Supplier reserves the right to approach End Users directly and take over the supply of services, thus making the End User a direct customer of the Supplier.
- 16.12** In all cases the Partner will remain liable for all debts incurred should either 16.9, 16.10 and 16.11 be invoked.
- 16.13** The Supplier remains a partner focused organisation and will only apply remedies 16.9, 16.10 and 16.11 if no other options are available and (other than in the event of an Insolvency affecting the Partner) after full discussion with the Partner.
- 16.14** The Partner agrees that it will not obstruct (or object to) the Supplier exercising its rights under clauses 16.9, 16.10 or 16.11, and will provide reasonable assistance to the Supplier in relation to the orderly transition of such accounts to the Supplier
- 16.15** If the Supplier exercises its rights under Clauses 16.9, 16.10 or 16.11, if the Supplier has not terminated the Agreement or Services under clause 11, then, without prejudice to the Supplier's rights pursuant to Clause 11, the Agreement shall be deemed terminated in relation to the particular Services that the Supplier has taken over.
- 16.16** The parties agree that the provisions of clauses 16.9 to this clause 16.16 (inclusive) shall survive termination of this Agreement.

17 NOTICES

- 17.1** You agree to keep the contact details which you have provided to The supplier up to date. Any notice or other information to be served by The supplier on you in accordance with this Agreement will be validly sent if in writing and sent by either e-mail or first class post to your last known email or postal address. Any notice sent by first class post will be deemed served two days

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after posting. Any notice sent by e-mail will be deemed served on the day that it is sent.

- 17.2** Any notice to be served on The supplier must be in writing and sent either by pre-paid first class post to our registered office or to such other address as may be specified by The supplier to you for this purpose from time to time. Any notice sent in accordance with this sub-clause will only be deemed served if and when you have received a written acknowledgement from The supplier.

18 GENERAL

- 18.1** This Agreement represents the entire agreement and understanding between you and The supplier with regard to the supply of the Equipment and/or Services, to the exclusion of all prior agreements, arrangements and understandings. The Agreement contains express promises and obligations on our part. You agree that any other term which might be implied or incorporated into the Agreement, by statute, at common law or otherwise, is excluded, to the fullest extent permitted by law.
- 18.2** You acknowledge and agree that in entering into the Agreement you have not relied upon any oral or written representation, statement or understanding (whether negligently or innocently made) by any of our employees, agents, sub-contractors or representatives other than as expressly set out in the Agreement.
- 18.3** You further acknowledge and agree that you will have no remedy in respect of any untrue representation innocently or negligently made by The supplier or any of our employees, agents, sub contractors or representatives prior to entering into the Agreement upon which you may claim to have relied in entering into the Agreement whether such representation was made orally or in writing.
- 18.4** The only remedy available to you for a breach by The supplier of the Agreement shall be for breach of contract under the terms of the Agreement.
- 18.5** Nothing in the Agreement shall exclude or limit our liability for fraudulent misrepresentation.
- 18.6** The Agreement shall be governed by and construed in accordance with the laws of England and Wales and you agree to submit to the exclusive jurisdiction of the Courts of England and Wales. In the event that the Agreement is translated into any other language, the English language version shall prevail.
- 18.7** If any provision, clause or sub-clause of the Agreement is held by any competent authority to be void, voidable, illegal, invalid or otherwise unenforceable, but would be valid and/or enforceable if any part of such provision, clause or sub-clause were deleted or modified, then that provision, clause or sub-clause shall apply with such deletion or modification as may be necessary to make it valid and/or enforceable.
- 18.8** If any part of the Agreement or the application of it to any person shall, for any reason, be adjudged by a competent authority to be invalid, void, voidable, illegal or unenforceable such judgement shall not affect the remainder of the Agreement which shall continue in full force and effect.
- 18.9** References to the singular include the plural and vice versa. References to one gender include all other genders and vice versa.
- 18.10** The Customer will not engage or employ by way of contract, full-time employment, through an agent or through any 3rd party any current or past employee employed by The Supplier within at least the last 12 months, for a minimum of 12 months after the end of the Customer's newest Service contract term or last invoice from The Supplier to the Customer, whichever ends last. If this occurs, all existing contracts will be terminated with immediate effect.
- 18.11** A person who is not a party to the Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement, but this does not affect any right or

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remedy of any third party which exists or is available apart from that Act.

- 18.12** The Vaioni General Terms and Conditions of Business and all other Vaioni Terms and Conditions within this document are between the Company and the Customer and/or Partner and shall be deemed accepted by the Customer and/or Partner by virtue when purchasing, transferring, novating or testing a product or service to and from the Company, including entering into any contract type with the Company.

A statutory company director must sign this document only. Please also note, only the T&C's you are buying products against apply to you

Vaioni Colocation Terms and Conditions

All the below Terms and Conditions are product specific and should be treated in conjunction with the above General Terms and Conditions of Business.

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1 DEFINITIONS

These Specific Terms and Conditions are to be read in conjunction with our General Terms and Conditions of Business. All definitions contained within these Specific Terms and Conditions have the same meaning as those set out in the General Terms and Conditions of Business unless specified below in which case they will have the meaning specified below:

"Colocation Services" means the provision of an allocation of physical space, and access to an allocation of power, provided within a Data Centre;

"Colocation Suite" means a room within a Data Centre within which the Colocation Services are provided;

"Commencement Date" means the date upon which the provision of Colocation Services will begin;

"Customer Order Form" means the order form for the supply by The supplier of the Equipment and/or Colocation Services, completed by, or in accordance with an order from, you;

"Customer Service Manual" means the document provided to you by The supplier and which includes procedures on how to contact The supplier throughout the Service Period together with the Data Centre Acceptable Use Policy and relevant Health and Safety Regulations;

"Data Centre" means a building in which a Colocation Suite is situated, whether owned by The supplier or a third party;

"Dedicated Rack" means a Rack that is provided for the sole use of one customer and shall only contain the Customers Equipment and our equipment that is required to provide the Colocation Services to you;

"Equipment" means any computer or computer related equipment or hardware supplied by you for use with the Colocation Services;

"Minimum Cancellation Notice Period" means the minimum period of notice that you must give The supplier to terminate a specific Colocation Service or this Agreement, as set out in Clause 11;

"Minimum Service Period" means the minimum service period as defined in Clause 4;

"Network Connection" means the single Ethernet cable provided as part of the Colocation Service to enable your Equipment to connect to the Internet;

"Rack" means the physical chassis, frame or cabinet which will house your Equipment;

"Shared Rack" means a Rack that is provided to house multiple, different customers' equipment and is not for the sole use of any single customer;

"Service Level Agreement" or **"SLA"** means the service level agreement at <http://www.vaioniwholesale.com/tcaupsla> relating to the Colocation and Network Connection Service that describes the service levels to be met by The supplier together with the remedies available to you for failure to meet such service levels;

"Service Period" means the period of an individual Service provided in accordance with this Agreement;

"System" means any part of any hardware or software component owned and provided by The supplier in order to provide Colocation Services;

"Third Party" means any person not in permanent employment of either Vaioni or the Customer;

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"Company or Supplier" means Vaioni Group Limited (Company Registration Number 43114251) of Floor 6, Tomorrow, MediaCityUK, M50 2AB.

2 THE SERVICES

- 2.1** The Colocation Services to which these Specific Terms and Conditions relate provide an allocation of space within a Shared or Dedicated Rack for your Equipment, within one of our secure Colocation Suites. A high-speed Network Connection to our core network is also provided.
- 2.2** You can place your order for the Colocation and Network Connection Service by completing and sending Supplier a completed order form (sent to you pursuant to acceptance of a quotation supplied by Supplier) online, by post or by fax to the address or fax number set out on our Web site.
- 2.3** We may allocate a range of Internet Protocol (IP) addresses for use by you for machines on your network for the duration of this Agreement. It will be your responsibility to connect the Equipment to, and to configure your machines on, your own network.
- 2.4** We may provide you with transit and routing services for e-mail and general Internet access. We will (in consideration of the Charges) deliver IP packets to your network boundary only and will not be, or be held, responsible for, the transit, routing and delivery of IP packets to individual workstations on your network.
- 2.5** We will use our reasonable endeavours to ensure that the Colocation Services are provided with reasonable skill and care and in accordance with industry standards. In order to maintain the quality and safety of the Colocation Services, and any other services which Supplier provide to our customers, Supplier may from time to time:
- a)** suspend, close down or restrict the whole or any part of the Colocation Services in order to carry out emergency or other repairs, maintenance and/or improvements or to prevent overload of the network or to preserve the safety, security or integrity of the Colocation Services and any Internet traffic conveyed (although Supplier will give you as much notice as is reasonably practicable before doing so and will use our reasonable endeavours to carry out such works during the relevant scheduled maintenance periods as published by Supplier); and/or
 - b)** give you instructions on how to use the Colocation Services. You agree to comply with any instructions Supplier may give you in accordance with this Clause.

3 SERVICE LEVELS

- 3.1** We shall provide the Colocation Services in accordance with the Customer Service Manual, our General Terms and Conditions of Business, these Specific Terms and Conditions and the applicable Service Level Agreement (as specified on the Customer Order Form).

4 SERVICE PERIOD

- 4.1** We will use our reasonable endeavours to activate the Colocation Services, as soon as possible. However, all dates are estimates and Supplier cannot guarantee that they will be met.
- 4.2** Unless otherwise terminated or suspended in accordance with this Agreement the Colocation Services shall be provided for the Minimum Service Period from the date of activation. The Minimum Service Period shall be the greater of 12 months or the period set out in the Customer Order Form.
- 4.3** On expiry of the periods referred to in Clause 4.2 above (as appropriate) the Colocation Services will, unless terminated on or before the date of such expiry, automatically renew until terminated pursuant to this Agreement or until a new contract term is agreed between Supplier and you.

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5 CHARGES

- 5.1** If you are in a shared Colocation environment, Vaioni will charge for access. This applies to any day of the week from Sunday to Monday, 24 hours a day. Engineering charges are at the prevailing rate from our suppliers and / or Vaioni's labour charges, whichever is greater. Access out of hours and on weekends will be charged at a higher rate.
- 5.2** Notwithstanding clause 5.1, Supplier reserve the right to, acting reasonably, review your rental fees in respect of rising utility costs incurred by Supplier, where you are outside of the Minimum Colocation Service Period. Any increase in rental fees will be notified to you and charged from the start of the first service period following the date of the notification.
- 5.3** Where you have a 30 day credit account, Supplier will send you a VAT invoice following completion of the provision of the Colocation Services. Where you have no credit facility, Supplier will send you a VAT receipt following receipt by Supplier of your payment.

6 YOUR OBLIGATIONS

- 6.1** The Equipment shall be at your risk at all times and you shall be responsible for insuring the Equipment against all risks. You shall also effect and maintain insurance for public liability, material damage and business interruption cover from the Commencement Date until such date as is necessary to ensure that insurance is provided for all of your liabilities arising under this Agreement and which would usually be covered under such policies irrespective of when any claim in relation to any such liability is made. Such insurance shall be maintained with a reputable insurer and will include a waiver of subrogation in favour of Supplier and/or the data centre operator and you shall produce on demand for inspection by Supplier and/or the data centre operator adequate proof of such insurance.
- 6.2** You shall provide all necessary access to Equipment, information, facilities and authorisations necessary to enable Supplier to fulfil our obligations under the agreement where appropriate and shall provide such cooperation as Supplier may reasonably require in connection with the Colocation Services.
- 6.3** You shall provide Supplier with all relevant user manuals, software and access code(s) and other documentation necessary for Supplier to provide the Colocation Services.
- 6.4** You shall not be permitted to connect any of the Equipment to, or disconnect any of it from, the System in any of our Colocation Suites without, in each and every case, our prior written.
- 6.5** You agree that you and your employees, sub-contractors and agents shall not examine or interfere with the System or any other equipment in any of our Colocation Suites.
- 6.6** You agree that you will procure that in so far as a user or Third Party has access to or use of the Colocation Services, such user or Third Party will comply with all the terms and obligations under this Agreement, save for the obligations in relation to payment, as if such Third Party user was a party to this Agreement.
- 6.7** You agree not to do any act or thing which shall be a breach of any lease, licence or agreement, legislation (including but not limited to all relevant Health and Safety regulations), regulation or order or otherwise affecting the use of any of our Colocation Suites or provision of the Colocation Services and/or use of the Equipment and shall procure that all individuals at any of our Colocation Suites on your authority or at your invitation abide by all rules and regulations notified to you by Supplier from time to time.
- 6.8** You shall not be permitted to make any alteration or modification to any of our Colocation Suites, or any of the Racks, storage facilities, fixtures and fittings or any other facilities provided.
- 6.9** You shall keep that part of any of our Colocation Suites at which the Equipment is located from time to time, clean and tidy and free from rubbish and other debris and refrain from obstructing any doors or access to that space at all times.

Vaioni Colocation Terms and Conditions

- 6.10** You undertake that you will ensure that any Third Party has no rights at any of our Colocation Suites or against Supplier or the data centre operator.
- 6.11** You warrant and represent to Supplier as follows:
- a)** that you will act with all due care and skill when inside any of our Colocation Suites, working on the Equipment or otherwise performing your obligations under this Agreement;
 - b)** that any Equipment installed at any of our Colocation Suites shall at all times fully conform with the manufacturer's specifications of the Equipment, the relevant standard or approval at that particular time and all other regulations that apply to it from time to time, including without limitation, those concerning safety and electromagnetic compatibility; and
 - c)** that the provision of any Colocation Services in the proper discharge of our obligations under this Agreement will not infringe any patents, trademarks, design rights (whether registerable or otherwise), copyright, database right, know-how and other similar rights or obligations (whether registerable or not) of any third party in any country.

7 YOUR RIGHTS

- 7.1** We shall permit you upon reasonable notice:
- a)** where your Equipment is hosted in a Shared Rack, to be granted access to the Colocation Suite 24 hours a day 7 days a week, for the purpose of inspecting the Equipment and facilities provided; and
 - b)** where your Equipment is hosted in a Dedicated Rack to be granted access to the Colocation Suite 24 hours a day 7 days a week, for the purpose of carrying out any necessary maintenance and/or repair to the Equipment not covered by our service.
 - c)** Notwithstanding clauses 7.1(a) and (b), in cases where emergency maintenance and/or repair work is necessary you shall give Supplier as much notice as is possible under the circumstances (and you acknowledge and accept that immediate access may not be possible).
 - d)** Subject to clauses 7.1(a) and (b) you shall be allowed access to the Colocation Suite where your Equipment is hosted only under the supervision of a Vaioni engineer at all times, and strictly by appointment. Where your Equipment is hosted in a data centre managed by Supplier but operated by a third party (such as Telecity), you may access the data centre un-supervised when specific written consent is provided by Supplier, and all of the data centre operators access procedures are followed. Unsupervised access is provided at our discretion.
 - e)** Telecity provide an online access control system for equipment hosted specifically in our suite at Telecity. On entering your username and password into Telecity's online access control system, an access code is generated that corresponds to each authorised user scheduled to attend site. Managing authorised personnel for site visits is therefore your sole responsibility and great care should be taken with the username and password used by the access control system. Only authorised personnel who present a valid access code on arrival will be granted access to our suite in Telecity. The access code will expire if you do not arrive on the pre-arranged day.
 - f)** Customer maintenance within the cabinet is limited to the replacement of hot swappable parts and the replacement of parts that are designed for in-situ access with the equipment powered down. Extensive work that requires equipment to be dismantled should be done away from the cabinet in the designated repair area.
 - g)** While Supplier try to ensure that authorised personnel behave responsibly on site, Supplier cannot be held responsible for damage or service interruption caused by Appropriately Authorised personnel working in Shared equipment cabinets.

Vaioni Colocation Terms and Conditions

- 7.2** We and/or the data centre operator reserve the right to refuse any person entry to any of our Colocation Suites if:
- a)** he or she cannot demonstrate that he/she is Appropriately Authorised; or
 - b)** Supplier and/or the data centre operator reasonably consider it inappropriate to allow the individual entry to any of our Colocation Suites for any reason (whether or not they are Appropriately Authorised); or
 - c)** any individual wishing to acquire access refuses to be searched and for any items (including data storage devices) to be properly checked.
- 7.3** A person will only be "Appropriately Authorised" if Supplier have had reasonable prior written notice from you stating that the person concerned is to be permitted access to the Equipment on your behalf together with the status of such person(s). Individuals authorised to access your equipment are identified by a list held by Supplier drawn up at the point of sale. You acknowledge that it is your duty to notify Supplier of Appropriately Authorised personnel, in good time and is required to notify Supplier of any change to the list of Appropriately Authorised personnel in writing.
- 7.4** Any individual may be asked for additional identification on arrival at the facility.

8 CONDITIONS OF USE

Installation of new Equipment is subject to the following conditions:

- 8.1** that the Equipment, if it is out of the manufacturer's warranty period, has undergone an electrical safety test within the past 12 months;
- 8.2** Equipment must conform to the appropriate specifications for the Colocation product:
- a)** Dedicated Rack customers acknowledge that the total power allocation that will be delivered to a cabinet will be confirmed and agreed on placement of order. The total power consumption of equipment under start-up conditions in a fully populated cabinet should not exceed the agreed value. The power consumed will be measured on a monthly basis, and Supplier, acting reasonably, will review your rental fee on a monthly basis, based on actual power consumed. Should the total power usage in a month be in excess of your contracted power allocation, Supplier reserve the right to increase your allocation by step increments in line with our current price tariff for power charges. The incremental charge will be levied in the first service period following the month in which the increase has occurred. At Telecity a maximum upper limit, above your power allocation, of 16 amps applies to fluctuations in power usage, as only 16 amp feeds are provided as standard.
 - b)** Shared Rack customers acknowledge that the maximum power rating available at each power receptacle in a Shared cabinet is 1 amp. Equipment connected to each receptacle should not draw more than this amount under start-up conditions;
 - c)** where a Colocation product is supplied with a redundant power feed you should distribute the power consumption evenly over both feeds. The maximum current of the combined power feeds should not exceed the total power limit as set forth in your contract;
 - d)** Equipment supplied must be suitable for installation in a 19 inch wide, 1 metre deep cabinet. All equipment must be accompanied by an appropriate mounting kit;
 - e)** the total weight limit of a fully populated cabinet is 1200KG. The total weight of installed Equipment should not exceed this value; and
 - f)** where appropriate, you will supply an appropriate 19-inch Rack-mount kit suitable for fitting in a 1000mm Cooper B-line cabinet, details of which will be made available on request. Cage nuts, network cabling for connection to our network and power cords, are provided by Supplier. Equipment will not be accepted for installation unless it is appropriately mounted in the cabinet.
- 8.3** If you wish to send Equipment for installation as part of an existing solution, then you must provide Supplier with 48 hours notice in advance of delivery. Deliveries for our Colocation Suites must be sent directly to the appropriate Colocation Suite and will only be accepted during normal Business Hours on a business day. Prior notification of deliveries must be given to Supplier

Vaioni Colocation Terms and Conditions

otherwise deliveries may be turned away. Suitable notification can be given by contacting Supplier in accordance with the procedure set out in our Customer Services Manual.

- 8.4** When collecting equipment from Supplier, Appropriately Authorised personnel from your company will be asked for identification that will be photocopied for auditing purposes. Equipment will only be released to Appropriately Authorised from your organisation.
- 8.5** Instructions to install, remove and relocate Equipment can only be taken from Appropriately Authorised personnel in your organisation. This includes instructions to delegate responsibility to a third party such as a parcel courier.
- 8.6** We are not responsible for items that are lost/damaged in transit to and from our facilities.
- 8.7** New Equipment to be added to an existing solution must conform to power consumption limits and size constraints as set out in the original order.
- 8.8** Any Equipment that arrives at Vaioni for installation must be clearly labelled for installation, to include labelling of power receptacles and network ports. You are advised to check your device network configuration prior to shipment to ensure it will operate correctly using the network set-up details provided by Supplier.
- 8.9** Network Interface Cards, and network ports present on your Equipment that are to be connected to our network, must conform to the following basic standards to ensure proper operation:
 - a)** 10/100Mbps Fast Ethernet - supporting auto negotiation and manual speed selection;
 - b)** full duplex operation; and
 - c)** presented as an RJ45 connector;
 - d)** or such other standards that may be communicated by Supplier to you from time to time.

9 OUR OBLIGATIONS

- 9.1** Without prejudice to our rights pursuant to clause 10 below, Supplier agree that Supplier shall use our reasonable endeavours to consult with you prior to any relocation in order to minimise any disruption caused to the operation of the Equipment.

10 OUR RIGHTS

- 10.1** We shall be entitled upon giving you no less than 3 months' written notice to move the Equipment to a different location within one of our Colocation Suites or to a different Colocation facility nominated in writing to you by Supplier. The costs and expenses incurred by Supplier in moving and installing the Equipment shall be borne by Supplier.
- 10.2** You shall permit Supplier (and ensure that Supplier obtain) unrestricted access to the Equipment at all times to ascertain whether your obligations under this Agreement have been duly observed and performed.
- 10.3** Where Supplier are in breach of this Agreement and such breach can be remedied by re-performance within a reasonable time, such re-performance shall be your sole remedy in respect of such breach.

11 TERMINATION

- 11.1** Subject always to the termination provisions of the General Terms and Conditions of Business, once the Colocation Service has been activated and is available for you to use, you may only end this Agreement by notice equal to the Minimum Cancellation Notice Period which must expire on or after the Minimum Service Period. Termination before the activation date of the service as specified by Supplier may be subject to any charges incurred by Supplier and Supplier reserve the right to claim against you for any charges incurred.
- 11.2** We may terminate all or any of the Colocation Services by notice equal to the Minimum Cancellation Notice Period (to expire at any time on or after the Minimum Colocation Service Period) without incurring any liability.

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11.3 Unless otherwise stated, the Minimum Cancellation Notice Period is 30 days.

12 NOTICES

12.1 You agree to keep the contact details which you have provided to Supplier up to date. Any notice or other information to be served by Supplier on you in accordance with this Agreement will be validly sent if in writing and sent by either e-mail or first class post to your last known e-mail or postal address. Any notice sent by first class post will be deemed served two days after posting. Any notice sent by e-mail will be deemed served on the day that it is sent.

12.2 Any notice to be served on Supplier must be in writing and sent either by pre-paid first class post to our registered office or to such other address as may be specified by Supplier to you for this purpose from time to time. Any notice sent in accordance with this sub-clause will only be deemed served if and when you have received a written acknowledgement from Supplier.

Vaioni Broadband & 3G Terms and Conditions

Broadband & 3G

These Specific Terms and Conditions are to be read in conjunction with our General Terms and Conditions of Business. All definitions contained within these Specific Terms and Conditions have the same meaning as those set out in the General Terms and Conditions of Business.

1 SERVICE TECHNOLOGIES

- 1.1 Some of the technology used in the provision of the Services is described below. The Supplier may at any time vary or alter the equipment or other technology used in the delivery of the Services provided that such variations or alterations shall not be materially detrimental to the performance capability of the Services.
- 1.3 **ADSL:** Asymmetric DSL (ADSL) technology, operating over a BT PSTN line. It is not deployable on a PSTN line with certain products already installed. The Supplier normally uses the G.992.3 standard of ADSL2 and G.992.1 for fixed-rate ADSL Services.
- 1.3 **MPF** - Metallic Path facility enables broadband services to be provided on a specifically installed line. It provides a two-wire metallic transmission path between the Network Terminating Equipment (NTE) at a customer's premises and a main distribution or jumper frame at the exchange.
- 1.4 **SMPF** - Shared Metallic Path Facility broadband services over the copper network. This means we can provide a broadband service while another communications provider supplies voice services on the same line.
- 1.5 **ULTRA 20:** ADSL2+ over partially unbundled PSTN. The ULTR20 service uses Asymmetric DSL (ADSL) technology. ULTRA20 employs the Annex-M variant of the ADSL2+ (G.992.5) standard to deliver up to 24mb download and 2.6mb upload.
- 1.5 **U2:** ADSL2+ over partially unbundled PSTN. The U2 service uses Asymmetric DSL (ADSL) technology. U2 employs the Annex-M variant of the ADSL2+ (G.992.5) standard to deliver a 2mb synchronous line.
- 1.6 **FTTC & FTTP:** FTTC and FTTP are fibre based broadband products which provide internet access via optical fibre between the BT exchange and your local street cabinet or to your premises with speeds of up to 80mb download and 20mb upload (FTTC) and up to 110mb download and 30mb upload (FTTP).
- 1.7 **Enterprise Connect / Databahn:** Enterprise Connect / Databahn is delivered using a bespoke appliance based solution and routers. Enterprise Connect / Databahn offers aggregation of multiple individual Internet connections presented via a single Ethernet interface with a single static IP address allocation.
- 1.8 **PSTN WITH CALL BARRING:** BT Business PSTN with BT.
- 1.9 **3G:** 3G is a wireless mobile broadband service which delivers internet access via a SIM enabled device over the Three mobile network.

2 THE SERVICES

- 2.1 The broadband service to which these Specific Terms and Conditions relate ("Broadband Services") provides you with high-speed access to the Internet (and includes a range of Internet services and applications as described at <http://www.vaioniwholesale.com>)

The Broadband Services will be provided to you at the premises specified in the Customer Application. Quoted speeds for each product specified by The supplier refer to the maximum available download bandwidth. Upload bandwidth for the broadband Service (may vary up to a maximum of 2.6Mbps).

Vaioni Broadband & 3G Terms and Conditions

- 2.2** Broadband services listed under the Vaioni Business product set are for use by Business customers only. Vaioni reserves the right to request Company registration and / or VAT registration numbers in instances where we perceive the service to be being used improperly.
- 2.3** For Rate-Adaptive Services, the Sync Rate is determined by the copper quality and distance from the exchange. The supplier will use reasonable endeavours to estimate the maximum Sync Rate prior to Activation, but The Customer accepts these are conditions beyond The Supplier's control. No remedy is offered should a Rate-Adaptive Service fail to operate to Customer's expectations or estimated Bandwidth or Sync Rates and The Supplier shall not be liable for such failure in contract, tort (including negligence) or otherwise.
- 2.4** The Supplier may provide the Modem for the Ultra20 service for technical reasons. In this case no other Modem except that provided by The Supplier shall be supported. This ULTRA20 modem will be a Netgear DG834, Cisco 877-M or Cisco 1841 with ADSL2+ WIC or equivalent. This hardware is owned by The Supplier and must be returned when cancelling the service.
- 2.5** As packets originating from single data streams are distributed across multiple Internet circuits when using Enterprise Connect or Databahn, The Supplier cannot guarantee that packets will always arrive in order, meaning the Service cannot be guaranteed as suitable for real-time applications such as VoIP and videoconferencing;
- 2.6** Enterprise Connect or Databahn hardware is provided with a next business day replacement guarantee (provided faults are diagnosed before 3pm).
- 2.7** Where you buy a capped broadband service, you agree you are responsible in ensuring you monitor the usage levels to avoid disruption or additional charges to the service.
- 2.8** Overusage charges on capped broadband services will be automatically applied to your account to avoid disruption to service. This charge is classed as an overusage charge. For avoidance of doubt the overusage charge is £1.50 per 1GB (excludes 3G), with a minimum charge of 1GB.
- 2.9** The monthly cap and overusage on any broadband service does not rollover to the following month.
- 2.10** You agree to adhere to the Acceptable Usage Policy for all broadband services including broadband services which are classed as unlimited in their usage.

3 COMMENCEMENT OF SERVICES

- 3.1** The supplier needs to do the following to be certain that we can provide you with the broadband Services and before accepting your Customer Application;
- a) Successfully complete a line test and survey; and
 - b) Successfully activate the broadband services.

If it is not possible to provide the broadband Services because one of the above cannot be completed successfully, we will notify you as soon as possible.

- 3.2** To enable the supplier to provide the broadband Services, certain equipment may need to be installed at your premises. Before accepting your Customer Application, we may give you some advice on any necessary preparation. You will need to provide a suitable location for any equipment which is purchased from the supplier, or which you supply yourself
- 3.3** When the broadband Services are being activated at your premises, you may lose your telephone service for up to two hours. This is because your existing connection needs to be adjusted to allow you to access the broadband Services. The supplier will endeavour to make any loss of telephone service as brief as possible.

Vaioni Broadband & 3G Terms and Conditions

- 3.4** The supplier will use all reasonable efforts to activate the broadband Services by the date notified to you following acceptance of your Customer Application, however it should be noted that all dates are estimates and we cannot guarantee that they will be met.
- 3.5** If you choose to use the Vaioni Managed service we will require access to the data stored on your router. Our service teams may need to review and change your details, but will only do so if required. The supplier will always endeavour to support, update or secure your connection and will not exercise this right for any other purpose.

The supplier will require access to any password held on your Vaioni Managed device (using TR-069 protocol) connected to our Service. Whilst we will at all times endeavour to keep your data and router safe and secure, when accessing your router details we will not be held liable for;

- a) Damage or loss to your router or data through changes we make; and
- b) Loss of data or damage to any equipment that you have connected to the router.

4 TRANSFERABILITY

- 4.1** Broadband Services are transferable between telecommunications lines where there is a change of property address and a new line is being installed.
- 4.2** Your broadband User Name is not transferable on a telecommunications line that has not been enabled for broadband by Vaioni.

5 YOUR WEB SPACE

- 5.1** As part of the broadband Services, you are provided with Web space to enable you to upload your own Web site(s).

6 PRODUCT REGRADES AND SERVICE CHANGES

- 6.1** Any amendment, modify or cancellation request to a live service is subject to charges by our supplier, and will be charged to the customer accordingly.
- 6.2** Speed of service regrades between our range of unlimited broadband services take between 1 and 5 working days to process from the order being received.
- 6.3** In the event that you move to our 21CN Service, you acknowledge that when the new Services are being activated at your premises, you may lose your telephone service whilst your Service is being transferred. This is because your existing connection needs to be adjusted to allow you to access the new Service.

The supplier will use our reasonable endeavours to make any loss of telephone service as brief as possible and to contact you prior to the move taking place, but you acknowledge that the timing of the move and the period of the loss of Service are within the sole control of a third party contractor and are, therefore, outside of our control.

- 6.3** The supplier cannot accept any liability for any costs, expenses, losses, damages or other liabilities (howsoever arising) which you may incur as a result of the timing of the move or the period of the losses of Service referred to at Clause 5.2 above.

7 HARDWARE

- 7.1** All Broadband (DSL) hardware that you purchase from The supplier is covered by a one year warranty.
- 7.2** In the event that you find items missing from any hardware ordered, you will have 10 calendar days from the date on which the hardware is originally delivered to you to notify The supplier of any missing items. If you notify The supplier within the 10 calendar day period we will send out replacement items free of charge. After the 10 day period has passed, you will be charged for replacement parts and delivery costs.

Vaioni Broadband & 3G Terms and Conditions

Please be aware that each item has a recorded delivery time from our hardware supplier depot. This information will be used to remedy any disputes regarding the start and end of the initial 10 day period.

- 7.3** If hardware is damaged during delivery, or should you encounter a problem with the router within the one year warranty period, please follow the returns process below:
- a) Please contact Vaioni Technical Support to report the fault 0870 160 0650 (Option 2).
 - b) Technical Support will verify the fault and will issue you an RMA form via EchoSign or similar means.
 - c) Within 5 working days of the device confirmed to be defective by The Supplier, we will arrange for a replacement router to be delivered to you.
 - d) If the device once returned is found to not be defective, you will be charged for the replacement router at our latest RRP and a minimum admin fee of £65.

This does not in any way affect your statutory rights.

- 7.4** Should you wish to return hardware due to an ADSL activation failure, please follow the returns process below:
- a) Please contact Customer Services on 0870 160 0650 (Option 4) to confirm the failure.
 - b) Customer Care will verify the fault and will issue you an RMA form via EchoSign or similar means.
 - c) You will be asked to prepare the router to be picked up.
 - d) Upon receipt of the equipment, we will issue a credit note.

Please note that returns due to ADSL activation failures will only be accepted within 14 calendar days from the date to which you receive notification of activation failure.

- 7.5** You acknowledge that some routers that are compatible with an 8mbps service may not be compatible with a move to a 20/24mbps (ADSL2+/ADSL2+Annex-M) service and that you may have to purchase an alternative router at your own cost in order to be able to access the 20/24mbps (ADSL2+/ADSL2+Annex-M) service.
- 7.6** In the event that you do not wish to purchase a new router to access the 20 (ADSL2+) service, we will transfer your Service from the 20 (ADSL2+) service back to your original contracted Service at no cost to you.
- 7.7** For the avoidance of doubt, we can only offer support and assistance in respect of Vaioni supplied routers. If you choose to purchase a router from a third party, you will be responsible for ensuring that you have access to appropriate support and assistance in respect of that router.

8 TERMINATION

- 8.1** You may end the Agreement at any time before the Service is activated and available for you to use, and:
- a) Any amendment, modify or cancellation request to an in-flight order is subject to charges by our supplier and will be charged to the customer accordingly.
 - b) If after the Order Committed Date, the customer shall be liable for payment of any Activation Charges and Recurring Charges for the entire Initial Term.
 - c) Equipment purchased or provided by The Supplier to enable you to receive the broadband Service must be returned at our request at your cost.

Returned goods should be returned in the same condition that you originally received them, together with their original packaging. The Supplier reserve the right to recover compensation from you should the goods arrive with The Supplier in less than saleable condition or are damaged in any way.

In order to minimise any delay in dealing with your exchanged or returned item(s), please wrap the item(s) securely for transit, using the original packaging and remember to enclose your original despatch note (you may wish to keep a copy for your reference). All goods should be in the same the condition you originally received them. The Supplier would also recommend you include your address details on the package as the return to sender information.

Vaioni Broadband & 3G Terms and Conditions

This does not in any way affect your statutory rights.

- 8.2** Once the broadband services have been activated and are available for you to use, you may only end this Agreement by notice equal to the Minimum Cancellation Notice Period, stated in the General Terms and Conditions of Business as 30 days, to expire after the Minimum Service Period as agreed on the signed contract. All Broadband services (in-flight orders or live services) may be subject to a cancellation fee from our supplier, which will be incorporated into any finalised billing for the service.
- 8.3** If you choose to transfer your ADSL service away, you may do so after the Minimum Service Period. If you terminate prior to the Minimum Service Period you will be liable for the remainder of the Service Period. Your cancellation notice only begins from the date your service officially transfers away to your new service provider.
- 8.4** If we or BT deem that your telecommunications line is not capable of supporting an ADSL service we reserve the right to terminate your ADSL broadband Service immediately without notice and issue a refund for any Services not provided or move you to an appropriate alternative service. Examples include;
- a) Your line is too far away from the telephone exchange, or
 - b) The quality of your line is too poor.
- 8.5** Notwithstanding the provisions of clause 7.4, we reserve the right to move you onto a different product at no additional cost to you, if, in our reasonable opinion, it would mean that your service would perform better, provided always that such alternative product shall be of equivalent price to your existing product.
- 8.6** In the event that you cancel or change ownership of your BT telephone line, your broadband Service will be terminated and any remaining Charges will become immediately due and payable.

9 GENERAL

- 9.1** The supplier reserve the right to raise an 'Abortive Visit Charge' of £85 + VAT when entry to your premises is refused, or no access can be gained despite you having agreed that we or any other person may access your premises.
- 9.2** The supplier reserve the right to raise a 'Special Faults Investigation Charge' of £144 + VAT when you report a fault, and an engineer visits your premises, and discovers that the fault is not a result of a failing or defect in the broadband Services and/or the Equipment.
- 9.3** The charges between clauses 9.1 to 9.2 are indicative and may change.

Vaioni Leased Line & Wireless Ethernet Terms and Cor

Leased Line and Wireless Ethernet

1 DEFINITIONS

These Specific Terms and Conditions of Supply are to be read in conjunction with our General Terms and Conditions of Business. All definitions contained within these Specific Terms and Conditions have the same meaning as those set out in the General Terms and Conditions of Business unless specified below in which case they will have the meaning specified below;

"Customer Order Form" means the order form for the supply by the Company of the Equipment and/or Services, completed by, or in accordance with an order from, the Customer;

"Minimum Cancellation Notice Period" means the minimum period of notice that a Customer must give the Company to terminate a specific Service or this Agreement, as set out in Clause 8;

"Private WAN Circuit" or **"Private WAN Wireless Ethernets Service"** means the point to point circuit service described in the Company's literature at the date of completion of the Customer Order Form;

"Wireless Ethernet" means the Telecommunications Circuit as described at <http://www.vaioniwholesale.com> provided by Vaioni Group Limited for the Wireless Ethernet Service;

"Leased Line" means the Telecommunications Circuit as described at <http://www.vaioniwholesale.com> provided by Vaioni Group Limited for the Ethernet Service;

"Diverse" means the Telecommunications Circuit as described at <http://www.vaioniwholesale.com> provided by Vaioni Group Limited for the Wireless Ethernet Service;

"Flex" means the Telecommunications Circuit as described at <http://www.vaioniwholesale.com> provided by Vaioni Group Limited for the Wireless Ethernet Service;

"Wireless Ethernet Service(s)" or **"Service"** means the provision of one of the following Wireless Ethernets (i) Access, (ii) Ethernet, or (iii) Private WAN Wireless Ethernet Service as specified on the Customer Order Form, and described in the Company's literature at the date of completion of the Customer Order Form;

"Ethernet" means the Ethernet service described in the Company's literature at the date of completion of the Customer Order Form;

"Service Level Agreement" or **"SLA"** means the service level agreement at <http://www.vaioniwholesale.com/tcaupsla> relating to the Wireless Ethernet and Leased Line Service that describes the service levels to be met by Vaioni Group Limited together with the remedies available to the Customer for failure to meet such service levels;

"Service Period" means the period of an individual Service provided in accordance with this Agreement;

"Telecommunications Circuit" means a circuit that allows that transmission of TCP/IP data;

"Wires-Only Ethernet" means a copper or fibre Ethernet service where there is no management or monitoring included in the service. The Ethernet service is very much the responsibility of the Customer or buyer.

"Vaioni Group Limited" means Vaioni Group Limited Ltd (Company Registration Number 4314251) of Floor 6, Tomorrow, MediaCityUK, M50 2AB.

2 THE SERVICES

2.1 Vaioni Group Limited shall provide the Service at the data transfer speed stated on the Customer Order Form subject to the terms of this Agreement.

Vaioni Leased Line & Wireless Ethernet Terms and Cor

- 2.2** You can place your order for the Service by completing the online order form via the myVaioni Portal.
- 2.3** Vaioni Group Limited shall not be obliged to provide the Service to you unless and until we have received written confirmation, or (if requested in our discretion) evidence, that all installation work at the Customer's premises is complete and the other terms specified in Clause 2 of the General Terms and Conditions have been satisfied, subject to Clause 2.4.
- (a)** we have sent written notice to you (either by post, fax or e-mail) of our acceptance of the Customer Order Form; and
- (b)** we have received any initial Charges due from you in respect of the Services and/or Equipment.
- 2.4** We will configure, deliver and install the Equipment to the Customer's Site to be connected to the Telecommunications Circuit where this option is chosen (excludes Wires-Only). Acceptance and/or use of the Services and/or Equipment by you constitutes your automatic acceptance of the terms and conditions of this Agreement. Whilst we will use reasonable endeavours to provide the Services and/or Equipment to you within any timescales specified by us or agreed with or requested by you, we will not be liable to you for any delay in providing or failure to provide the Services and/or Equipment within such timescales.
- 2.5** We shall allocate a range of Internet Protocol (IP) addresses for use by the Customer for machines on its network for the duration of this Agreement. It will be the responsibility of the Customer to connect the Equipment to, and to configure its machines on, its own network.
- 2.6** Save in relation to the Private WAN Circuit, we will provide you with transit and routing services for e-mail and general Internet access. We will (in consideration of the Charges) deliver IP packets to the Customer network boundary only and will not be, or be held responsible for, the transit, routing and delivery of IP packets to individual workstations on the Customer network.
- 2.7** We will endeavour to ensure that the Services are of a high quality. In order to maintain the quality and safety of the Services, and any other services which we provide to our customers, we may from time to time: (a) Suspend, close down or restrict the whole or any part of the Services in order to carry out emergency or other repairs, maintenance and/or improvements or to prevent overload of the network or to preserve the safety, security or integrity of the Services and any Internet traffic conveyed (although we will give you as much notice as is reasonably practicable before doing so and will endeavour to carry out such works during the relevant scheduled maintenance periods as published by us); and/or (b) Give you instructions on how to use the Services. You agree to comply with any instructions we may give you in accordance with this Clause.
- 2.8** We shall send you, via e-mail, online usage statistical reports detailing the bandwidth used on the Telecommunications Circuit by the Customer and will endeavour to do so daily as specified in accordance with the Customer Order Form.
- 2.9** The Equipment shall at all times remain the property of Vaioni and Customer shall have no rights or interest in the Equipment except for quiet possession and the right to use the Equipment under this Agreement to provide the Customer Service.
- 2.10** A Wires-Only service will exclude any CPE equipment.
- 2.11** The Customer is responsible for the configuration of a routing device and implementation of any intelligence for the Wires-Only Ethernet Service.
- 2.12** DSL Failover, Wireless Ethernet, Diverse and Flex are not available with Wires-Only Ethernet.
- 2.13** Technical Support on Wires-Only services is limited and initial diagnosis is the responsibility of the Customer. Support guidelines for Wires-Only Internet Leased Lines from the Supplier will be

Vaioni Leased Line & Wireless Ethernet Terms and Cor

provided to assist in the diagnosis process and must be followed and reported back to Technical Support before it is raised with the Telco Operator and the clock starts on the SLA.

3 SERVICE LEVELS/CREDITS

- 3.1 Vaioni Group Limited shall provide the Service in accordance with these Specific Terms and Conditions and subject to the applicable Service Level Agreement.

4 SERVICE PERIOD

- 4.1 We will use reasonable efforts to activate the Services, as soon as possible following completion of the matters referred to in Clause 2.3 above. However, all dates are estimates and we cannot guarantee that they will be met.
- 4.2 Unless otherwise terminated or suspended in accordance with this Agreement the following Services shall be provided for a Minimum Service Period of 12 months from the date of activation:
- (a) Access
 - (b) Ethernet
 - (c) Private WAN Service
- 4.3 On expiry of the periods referred to at Clause 4.2 above (as appropriate) the Services will, unless terminated on or before the date of such expiry, automatically renew until terminated pursuant to this Agreement or until a new contract term is agreed between Vaioni Group Limited and the Customer.

5 PROVISION OF SERVICE

- 5.1 We may be required to carry out additional construction work prior to or during installation of a Telecommunication Circuit (for example because fibre or copper is not present, or buildings entries are required and/or additional equipment is needed). You may be subject to additional charges for such work, and these are described in Clause 7.2.
- 5.2 Vaioni Group Limited may monitor the Service 24 hours a day, 7 days a week, 365 days a year. Relevant details of this activity are set out in the applicable Service Level Agreement.
- 5.3 Where EFM & GEA services are purchased through TalkTalk Wholesale or BT and you do not receive the minimum speed you have purchased, you are entitled to cancel the service without penalty or can choose to retain the service at a lower speed and lower cost.
- 5.4 When EFM services are purchased you will take note, EFM services are not transferable between sites or postcodes due to limitations applied by the Operator. You must pay for the existing contract and order a new service.

6 CONDITIONS OF USE

- 6.1 You agree that you will be responsible for all use of the Services and (unless, we have agreed to supply it as part of the Equipment) for providing all additional equipment and/or services (including, without limitation, a PSTN line, if required), and for obtaining any permits and/or licences which are necessary for connecting to, and accessing, the Services. You agree that you are responsible for complying with all terms and conditions (including, without limitation, terms of payment) relating to any telecommunications service which is required by you to access the Services.
- 6.2 With regard to DSL Backup, the PSTN line for DSL Backup will only receive maximum line speed, and is subject to availability, according to BT's advertised coverage of exchanges in the UK. Where DSL is not available, a backup dial-up account will be provided.

Vaioni Leased Line & Wireless Ethernet Terms and Cor

- 6.3** With regard to DSL monitoring of Private WAN circuits, the PSTN line for DSL monitoring is subject to availability, according to BT's advertised coverage of exchanges in the UK. Where DSL is not available, a recommended alternative will be provided.
- 6.4** You agree to:
- (a)** provide an authorised technical contact, authorised contact number, and pass phrase, to keep any records of such details in separate places and take all necessary steps to ensure the security of such records;
 - (b)** without prejudice to the General Terms and Conditions, keep such information private and confidential and ensure, at all times, that it (or they) does (do) not become known to any unauthorised personnel.
- 6.5** You agree that you will notify us immediately if you become aware of any change in circumstances which may lead you to believe that such information has become known to any unauthorised personnel.
- 6.6** You agree that we may, from time to time, suspend and/or change your pass phrase (at our discretion if we feel that such step is in the interests of security).
- 6.7** Any managed hardware, and/or routers, which you purchase from us, will be tested by us and configured to meet your basic network and Internet specifications. In the event that you wish to make alterations to configuration of such Equipment, you agree to contact the Technical team at Vaioni Group Limited to request such changes. Upon confirmation of authorisation, TECHNICAL will make such changes.
- 6.8** Any fault with the Services and/or the Equipment, which you detect must be reported to us as soon as possible either:-
- (a)** by telephone to the TECHNICAL team on 0870 160 0650 9am -5pm;
 - (b)** by telephone to the TECHNICAL team on 0870 160 0650 outside office hours;
 - (c)** to such other telephone number as we may notify to you from time to time for this purpose.

7 CHARGES

- 7.1** Except as otherwise provided in the Agreement, all Charges and other sums due from you in respect of the Services and/or Equipment shall be set out in the Customer Order Form and/or the invoice relating to such Equipment and/or Services.
- 7.2** You agree to pay for any and all charges in relation to any additional work for installation of (i) an Access Circuit or, (ii) an Ethernet Circuit. However, prior to incurring such costs, the Customer will be presented with a revised quotation and given the option to proceed or not with the installation work. If the Customer elects not to proceed, no costs will be incurred.
- 7.3** BT and / or all associated carriers we use can change this contract (including charges) at any time.
- 7.4** The supplier reserve the right to raise an 'Abortive Visit Charge' of £150 + VAT when entry to your premises is refused, or no access can be gained despite you having agreed that we or any other person may access your premises.
- 7.5** The supplier reserve the right to raise a 'Special Faults Investigation Charge' of £500 + VAT when you report a fault, and an engineer visits your premises, and discovers that the fault is not a result of a failing or defect in the Ethernet Services and/or Equipment.

8 TERMINATION

Vaioni Leased Line & Wireless Ethernet Terms and Cor

- 8.1 Unless otherwise stated, the Minimum Cancellation Notice Period is 30 days or back to back with the supplier, whichever is later (to expire after the Minimum Service Period).
- 8.2 The Service is otherwise subject to the termination provisions of the General Terms and Conditions.
- 8.3 In the event The Service is cancelled by the customer up to the survey result stage or during the installation stage where no excess charges have been presented by Vaioni to the customer, the full contract amount equal to that stated on the order form will be payable or where possible a cancellation penalty will be payable, unless there are excess charges presented by Vaioni relating to The Service to the customer which were not agreed to by the customer. In this case the service can be cancelled with no penalty.
- 8.4 Where the customer has ordered an EFM based service which ranges from 1mb to 35mb, but not limited to this, it maybe possible for you to cancel the service within 24 hours of you placing the order with Vaioni without receiving a penalty. Any cancellations received later than 24 hours, the full contract amount equal to that stated on the order form will be payable.

9 NOTICES

- 9.1 You agree to keep the contact details which you have provided to us up to date. Any notice or other information to be served by us on you in accordance with this Agreement will be validly sent if in writing and sent by either e-mail or first class post to your last known e-mail or postal address. Any notice sent by first class post will be deemed served two days after posting. Any notice sent by e-mail will be deemed served on the day that it is sent.
- 9.2 Any notice to be served on us must be in writing and sent either by pre-paid first class post to our registered office or to such other address as may be specified by us to you for this purpose from time to time. Any notice sent in accordance with this sub-clause will only be deemed served if and when you have received a written acknowledgement from us.

10 REGRADES AND SHIFTS

- 10.1 The bandwidth of an individual Ethernet circuit cannot be downgraded to a bandwidth which is below the Circuit bandwidth that was initially provisioned for that particular Circuit. For the avoidance of doubt, Circuit bandwidths can be upgraded at any time during the Agreement, subject to the payment of revised Charges as notified to you by The Supplier from time to time.
- 10.2 Once a Circuit's bandwidth is re-graded, the new Circuit bandwidth will be subject to a minimum term of one (1) month and any revised Charges will apply for that Circuit from the date upon which it is regraded. For example, where a Circuit bandwidth is regraded from 10Mb to 20Mb, the Minimum Term at 20Mb is one (1) month; thereafter the Circuit's bandwidth may be re-graded either up or down, provided that the regraded bandwidth is no lower than the original order of 10Mb.
- 10.3 Site Access bandwidths can be upgraded. Where the existing Site Access bandwidth is within the Minimum Service Period, upgrades will be permitted providing that new Charges and a new Minimum Service Period will apply for the upgrade. The new Minimum Service Period will have a duration of at least twelve (12) months or until the end of the original Minimum Service Period, whichever is the longer. Where a new Minimum Service Period is agreed in respect of any upgrade, this will supersede the existing terms in relation to the applicable Customer Order Form governing the Site Access bandwidths.
- 10.4 If an external shift is possible, where the existing Site Access is within its existing Minimum Service Period, an external shift will be permitted provided that a new Minimum Service Period is agreed with a duration of at least twelve (12) months or until the end of the existing Minimum Service Period, whichever is the later. Where a new Minimum Service Period is agreed in respect of any upgrade, this will supersede the existing terms in relation to the applicable Customer Order

Vaioni Leased Line & Wireless Ethernet Terms and Cor

Form governing the Site Access bandwidths. If a shift is not possible, a new Site Access will need to be ordered into the new Site.

Vaioni Firewall & Managed Security Terms and Conditions

Firewall and Managed Security

1 DEFINITIONS AND INTERPRETATION

These Specific Terms and Conditions are to be read in conjunction with our General Terms and Conditions of Business. All definitions set out in the General Terms and Conditions of Business shall, unless otherwise specified below, have the same meaning when used in these Specific Terms and Conditions. For the purpose of these Specific Terms and Conditions:

"Address" means the address specified on the Customer Application.

"Company" or **"we"** means Vaioni Group Limited, having the registered number 4314251 also where the context permits its assigns and any sub-contractor for the Company.

"Customer Order Form" means the order form for the supply by the Company of the Equipment and/or Services, completed by, or in accordance with an order from, the Customer;

"Firewall" means a device for the detection, obstruction, destruction and/or prevention (as applicable) of computer viruses, Trojans, worms, unauthorised access or use and/or any similar act or thing which may affect a computer system, or network.

"Hire Agreement" means the hire agreement entered into between the Company and you for the hire by you of the Firewall (where specified in the Customer Order Form).

"Managed Security Service" means the provision by us of management and monitoring of your Firewall as further described in these Specific Terms and Conditions, at <http://www.vaioniwholesale.com/>, and in the Company's literature at the date of completion of the Customer Application.

"Minimum Cancellation Notice Period" means the period described at Clause 9.3.

"Minimum Service Period" means the period described at Clause 5.2.

"Service Level Agreement" or **"SLA"** means the Service Level Agreement at <http://www.vaioniwholesale.com/tcaupsla> relating to the Managed Security Service and any Firewalls supplied by the Company which describes the service levels to be met by the Company, set out on the Company's Website at the date of Completion of the Customer Application.

"Telecommunications Circuit" a circuit which allows the transmission of IP/TCP data.

2 FIREWALL

2.1 Subject to the terms and conditions of the Agreement, we agree to supply and you agree to purchase the Firewall (if any) specified in the Customer Order Form and described at <http://www.vaioniwholesale.com> in the Company's literature at the date of completion of the Customer Order Form.

2.2 Upon completion of the matters referred to at Clause 2.3 of our General Terms and Conditions of Supply, one of our technical consultants will contact you to discuss your Firewall configuration. As soon as reasonably possible after that we will build your Firewall configuration to meet your network and Internet security specifications in accordance with the information provided by you in the Customer Order Form and to our technical consultant. Once built, we will send your configuration data to you on a storage device reasonably selected by us. At the same time we will place an order with our supplier for the Firewall. We will notify you as soon as possible once the Firewall is ready for dispatch. We will use all reasonable efforts to ensure that the Firewall is delivered to you within 48 hours of finalising the configuration and to notify you, at least 24 hours in advance of the delivery date.

2.3 Any Firewall to be supplied by us shall be delivered to you by us sending it or procuring that it is sent to the Address. You agree that you will notify us, of any defects in any Firewall which we supply to you, within 15 days of delivery of that Firewall.

Vaioni Firewall & Managed Security Terms and Conditions

- 2.4** Any Firewall sent by us to you shall be at your risk from the point of delivery accordance with Clause 2.3 above.
- 2.5** You agree that you will be responsible for installation of any Firewall supplied by us and for connecting it to the Telecommunications Circuit and power supply at the Address.

3 MANAGED SECURITY SERVICES

- 3.1** Where we have agreed to supply you with a Managed Security Service and the relevant Firewall, you must notify us as soon as possible following receipt and installation by you of any Firewall (at the Address) which we have supplied. Where we have agreed to supply you with a Managed Security Service for a Firewall which we have not supplied, you must notify us as soon as possible once your Firewall is ready to be accessed by us. We will use all reasonable efforts to activate the Managed Security Services within 48 hours of successful installation and/or connection of the relevant Firewall by you in accordance with any instructions we may give or send to you for that purpose.
- 3.2** Once the Managed Security Services are activated, we shall provide online Firewall usage reports detailing the activity of your Firewall and will endeavour to provide you with a standard Firewall usage report monthly as specified in accordance with the Customer Order Form.

4 SERVICE LEVELS/CREDITS

- 4.1** We shall provide the Managed Security Service in accordance with these Specific Terms and Conditions and subject to the applicable Service Level Agreement (as specified on the Customer Order Form).

5 PROVISION OF SERVICE

- 5.1** Whilst we will use reasonable endeavours to provide the Services and/or Equipment to you within any timescales specified by us or agreed with or requested by you, we will not be liable to you for any delay in providing or failure to provide the Services and/or Equipment within such timescales. All delivery and/or completion dates specified by us are estimates only and we cannot guarantee that they will be met.
- 5.2** Unless otherwise terminated or suspended in accordance with the Agreement the Managed Security Service shall be provided for a Minimum Service Period of 12 months from the date of activation.
- 5.3** On expiry of the Minimum Service Period, this Agreement will continue until terminated in accordance with Clause 9. Where you have purchased (as opposed to hired) the Firewall from us and the Agreement continues after the Minimum Service Period, you will be required to pay any applicable software license renewal fee in respect of the software license required for the Managed Security Service.

6 CONDITIONS OF USE

- 6.1** You agree that you will be responsible for all use of the Managed Security Service and any local access to the Firewall. You agree that you are responsible for complying with all terms and conditions (including, without limitation, terms of payment) relating to any telecommunications service which is required by you to access or receive the Managed Security Service.
- 6.2** You agree to:
- a)** provide an authorised technical contact, authorised contact number, and pass phrase, to keep any records of such details in separate places and take all necessary steps to ensure the security of such records;
 - b)** without prejudice to the General Terms and Conditions, keep such information private and confidential and ensure, at all times, that it (or they) does (do) not become known to any unauthorised personnel.

Vaioni Firewall & Managed Security Terms and Conditions

- 6.3** You agree that you will notify us immediately if you become aware of any change in circumstances which may lead you to believe that such information has become known to any unauthorised personnel.
- 6.4** You agree that we may, from time to time, suspend and/or change your pass phrase (at our discretion if we feel that such step is in the interests of security).
- 6.5** In the event that you wish to make alterations to configuration of any Firewall which we have supplied and in relation to which we have agreed to supply the Managed Security Service, you agree to contact our Technical Support Team (TST) to request such changes. Upon confirmation of authorisation, our TST will make such changes.
- 6.6** Any fault with the Services and/or the Equipment (in relation to which a "fault" shall mean a failure in any Firewall which we have supplied to you and which is preventing dataflow across the Firewall), which you detect must be reported to us as soon as possible either:-
- a) by telephone to the TST team on 0870 160 0650 during Business hours or;
 - b) to such other telephone number as we may notify to you from time to time for this purpose.

7 TRANSFERABILITY

- 7.1** Where we have agreed to supply you with a Managed Security Service, you shall ensure that the relevant Firewall(s) shall remain situated at all times at the Address. Neither the Managed Security Service nor the relevant Firewall(s) may be transferred between locations, Firewall(s), and / or telecommunications lines (as applicable) without our prior written consent.

8 TERMINATION

- 8.1** Once the Managed Security Service has been activated, you may only end this Agreement (insofar as it relates to such Services) by notice equal to the Minimum Cancellation Notice Period which must expire at the end of the Minimum Service Period (or any renewed service period agreed between the parties if applicable).
- 8.2** We may terminate the Services by notice equal to the Minimum Cancellation Notice Period (to expire at the end of the Minimum Service Period or any renewed service period agreed between the parties) without incurring any liability.
- 8.3** Unless otherwise stated, the Minimum Cancellation Notice Period is 30 days (to expire on or after the expiry of the Minimum Service Period or any renewed service period agreed between the parties).
- 8.4** Subject to the above, the termination provisions of our General Terms and Conditions apply.

9 NOTICES

- 10.1** You agree to keep the contact details which you have provided to us up to date. Any notice or other information to be served by us on you in accordance with this Agreement will be validly sent if in writing and sent by either e-mail or first class post to your last known e-mail or postal address. Any notice sent by first class post will be deemed served two days after posting. Any notice sent by e-mail will be deemed served on the day that it is sent.
- 10.2** Any notice to be served on us must be in writing and sent either by pre-paid first class post to our registered office or by e-mail to support@vaioni.com or to such other address as may be specified by us to you for this purpose from time to time. Any notice sent in accordance with this sub-clause will only be deemed served if and when you have received a written acknowledgement from us.

11 LIABILITY

Vaioni Firewall & Managed Security Terms and Conditions

- 11.1** You acknowledge and agree that (save where such fault and/or failure arises as a direct result of any configuration carried out by us in relation to such Equipment) we shall not be liable for any failure and/or delay in the Services to the extent that it is caused, or contributed to (whether directly or indirectly) by, nor for, any failure of a Firewall and/or any other equipment which has not been supplied by us.
- 11.2** We do not guarantee that any Firewall (whether supplied by us or a third party) will detect, obstruct and/or prevent any viruses, Trojans, worms or unauthorised access to your network and/or computer system.
- 11.3** Where we agree to supply you with a Firewall for purchase by you, and the manufacturer of, or any other supplier from who we may directly or indirectly receive or purchase, that Firewall, offers a warranty for your benefit, we will use all reasonable endeavours, but shall not be obliged, to ensure that you receive the benefit of any such warranty for its duration.

Vaioni Clear Voice Terms and Conditions

Clear Voice – Hosted VoIP

1 DEFINITIONS AND INTERPRETATION

These Specific Terms and Conditions are to be read in conjunction with our General Terms and Conditions of Business. All definitions set out in the General Terms and Conditions of Business shall, unless otherwise specified below, have the same meaning when used in these Specific Terms and Conditions. For the purpose of these Specific Terms and Conditions:

"Company" or **"we"** means Vaioni Group Limited, having the registered number 4314251 also where the context permits its assigns and any sub-contractor for the Company.

"Customer" means the person, group of persons or other entity whose name and address is or are set out in the Customer Application;

"Customer Equipment" means any telecommunications apparatus or system owned controlled, or housed by the Customer;

"Order Form" means a request for Services signed by the Customer and delivered to Vaioni;

"Minimum Monthly Call Spend" means the amount specified in the Order Form;

"Minimum Term" unless otherwise set out on the Order Form means a minimum period of 12 months

"Service" means the provision of IP Centrex services, and or IP telephony services and or IP Trunking, the Customer has requested from Vaioni on the Order Form;

"IP Centrex Services" means a centrally hosted provision of telephony services generally provided by a PBX

"PBX" means Private Branch Exchange

"IP Trunking" means connection and termination of IP calls to a PBX

"Broadband" means the provision of xDSL

"xDSL" Means the provision of any Digital Subscriber Line

"Service Equipment" means any equipment relating to the service including but not limited to; too include any data collection, and call routing devices, routers, switches, handsets, or other telecommunications equipment Vaioni may from time to time install at the Customer's

Premises for the purposes of providing the Service;

"BT" means British Telecom PLC

2 THE SERVICE

2.1 Vaioni agrees to provide the Service to the Customer and the Customer agrees to use the Service on the terms set out in this Agreement

2.2 Vaioni will provide the Service with the reasonable skill and care of a competent telecommunications provider.

2.3 Vaioni will use reasonable endeavours to ensure that the Service is available for use by the Customer but owing to the nature of telecommunications networks, it is impossible to provide a fault free Service. The quality of the Service depends on both the quality and availability of the network to which the Customer is connected and also on other telecommunications networks to which the person being called is connected. Vaioni will not accept any responsibility or liability to

Vaioni Clear Voice Terms and Conditions

the Customer or any third party in the event of a failure by Vaioni to meet its obligations under this Agreement.

- 2.4** Vaioni will respond to any reported fault with the Service as soon as reasonably practicable during Vaioni's normal working hours and will use all reasonable endeavours to correct any fault within Vaioni's control.

3 BROADBAND

- 3.1** Where IP Centrex services are to be supplied, an arrangement to provide a Broadband connection must be made by the customer, either through VAIONI or through an approved supplier of suitable broadband services (in accordance with criteria to be provided by Vaioni.) This will generally require the provision of a single analogue BT line, by the Customer.
- 3.2** Broadband Connections supplied by Vaioni will be specified to include a guaranteed quality of Service (QoS). If an alternative unapproved Broadband connection is to be supplied by the customer, then Vaioni will require the customer to sign a disclaimer with regards to Quality of Service.
- 3.3** Vaioni will not be responsible for any failure to deliver the Service when the obligation set out in Clause 3.1 and 3.2 has not been fulfilled.

4 ACCESS

- 4.1** Vaioni or its appointed agent will deliver and install any Service Equipment required for provision of the Service at the Customer's Premises. Vaioni will take all reasonable steps to deliver and install the Service Equipment by such date as is advised, however any delivery date specified will be an estimate only. Vaioni accepts no liability for failure to meet the delivery date.
- 4.2** The Service Equipment will remain the property of Vaioni at all times, except where the Customer has purchased the Service equipment, or entered into a separate agreement to obtain the Service equipment, or until such time, as the Service equipment has been paid for in full. The Customer must not add to, modify or in any interfere with the Service Equipment, nor allow anyone else other than someone authorised by Vaioni to do so. The Customer will be liable for any loss or damage to the Service Equipment except where such damage is due to fair wear and tear or is caused by Vaioni or anyone acting on Vaioni's behalf.
- 4.3** Vaioni's grants the Customer a non-exclusive, non-transferable license to use the Software solely in respect of the provision of the Service.
- 4.4** Where access to the Service is facilitated through BT number porting, the Customer authorises Vaioni to have the numbers from the BT Lines listed in the Order Form routed by Vaioni instead of BT and to forward appropriate details of the Customer's porting application for the Service to BT. The Customer will receive advance notification of the change of service from BT to Vaioni. Vaioni's ability to provide the Service is subject to BT porting the numbers.
- 4.5** In the case of analogue lines being utilised for facsimile machines, the standard service is not compatible, and an alternative e-fax service will be offered for numbers that are required to be ported to Vaioni. This may result in loss of service for a period of up to 15 days.
- 4.6** Vaioni reserve the right to charge £20 per number ported to cover administrative costs.

5 USE OF THE SERVICE

- 5.1** During the Term of this Agreement, the Customer will not use another telecommunications service provider or network operator to provide any indirect or direct access telephony service.
- 5.2** The Customer will ensure that the Customer Equipment is in proper working order and complies with all applicable standards and approvals for network connection. The Customer will not do anything that may damage or affect the operation of Vaioni telecommunications network.

Vaioni Clear Voice Terms and Conditions

- 5.3** The Customer will ensure that the Service is used for the purpose for which Vaioni has authorised and is not used either by the Customer or any third party for any fraudulent, criminal, defamatory, offensive, obscene or abusive purpose or so as to constitute a violation or infringement of the rights of Vaioni or any third party. The Customer undertakes to comply with all applicable laws and regulations and all reasonable instructions of Vaioni in relation to its use of the Service and the Service Equipment.
- 5.4** If the Network is to be used to carry alarm signals, then Vaioni will not accept responsibility for lack of Service or failure to deliver an alarm signal due to
- a) the network going down;
 - b) suspension of the Customer's account or
 - c) reasons outside Vaioni's reasonable control including but not limited to any technical failure of the Network; because the Network is being tested, modified or maintained or if access to the Network is denied.
- 5.5** If the Network is being used for business purposes then Customer will indemnify Vaioni against any threat or any claim by a third party because the Service was faulty or cannot be used by them.
- 5.6** Vaioni will have the right to recover all reasonable costs incurred in investigating or remedying any fault with the Service where it is caused by the Customer's negligence or default or by the Customer Equipment or where the fault does not lie with Vaioni or any Service Equipment.

6 PAYMENT

- 6.1** All charges payable under this Agreement will be calculated by reference to data recorded or logged by Vaioni and not by reference to data recorded or logged by the Customer.
- 6.3** Vaioni reserves the right to change any tariff where the Customer is in breach of any term of this Agreement.

7 PROVISION OF INFORMATION

- 7.1** The Customer undertakes promptly to provide Vaioni free of charge, with all information and cooperation as it may reasonably require enabling it to proceed without interruption with the performance of its obligations under this Agreement.
- 7.2** Vaioni warrants to keep any data or other information it obtains in the performance of its obligations under this Agreement in accordance with relevant data protection legislation and not to use or disclose such information for any unlawful purpose.

8 LIABILITY

- 8.1** Nothing in this Agreement will exclude or restrict Vaioni's liability for death or personal injury resulting from the negligence of Vaioni or its employees while acting in the course of their employment or for fraudulent misrepresentation or for any other liability that cannot by law be excluded.
- 8.2** Subject to 8.1, this Clause sets out Vaioni's total liability to the Customer if the Service is not available for a continuous period of 12hours or more in any one day and that unavailability is attributable entirely due to the fault of Vaioni. In the event of such an event Vaioni's total liability will be limited to the sum of 5% of the charges incurred in the average month for the previous quarter. Such liability will be paid as a credit against the next bill. Vaioni aggregate liability in respect of all causes of action arising in each calendar year whether in contract, tort or otherwise in connection with this Agreement will not exceed 60% of the total charges paid or payable by the Customer for the Service in such calendar year or £1000, whichever is the lesser sum.
- 8.4** Vaioni will not be liable for failure to perform any of its obligations under this Agreement if it is prevented from doing so by any circumstances beyond its reasonable control, including, but not

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limited to, the acts or omissions of a third party telecommunications network operator or through the Customer's acts, omissions negligence or default.

8.5 In the event of any failure in the Service, Vaioni will not be liable to the Customer for any charges incurred by the Customer should the Customer divert its traffic to another service provider.

8.6 The provisions of this Clause 8 will continue to apply notwithstanding the termination of this agreement.

9 SUSPENSION OF SERVICE

9.1 Vaioni may at its sole discretion elect to suspend with immediate effect the provision of the Service until further notice without liability or compensation to the Customer on notifying the Customer either orally (confirming the same in writing) or in writing in the event that:

- a) The Customer is in breach of any term of this Agreement;
- b) The Customer prevents or delays any prearranged maintenance from being carried out;
- c) The Customer is suspected, in Vaioni's reasonable opinion, of involvement with fraud or attempted fraud in connection with the use of the Service;
- d) Vaioni is obliged to do so in order to comply with an order, instruction or request of any government, emergency service organisation or other competent authority.

9.2 If Vaioni suspends the service under this Agreement then Customer will reimburse any costs and expenses reasonably incurred as a result of such suspension and/or the services being reinstated.

9.3 If Vaioni chooses to suspend the Service this will not prevent Vaioni from also taking other action to terminate the Agreement under Clause 10 below.

10 TELEPHONE NUMBERS

10.1 If Customers are provided with a telephone number (including a code) as part of the provision of the Services, then that code and number belongs to Vaioni and the Customer will have no right to keep that number or to sell, dispose or transfer that number at any time. Vaioni will use its reasonable efforts to ensure that the Customer is able to keep the number during the period of this Agreement but Vaioni reserves the right to change the telephone number on reasonable notice at its sole discretion.

11 GENERAL

11.1 Vaioni reserves the right to change these terms and Clauses at anytime and on reasonable written notice to Customer.

11.2 The Customer may not assign or transfer this Agreement or any of its rights under it without Vaioni's prior written consent. Vaioni may assign the benefit of any or all of its rights under this Agreement by giving notice in writing to the Customer.

11.3 Notices to the address specified in the Order must be given in writing either by hand, by first class post, or by facsimile transmission provided that there is a transmission sheet showing that the transmission was properly transmitted to the correct number. Notices must be sent to the address or fax number specified in the Order or such other address as may be notified to the other party from time to time. Post will be judged to have arrived 2 days from date of posting. Notices sent by other means will be received immediately

11.4 If any provision of this Agreement is found to be invalid, unlawful or unenforceable in any respect, the remaining provisions will continue to apply to the fullest extent permitted by law.

11.5 Vaioni will take all reasonable efforts to ensure the security of its Service but Customer should be aware that there is always a risk of such security being breached for reasons beyond the control of Vaioni, where for instance the Service is provided through a third party network.

Vaioni Clear Voice Terms and Conditions

- 11.6** Failure by either party to exercise or enforce any right under this Agreement will not be treated as a waiver of that right and will not prevent that right or any other right being exercised or enforced on a later occasion.
- 11.7** This Agreement and any documents referred to in it, including, but not limited to, Vaioni tariff together represent the entire agreement and understanding of the parties with respect to their subject matter and supersede all prior understandings and representations (other than fraudulent misrepresentations), whether written or oral and this Agreement may only be notified if such modification is in writing and signed by Vaioni and the Customer.
- 11.8** The parties do not intend that any term of this Agreement should be enforceable under the Contracts (Rights of Third Parties) Act 1999 by anyone else.
- 11.9** English law will govern this Agreement and the parties agree to submit any disputes to the exclusive jurisdiction of the English courts.
- 11.10** If the Customer is not satisfied with the Service then they may refer any complaint to the telecommunications Ombudsman, whose details may be found at or to OFCOM, the communications regulator at or call OFCOM on 0845 456 3000.

Vaioni Clear SIP Terms and Conditions

Clear SIP

These Specific Terms and Conditions are to be read in conjunction with our General Terms and Conditions of Business. All definitions contained within the General Terms and Conditions of Business shall have the same meaning when used in these Specific Terms and Conditions.

1 THE SERVICES

- 1.1 The Services to which these Specific Terms and Conditions relate ("Clear SIP" or "Service") provide you with the facility to make and, where applicable, receive phone calls. Specific products can be found on our Web site: [http:// www.vaioni.com/voice-services](http://www.vaioni.com/voice-services). Service will be provided to you using the phone number specified in the Customer Application.
- 1.2 You agree and warrant that you will not use (and will ensure that no-one else uses) the Clear SIP to make offensive, indecent, menacing or hoax calls. You shall not use the Clear SIP to transfer any illegal material or engage in unlawful activities. You also agree that you will not re sell or onward sell the Clear SIP to any third party.

2 COMMENCEMENT OF SERVICES

- 2.1 To enable us to provide you with the Clear SIP service, you must have either have a presence (including necessary equipment as determined by us) in the Telecity facility in Manchester or a Wireless Ethernet supplied by Vaioni (other an 'access only' Wireless Ethernet) . Other services can be used in conjunction with the Clear SIP at Vaioni's discretion. If connectivity is obtained from Vaioni, the relevant terms and conditions of Vaioni apply.
- 2.2 To enable us to provide you with the Clear SIP, you will need and agree to install a PBX with a SIP interface (referred to in these Specific Terms and Conditions, together with any other equipment specified in the Customer Application, as the Equipment) at your relevant premises prior to commencement of the Clear SIP. Before accepting your Customer Application, we may at our discretion, give you some advice on any necessary preparation.
- 2.3 You may purchase the Equipment from us if it is available (if and when we notify you that it is available, but not otherwise) but you are in any event responsible for maintenance and support of the Equipment. We may at our discretion provide recommendations as to third party suppliers of the Equipment where available, but shall not be obliged to do so. You are responsible for providing a suitable location for any Equipment which is purchased from us or a third party and for the maintenance and support of any Equipment. Without limiting the generality of these Specific Terms and Conditions, Vaioni does not guarantee compatibility or offer any assurances as to levels of service or otherwise in relation to the Clear SIP Voice Service in the event that the Clear SIP Voice Service is used with hardware or applications not supplied or configured by Vaioni.
- 2.4 We will use all reasonable efforts to activate the Clear SIP service by the date notified to you following acceptance of your Customer Application, however all dates are estimates and we do not guarantee that they will be met.

3 CHARGES AND PAYMENTS

- 3.1 The monthly charges for the Clear SIP and specific call charges will be provided and must be agreed, by signature, prior to the provision of the Service. The one off installation charge is payable in advance. Prior to the provision of the Service, you are required to apply for and obtain a service agreement with Vaioni. Once this agreement is in place, you can make calls up to the maximum value of as agreed by us from time to time. All monthly charges for your Clear SIP Voice Service will be billed at the end of the month during which the relevant calls were made. You must pay the whole sum invoiced by a single payment within 30 days.
- 3.2 In the event that you exceed the maximum value agreed in any one calendar month, we reserve the right to suspend your Account(s), until such time that we receive all monies outstanding. Our standard payment terms are 30 days following invoice date. We reserve the right to suspend the Service if these terms are not met.

Vaioni Clear SIP Terms and Conditions

- 3.3 Customers who have existing agreement to incur charges with Vaioni for other Vaioni services you can use such limit for Clear SIP Voice subject to a review of estimated spend for the new Service. As such a new limit may be applied and proof may be required for the increased limit.
- 3.4 There is a minimum charge for the Service in any calendar month. During your monthly billing cycle if your call charges do not exceed the minimum charge excluding VAT your bill for the month will be the minimum charge excluding VAT. If your monthly call charges do exceed the minimum charge excluding VAT, your bill will be for the amount you have accumulated.
- 3.5 We will provide you with a summary bill of call charges due from you on your renewal date each month. To print an itemised bill, you will require software which can read .xls files such as Microsoft Excel or Microsoft Excel Viewer. All calls will be billed against the phone number designated in your Customer Application.
- 3.6 The summary bill referred to above will be sent to you by email in PDF format. You will need to have Adobe Acrobat Reader installed to view this type of file. If you would like to receive a hard copy of your bill, you can ring our Accounts team on 0870 160 0650 (or such other number as we may notify to you for that purpose from time to time).
- 3.7 You acknowledge and agree that you are not entitled to any refund in respect of any unused rental purchased during the contract or upon receipt from you of a cancellation of the Service. In addition, nothing in the Agreement shall relieve you of any liability to pay, and you shall be and remain responsible to pay, all charges for any calls or rentals made from your account for the Clear SIP Voice Service.
- 3.8 Any invoice disputes should be raised in writing with Vaioni, no later than 7 working days from the Tax point date on the disputed Invoice (or the date the summary bill is sent to you, if later). Invoice disputes need to be notified to The Accounts Team at accounts@vaioni.com or by fax to 0870 160 0651, or by post to Vaioni. If the dispute is found by us to be valid, then a credit will be applied to a subsequent invoice for the relevant amount.

4 TRANSFERABILITY

- 4.1 The phone number that is assigned to your account can be amended by written request by you for free. We will endeavour to complete change within 24 working hours although this cannot be guaranteed. During the change process, you may not be able to use the Clear SIP Voice Service. We will inform you of the new telephone number that has been assigned to your account. It is your responsibility to update any hardware or software configuration with these new details in order to enable calls using the Clear SIP Voice Service.
- 4.2 It is your responsibility to ensure that your contact details are kept up to date. In the event that you access the Service from a different location, you shall inform us of your updated location information.
- 4.3 You agree to:
 - a) keep any records of your User Name(s) and/or Password(s) in separate places and take all necessary steps to ensure their security;
 - b) keep your User Name(s) and/or Password(s) private and confidential and ensure, at all times, that it (or they) do not become known to anyone else.

5 TERMINATION

- 5.1 You may cancel the Clear SIP Service (and terminate the Agreement) at any time before the Service is activated and available for you to use.
- 5.2 Any Equipment that may be purchased from us will be subject to the terms of the General Terms and Conditions or other applicable purchase terms and conditions.

Vaioni Clear SIP Terms and Conditions

- 5.3 Once your Clear SIP Voice account has been set up and activated, if you wish to terminate the Service, you may do so by giving notice equal to the Minimum Cancellation Notice Period (being 30 days) to expire on or after the Minimum Service Period. Termination notification is specified in our General Terms and Conditions.
- 5.4 If we have provided you with inbound numbers that have been set up and activated and you wish to cancel the Service you may do so by giving notice equal to the Minimum Cancellation Notice Period (being 30 days) to expire on or after the Minimum Service Period. Termination notification is specified in our General Terms and Conditions.
- 5.5 We may not offer you the ability to transfer (port) your existing number to an alternative supplier in the event of termination the Service
- 5.6 You understand that terminating the Clear SIP Voice service does not automatically terminate any other services that you have with us. Termination of other services is separate and subject to the applicable Specific Terms and Conditions
- 5.7 If you choose to terminate any Vaioni services as a result of which the Clear SIP Voice Service is not available to you, you must place a separate cancellation request for cancellation of the Clear SIP Voice Service. If you do not terminate the Clear SIP Voice Service separately you will be liable to pay continuing charges for the Clear SIP notwithstanding that the Clear SIP Voice Service may not be available without the other Vaioni service (for example, internet access).
- 5.8 On termination of the Clear SIP Voice Service for any reason, we will invoice you for all call charges due in respect of any calls made from your Account via the Clear SIP Voice Service up to the date of such termination.
- 5.9 We reserve the right to suspend or terminate the Service for failure to pay any sum on the due date for payment.

6 IMPORTANT INFORMATION

- 6.1 Not all services and features that you would expect from a standard phone line will be available as part of the Clear SIP Voice Service. If you purchase voice hardware from Vaioni that has been configured correctly and you lose power, then all calls will be routed over the standard telephone network and you will be liable for all call charges. If you do not use hardware from Vaioni and you lose power, then we can make no guarantees that you will be able to make any calls. If you are able to make any calls, then you will be liable for all charges incurred.
- 6.2 We cannot guarantee the availability of the Clear SIP Service in the event of matters beyond our reasonable control including without limitation, if your service is lost or fails, power cuts/failure, flood, fire, riot, failure of third party suppliers, strikes, embargoes or changes in law or regulation. The Clear SIP Voice Service may also be impaired by the uploading or downloading of data using your Internet connection.

EMERGENCY CALLS

- 6.3 We will endeavour to carry any 999/112 Emergency calls that are made using the Service, but we cannot guarantee that you will be able to make these calls. We would advise that you do not try to route these calls using Clear SIP Voice at any time and that you make alternative arrangements to ensure that you can make 999/112 Emergency calls.

You will not be able to make calls to 09 or 1 telephone numbers (with the exception of 141). It is your responsibility to inform permitted users that it may not be possible to make such calls with the Clear SIP Voice Service. It is your responsibility to provide and/or procure all such equipment and/or services (and ensure that they are correctly installed, configured and/or activated) to allow you to route these calls by alternative means.

Vaioni Clear SIP Terms and Conditions

- 6.4** If you do make an Emergency call over the Vaioni network, then we cannot guarantee that we will be able to provide location information to the Emergency services. In this situation, it is your responsibility to read out your location information and your phone number to the operator
- 6.5** You understand and acknowledge that some calls are not covered by the Clear SIP Voice Service (as specified in the Service description or Customer Application) will not be routed over the Clear SIP network, and that should you make such a call then you will be liable for any charges from any other operator.
- 6.6** You understand that should you lose connection to the Clear SIP Voice network or should the Clear SIP fail, then it is your responsibility to make alternative arrangements to route calls.
- 6.7** It is your sole responsibility to ensure that measures are taken to restrict phone users and numbers dialled where necessary, as all call charges arising from the use of the Service are at your expense. For the avoidance of doubt, Vaioni is not be liable for call charges including without limitation those arising from inappropriate and/or excessive use of the Clear SIP Voice Service.
- 6.8** We reserve the right to amend our call charges at any point and will give you advance notice of any changes.
- 6.9** You acknowledge that the number of concurrent calls that you are able to make via the Service may be dependent on the bandwidth available. Without limiting the generality of these Specific Terms and Conditions, Vaioni accepts no responsibility for loss or degraded quality of the Service as a result of excessive concurrent calls.

Vaioni Domain Names Terms and Conditions

Domain Names

These Specific Terms and Conditions are to be read in conjunction with our General Terms and Conditions of Business. All definitions contained within these Specific Terms and Conditions have the same meaning as those set out in the General Terms and Conditions of Business unless specified below, in which case they will have the meaning specified herein:

1 DEFINITIONS AND INTERPRETATION

"Domain Name" means a name registered, or to be registered, with a Registry for use as part of your URL;

"Domain Name Privacy Services" means the data suppression services which enable personal contact details to be suppressed from the publicly available WHOIS database and which are described in more details on our Website;

"Domain Name Registration Services" means the registration of a Domain Name with a Registry and which are described in more details on our Website;

"Domain Name Services" means the Domain Name Registration Services, the Domain Name Privacy Services, and the Domain Name Transfer Services or any or all of them;

"Domain Name Transfer Services" means the transfer of a Domain Name from us to an alternative third party provider, and which are described in more detail on our Website;

"Intellectual Property Rights" means any intellectual property rights of any nature, including but not limited to any and all inventions, patents, design rights, database rights, copyright moral rights, know-how, trade secrets, confidential information, trade marks, service marks, trade names and goodwill; and

"Registry" means an organisation responsible for holding and processing all records for particular Domain Name extensions.

1.2 These Specific Terms and Conditions are supplemental to and shall incorporate our General Terms and Conditions of Business. Except to the extent they have been expressly varied by these Specific Terms and Conditions, the provisions of the General Terms and Conditions shall remain in full force and effect and these Specific Terms and Conditions shall be governed by the provisions contained therein.

1.3 Notwithstanding the provisions of clause 1.2, in the event of any conflict and/or any inconsistencies between the provisions of these Specific Terms and Conditions and the provisions of our General Terms and Conditions of Business, the provisions of these Specific Terms and Conditions shall prevail.

2 THE DOMAIN NAME SERVICES

2.1 In accordance with clauses 1.2 and 1.3 above, we shall provide the Domain Name Services to you subject to the terms of these Specific Terms and Conditions and our General Terms and Conditions of Business.

2.2 Notwithstanding the provisions of clause 2.1 above, the provision of the Domain Name Service is subject to acceptance by you of the terms and conditions of each relevant Registry, including but not limited to, any terms, rules, regulations and policies and any dispute resolution procedure published by the relevant Registry in connection with the Domain Name Registration Service and which are in force from time to time (the "Registry Terms").

2.3 You agree that you will, at all times, comply with the Registry Terms and acknowledge that it is your responsibility to familiarise yourself with the Registry Terms prior to submitting a Customer Application to us for the Domain Name Services or any renewal of the Domain Name Services.

Vaioni Domain Names Terms and Conditions

- 2.4** In the event of any conflict and/or inconsistency between the provisions of these Specific Terms and Conditions and the General Terms and Conditions of Business and the provisions of the Registry Terms, the provisions of the Registry Terms shall prevail, insofar as they relate to the provision of the Domain Name Services to you.
- 2.5** You acknowledge that any timescales specified by us in relation to the provision of the Domain Name Services are estimates only and we shall not be liable for any loss, damage or claim relating to any delay relating to the provision of the Domain Name Services, howsoever caused.
- 2.6** You shall indemnify us against and any all claims, losses and/or damage suffered by us as a result of any claim:
- a)** that a Domain Name infringes the Intellectual Property Rights of any third party;
 - b)** that a Domain Name has been registered in bad faith and/or is being used for any unlawful purposes; and/or
 - c)** in respect of any errors in any information provided by you regarding the Domain Name Services.
- 2.7** You acknowledge and agree to provide accurate contact details in respect of the Domain Name Services, and to keep such details up to date. Failure to keep your contact details updated may result in you not receiving important information regarding the Domain Name Services, including but not limited to, Domain Name renewal notices. You acknowledge and agree that we cannot accept liability for any loss, damage or claim arising from your failure to provide accurate and updated contact details:

3 DOMAIN NAME REGISTRATION SERVICES

- 3.1** We offer a range of Domain Name extensions including .co.uk, .org.uk, .me.uk, .ltd.uk, .plc.uk, .com, .net, .org, .biz, .info and .eu. Please refer to our Web site for availability at the time of ordering.
- 3.2** You acknowledge that for applications for registrations for .plc.uk and .ltd.uk Domain Names, your Domain Name must be identical to your company name as registered with Companies House and that the company must remain registered at Companies House for the Domain Name to remain registered. We shall not be liable for any loss, damage or claim relating to non-registration or revocation of a Domain Name in the event that you do not continue to meet these requirements.
- 3.3** Registrations for the .uk Domain Name extension are valid for two years. All other Domain Name extensions are valid for one year. Thereafter, the Domain Name Registration Services shall automatically renew for further periods of:
- a)** 24 months in respect of .uk Domain Names; and/or
 - b)** 12 months in respect of all other Domain Name extensions;
- in each case a "Renewal Period", until and unless terminated by you upon giving us notice to terminate prior to the first anniversary of your Domain Name Registration or prior to the anniversary of any Renewal Period in accordance with clause 3.4.
- 3.4** We shall send you a reminder prior to the renewal of the Domain Name Registration Services. If you do not wish to renew the Domain Name Registration Services, you must notify us within 14 days from the date of the reminder notice, otherwise the Domain Name Registration Services will automatically renew in accordance with clause 3.3
- 3.5** Notwithstanding the provisions of clause 3.3, the Charges for all Domain Names will be payable annually in advance. The Charges for .uk Domain Names shall be payable in two instalments. In the event that a .uk Domain Name is transferred or cancelled prior to payment of the second instalment of the Charges, the second instalment will remain payable by you.
- 3.6** You acknowledge that our acceptance of your Customer Application for Domain Name Registration Services shall not constitute confirmation from us that any particular Domain Name is available for registration as this is controlled by the relevant Registry.

Vaioni Domain Names Terms and Conditions

- 3.7** Save in the circumstances set out at clause 3.2 above, in the event that a Domain Name is not registered and/or the Registry refuses to register a Domain Name, we will refund the Charges in respect of the Domain Name Registration Services to you.
- 3.8** Our liability in respect of clause 3.7 shall be limited to the refund of the Charges paid by you in respect of the Domain Name Registration Services. We shall not be liable for any loss, damage or claim relating to the non-registration of the Domain Name or your reliance upon the registration of the Domain Name howsoever caused.
- 3.9** You agree that all Domain Names will be initially directed to a holding page hosted by us (the "Holding Page") until you contact us to agree otherwise. You acknowledge that the Holding Page may contain marketing information and links to other products and services provided by us from time to time. We shall be entitled to modify the content of the Holding Page at any time and without giving prior notice to you.

4 DOMAIN NAME TRANSFER SERVICES

- 4.1** In the event that you request a transfer of a Domain Name from us to a new service provider, you agree and acknowledge that:
- a)** you may not transfer a Domain Name to a new service provider within 60 days of registration of the Domain Name with us;
 - b)** the new service provider must be aware of and be able to approve the transfer;
 - c)** your submission of a transfer request does not guarantee that the transfer will be successful; and
 - d)** until such time as the transfer is complete, you will remain liable for the management of the Domain Name, including the obligation to pay any applicable renewal charges and any other charges which may become due prior to the transfer date.
- 4.2** You acknowledge that, in addition to the requirements set out at clause 4.1, you must complete a Domain Name Transfer Away Form (available from us upon request). Business users must also provide a written request to use the Domain Name Transfer Services (printed upon their letter headed paper) in addition to the Domain Name Transfer Away Form.
- 4.3** The current fee for the Domain Name Transfer Services is available upon request.

5 DOMAIN NAME PRIVACY SERVICES

- 5.1** The Domain Name Privacy Services are available for .com, .net, .org, .biz and .info Domain Names.
- 5.2** For the avoidance of doubt, domain privacy is available on all .uk domains free of charge if you are a non-trading individual registering a Domain Name. If you require this option, the WHOIS opt-out option may be selected at the time the Customer Application is submitted to us or by contacting us at any time thereafter.
- 5.3** The fee for the Domain Name Privacy Services shall be charged annually in advance and you acknowledge that the Domain Name Privacy Services shall be provided to you for a minimum period of 12 months. Thereafter, the Domain Name Privacy Services shall automatically renew for further 12 month periods (a "Renewal Period"), until and unless terminated by you upon giving us 45 days notice to terminate prior to the first anniversary of the Domain Name Privacy Services or prior to the anniversary of any Renewal Period.
- 5.4** If the Domain Name Privacy Services are cancelled by you, you acknowledge that you will not be entitled to a refund of any Charges already paid by you to us in respect of the Domain Name Privacy Services for the applicable period.

Vaioni Domain Names Terms and Conditions

6 GENERAL

- 6.1** These Specific Terms and Conditions shall be governed by and construed in accordance with the laws of England and Wales and you agree to submit to the exclusive jurisdiction of the courts of England and Wales.

Vaioni Hosted XC Terms and Conditions

Hosted XC

1 ADDITIONAL DEFINED TERMS

Some words used in this Addendum have particular meanings:

"Bulk Mail" means email messages of similar content that are sent to more than 250 recipients. Mail messages sent within the same domain name, or from your domain name to your other domain name(s) hosted on the Vaioni system are not "Bulk Mail" for the purposes of this definition.

"Effective Date" means the date on which you have submitted a signed Agreement for Mail Services and we have received your payment for the first month's service.

"Junk Mail" means email that is captured by our mail filter and other email that is reported by you to Vaioni as undesirable.

"Mail Service" or "Mail Services" means the Vaioni Email, Microsoft Hosted Exchange, and/or other email service described in your Services Description, plus Support, as defined below. "Mail Services" does not include any mail applications that Vaioni licenses for use on a fully- or partially-dedicated Hosted System.

"Support" means (i) management of the Mail Service by a technical support team that includes individuals trained in the system you select, and (ii) availability of support twenty-four (24) hours per day, seven days per week, year round.

2 ADDITIONAL VAIONI OBLIGATIONS.

In addition to its obligations stated in the General Terms and Conditions, Vaioni will provide the following services as part of your Mail Services:

- 2.1 Administration. Vaioni will provision the initial environment. You will otherwise be responsible for administering your Mail Service, including adding mailboxes, adding wireless or other service components, adding storage capacity, managing settings, and configuring spam filters.
- 2.2 Service Level Agreement. ("SLA"). Your Mail Service will be available 100% of the time in a given calendar month, excluding downtime due to maintenance.
 - 2.2.1 Downtime. Downtime exists if you are unable to send or receive mail as a result of a failure of your Mail Service. Downtime does not exist if you are unable to send or receive mail as a result of a failure outside of Vaioni's reasonable control, such as your connection to the Internet, your computer, your mobile device, or your systems. Vaioni will perform maintenance on the Mail Services on a regularly scheduled basis within its published maintenance windows, which will be announced on our system status page (<http://www.vaioni.com>). Vaioni may also perform unscheduled emergency maintenance if needed to address new security threats or other non-routine events. Delays that may occur while the Mail Service makes planned transitions between redundant system elements is considered maintenance. If Vaioni expects any maintenance to take more than twenty minutes, it will make reasonable efforts to post an announcement on the system status page at least seven (7) days in advance of the maintenance, but we do not guarantee such notice. Delivery delays are considered downtime only for the period that mail is not being processed.
 - 2.2.2 In the event of downtime, you are eligible for a credit as follows:
 - 2.2.2.1 if the downtime continues for five (5) consecutive hours or more, you may request a credit equal to the monthly recurring fee for the affected Mail Service (Vaioni Email, Microsoft Exchange, BlackBerry Enterprise Server or ActiveSync) multiplied by the percentage of your mailboxes affected (the "Maximum Credit"); or

Vaioni Hosted XC Terms and Conditions

- 2.2.2.2** If the downtime continues for less than five (5) consecutive hours, then you may request a prorated portion of the Maximum Credit equal to the number of minutes of downtime divided by five (5) hours (300 minutes).

You are not entitled to a credit if you are in breach of the Agreement (including your payment obligations to us) at the time of the occurrence of the event giving rise to the credit until you have cured the breach. You are not entitled to a credit if the event giving rise to the credit would not have occurred but for your breach of the Agreement.

You must request a credit through your control panel within seven (7) days following the end of the downtime. Your request must describe the downtime, including the specific Mail Service affected, the start and end time of the downtime, a percentage or list of mailboxes affected, and specifically how your use of the Mail Service was adversely affected. Vaioni will apply any credit that is due against your next invoice for Mail Services.

- 2.3** Support. Vaioni will provide Support to your designated administrator(s) or technical contacts on the account. Vaioni will not provide Support directly to your end users unless specifically agreed in writing.

3 LIMITATIONS ON MAIL SERVICES

- 3.1** Filtering. Vaioni provides certain services designed to filter unwanted email, such as spam, phishing scams, and email infected with viruses. You acknowledge that the technological limitations of the filtering service will likely result in the capture of some legitimate email, and the failure to capture some unwanted email, including email infected with viruses. Email that is quarantined by the filtering system is excluded from the Service Level Guarantee.
- 3.2** Delivery Failures. Vaioni will use commercially reasonable efforts to deliver your email messages. Third party filtering services may from time to time prevent successful delivery of your messages.
- 3.3** You hereby release Vaioni and its employees, agents, suppliers, and affiliates from any liability or damages arising from the failure of Vaioni's filtering services to capture unwanted email or from a failure of your email to reach its intended recipient as a result of a filtering service used by the recipient or the recipient's email service provider.
- 3.4** Memory Limitations. Mail that exceeds the storage limit when received may be permanently lost. You may adjust the storage capacity of your individual mailboxes via the control panel, and it is your obligation to monitor and adjust the storage capacity of individual mailboxes as needed. An individual email message that exceeds the per-message size limit may also be permanently lost. As of May 2008, the per message size limit is 50MB.
- 3.5** Backups. Vaioni performs data backups on a "snap shot" basis at a specific moment. Therefore Vaioni may not create a backup of every item that is sent, received or stored. The backup will only capture those items (including mailboxes and public folders) that are present during the time of the backup. Data on backups may be retrieved only for a limited number of days. See information in Section 4.3 (Records Retrieval) below regarding Records Retrieval services.
- 3.6** Bulk Mail. You may not use the Mail Services to send Bulk Mail except via a Vaioni approved mail marketing service. You may not send bulk or commercial mail that has a Vaioni Mail Service return address or references a Vaioni Mail Service address, unless approved by Vaioni in advance. You may not intentionally use your Mail Service for the purpose of receiving bulk mail from others. For example, you may not submit any Mail Service email address to a "Safelist" or "Free for All" list.
- 3.7** Unsolicited Mail. You may not send email to anyone with whom you do not have a pre-existing relationship, unless the recipient has published or otherwise provided his or her email address in a manner which implies consent to receive the email.

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- 3.8 System Abuse.** You may not use the Mail Services in a way that creates technical disturbances for other Vaioni mail customers or for the Vaioni systems generally. Specifically, but without limitation:
- 3.8.1 No Shared Mailboxes.** Each mailbox may be used by one natural person at a time. Attempts to log into a single mailbox simultaneously from more than one computer are prohibited. You may not use automated tools such as “Fetchmail” or “Microsoft Exchange Connector” to virtualize one mailbox into multiple mailboxes;
 - 3.8.2 Automated Use.** Mailboxes are not designed for automated use, such as sending email from web servers, or receiving email from automated programs. Such use is permitted provided that you do not violate this Agreement or disrupt the normal operation of the mail system, but we do not provide technical support for this type of use.

4 CUSTOMER SECURITY OBLIGATIONS.

The General Terms and Conditions require you to use reasonable security precautions in light of your use of the Services. For Mail Services, this includes using a desktop virus scanner and firewall on computers that are connected to the Internet.

5 ADDITIONAL TERMS FOR CERTAIN SERVICES

The following additional terms will apply if you elect to purchase one of the services described below:

- 5.1 Migration Services.** At your request, we will provide an advance estimate of fees based on the information you provide to us. However, you acknowledge that our fee will be calculated on the basis of the actual number of mailboxes and amount of data migrated and may exceed the estimate. You acknowledge that after we begin the migration services we may discover technical limitations related to the configuration of your data that prevent us from successfully completing the migration. We will not charge you a fee if we are unable to successfully migrate your data. You acknowledge that there is a special risk that data will be lost during a migration. You agree that you will create a reliable back up of all data to be migrated prior to the time that we begin the migration. You agree that we are not liable to you for damages resulting from the loss or corruption of your information as part of the migration.
- 5.2 Domain Name Services.** If you register, renew or transfer a domain name through Vaioni, Vaioni will submit the request to its domain name services provider (the “Registrar”) on your behalf. Vaioni’s sole responsibility is to submit the request to the Registrar. Vaioni is not responsible for any errors, omissions or failures of the Registrar. Your use of domain name services is subject to the applicable legal terms of the Registrar posted on their website. You are responsible for closing any account with any prior reseller of or registrar for the requested domain name, and you are responsible for responding to any inquiries sent to you by the Registrar.
- 5.3 Records Retrieval.** For Vaioni Mail, you will be able to recover deleted messages yourself via the administrative control panel for up to fourteen (14) days from the day deleted. For Vaioni Microsoft Exchange, you will not be able to recover your deleted mail yourself, but Vaioni will recover your deleted mail for you on a fee basis for up to fourteen (14) days from the day deleted. For both Vaioni Mail and Vaioni Microsoft Exchange your deleted messages may not be available after fourteen (14) days from the day deleted. Records retrieval services will be performed on a fee basis and will take up to two (2) hours for a deleted item, and up to six (6) hours for an entire mailbox. At your written request made at or prior to the termination of your Mail Service, Vaioni will provide a complete copy of your mail data on a fee basis no later than ten (10) days following the date of the request, provided that all payments on your account must be made prior to Vaioni’s release of the copy of the data to you.
- 5.4 Archiving Services.** If you elect to purchase archiving services, the archiving services will capture only the email that you send or receive after the date that the archiving services are implemented. Upon termination of your account for Mail Services, or your archiving service, we will destroy your archived data unless you have made other arrangements with us.

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Vaioni's archiving services are designed to help you comply with various legal and regulatory requirements that may be applicable to you. However, you are responsible for understanding the legal and regulatory requirements applicable to your business and for using your archiving service in a manner that complies with the applicable requirements.

In addition, Vaioni's archiving service has certain limitations that may mean it is not an appropriate archiving solution for you. Please see the product description at http://www.vaioni.com/assets/Vaioni_Archive_issues_Hosted_XC.pdf for more information.

6 WIRELESS

If you elect to use a wireless component of your Mail Service, your use of the wireless component shall be governed by the following additional terms, as applicable:

- a) for BlackBerry™, the terms at http://www.vaioni.com/assets/WirelessandBlackberry_Terms_Hosted_XC.pdf;
- b) for Goodlink™, Good Technology Inc.'s license terms and Acceptable Use Policy at www.good.com/corp/content/Documentation/forms_license.doc; (collectively, the "Wireless License Terms"); provided, however that any provisions regarding Goodlink's customer support shall not be applicable, and you acknowledge that you shall look solely to Vaioni for customer support in connection with the wireless components of the Mail Service. You may use the wireless components only with the types of handhelds specified in the "Wireless License Terms." You acknowledge that Vaioni does not have expertise or specialized training with respect to the wireless components, and agree that Vaioni's support obligation with respect to these components is limited to such efforts as may be reasonably expected of technicians having generalized knowledge and training in information technology systems.

The wireless components of the Mail Service contain "strong encryption" that is controlled for export by law.

7 TERM

The initial term of each Agreement begins on the Effective Date and continues for the period stated in the Service Description. Upon expiration of the initial term, the Agreement will automatically renew for successive renewal terms of one month each unless and until one of us provides the other with thirty (30) days advance written notice of non-renewal.

8 TERMINATION FOR CONVENIENCE

You may terminate the Agreement for convenience at any time on thirty (30) days advance written notice. Vaioni may terminate for convenience at any time on one hundred and twenty (120) days advance written notice.

9 FEES

- 9.1 We may increase our fees for Mail Services at any time by posting the new fees in the control panel or providing notice to you via email. Fee increases will not be applied to your Mail Services purchased prior to the time of the fee increase until at least forty-five (45) days after the date the new fees are first published, but any new Mail Services you purchase after a fee increase will be charged at the new fees.

10 ADDITIONAL SUSPENSION, TERMINATION AND INDEMNIFICATION GROUNDS

In addition to the suspension and termination stated in Section 11 of the General Terms and Conditions, we may suspend your Mail Services or terminate the Agreement immediately and without notice if: (i) you use your Mail Service in violation of the use restrictions in the Agreement, including those in the AUP and at Section 3.6 (Bulk Mail) or Section 3.7 (Unsolicited Mail) above, (ii) your Mail Service email address or related IP number(s) is/are blacklisted by any third party, or Vaioni is retaliated against as a result of your email, regardless of whether you are in breach of the AUP or other part of the Agreement, or are

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otherwise at fault, or (iii) we receive excessive or repeated complaints from your email recipients, regardless of whether you are in breach of this AUP or are otherwise at fault. Complaints from email recipients and third party abuse agencies (e.g. SpamHaus or Spamcop) shall be deemed proof of the facts stated therein unless you provide compelling evidence to the contrary.

11 PRIVACY

11.1 Content/Message Routing Data. Your email messages and other items sent or received via the Mail Service will include: (i) the content of the communication (“content”), and (ii) certain information that is created by the systems and networks that are used to create and transmit the message (the “message routing data”). The content includes things like the text of email messages and attached media files, and is generally the information that could be communicated using some media other than email (like a letter, telephone call, CD, DVD, etc.) The message routing data includes information such as server hostnames, IP addresses, timestamps, mail queue file identifiers, and spam filtering information, and is generally information that would not exist but for the fact that the communication was made via email.

11.2 Content Privacy. We respect your privacy. The content of your items is your Confidential Information and is subject to the restrictions on use and disclosure described in the General Terms and Conditions, Section 12 (Confidential Information). In addition to those restrictions, we agree that our personnel will not view the content of your items except in the specific ways defined below. However, you agree that we may view and use the message routing data for our general business purposes, including maintaining and improving security, improving our services, and developing products. In addition, you agree that we may disclose message routing data to third parties in aggregate statistical form, provided that we do not include any information that could be used to identify you.

11.3 Our Limited Rights to View and Use Your Content. You agree that our personnel may view the content of your email and other items for the following purposes:

- a) as necessary to respond to your specific support request;
- b) to ensure that backups are being performed properly;
- c) for Bulk Mail, to ensure compliance with our requirements for Bulk Mail stated in the Acceptable Use Policy;
- d) as appropriate to the exercise of our rights to use and disclose your Confidential Information as described below in the General Terms and Conditions, Section 12
- e) (Confidential Information); and
- f) for Junk Mail, to improve our email filter.

If we use third party vendors to help us provide Services to you, we may permit those vendors to view and use your email content for the same purposes described above, provided that the vendors are subject to confidentiality and privacy restrictions at least as stringent as those stated in the General Terms and Conditions, Section 12 (Confidential Information). In addition, we may share the content of your Junk Mail with independent third party abuse agencies and trade groups for the purpose of assisting in industry initiatives to control undesirable email.

You acknowledge that Vaioni is required to establish an abuse@[yourdomain].com and postmaster@[yourdomain].com address for each of your domains. Vaioni personnel will review the content of all mail received at these addresses. You may configure your Mail Service such that mail is not received at these addresses but is instead forwarded to someone within your organization.

WE WILL NOT EMPLOY TECHNOLOGY TO READ YOUR EMAIL MESSAGES IN ORDER TO TARGET, DISPLAY OR SEND MARKETING ADS BASED ON THE CONTENT OF THOSE EMAIL MESSAGES.

11.4 Usage Data. We collect and store information related to your use of the Services, such as use of SMTP, POP3, IMAP, and filtering choices and usage. You agree that we use this information for our general business purposes and may disclose the information to third parties in aggregate statistical form, provided that we do not include any information that could be used to identify you.

11.5 Changes to Privacy Terms.

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We may change Subsection_11.3 (Our Limited Right to View and Use Your Content) under the same procedures described for amendments to the AUP in the General Terms and Conditions, Section 9 (Changes to the Acceptable Use Policy).

12 IP ADDRESSES

Upon expiration of termination of the Agreement, you must discontinue use of the Mail Services and relinquish use of the IP addresses and server names assigned to you by Vaioni in connection with Services, including pointing the DNS for your domain name(s) away from Vaioni Services.

13 RESALE

You may not resell the Mail Services without Vaioni's prior written consent.

14 COUNTRY SPECIFIC TERMS

If you are a customer of Vaioni and have signed a hosting services agreement governed by English law, but have purchased Services that will be provided in whole or in part from datacentres or other Vaioni facilities in the United States, then the following additional terms are part of your Agreement with Rackspace.

US Acceptable Use Policy

The Vaioni Acceptable Use Policy at [HYPERLINK](#)
["http://www.rackspace.com/information/legal/aup.php"](http://www.rackspace.com/information/legal/aup.php)http://www.vaioni.com/assets/Vaioni_AUP_Hosted_XC.pdf is incorporated in the Agreement by this reference and governs your use of any Services provided from Vaioni datacentres in the United States. [HYPERLINK](#)
["http://www.rackspace.com/information/legal/aup.php"](http://www.rackspace.com/information/legal/aup.php) [HYPERLINK](#)
["http://www.rackspace.com/information/legal/aup.php"](http://www.rackspace.com/information/legal/aup.php)

Export Matters

You represent and warrant that you are not on the United States Department of Treasury, Office of Foreign Asset Controls list of Specially Designated National and Blocked Persons and are not otherwise a person to whom Vaioni is legally prohibited to provide the Services. You may not use the Services for the development, design, manufacture, production, stockpiling, or use of nuclear, chemical or biological weapons, weapons of mass destruction, or missiles, in a country listed in Country Groups D: 4 and D: 3, as set forth in Supplement No. 1 to the Part 740 of the United States Export Administration Regulations, nor may you provide administrative access to the Service to any person (including any natural person or government or private entity) that is located in or is a national of any country that is embargoed or highly restricted under United States export regulations.

This Mail Hosting Services Terms and Conditions represents the entire relationship between the parties and supersedes all previous written or other correspondence and agreements, understandings or communications, whether written or oral, as to the subject matter of this Mail Hosting Services Terms and Conditions.

Vaioni VPLS / E-LAN Terms and Conditions

VPLS / E-LAN

1 OVERVIEW

The Supplier's Ethernet VPN Service is an E-LAN service, as defined by MEF, providing any to any connectivity. The Ethernet VPN Service provides connectivity between Sites to enable an organisation to share resources and create multiple community of interest networks over a single physical infrastructure thus ensuring secure transmission/receipt of information and also enabling organisations to achieve cost efficiencies by allowing multiple users to use a single network.

The Ethernet VPN Service provides a Virtual Private LAN Service ("VPLS") with a multi-point to multi-point Ethernet Virtual Circuit ("EVC") creating a broadcast LAN between Sites. All service access points are associated with a single EVC. Customer Ethernet Frames that ingress at a service access point ("SAP"s) are transported across the EVC and will egress at any of the service access points in the EVC, depending on destination MAC address.

The Supplier's Ethernet VPN Service has been designed to connect multiple Sites.

Access bandwidths are delivered at 10Mbit/s, 100Mbit/s or 1Gbit/s and standard incremental EVC/VLAN bandwidths are available:

- a) 2Mbit/s increments up to 10Mbit/s;
- b) 10Mbit/s between 10-100Mbit/s; and,
- c) 100Mbit/s between 100Mbit/s and 1Gbit/s

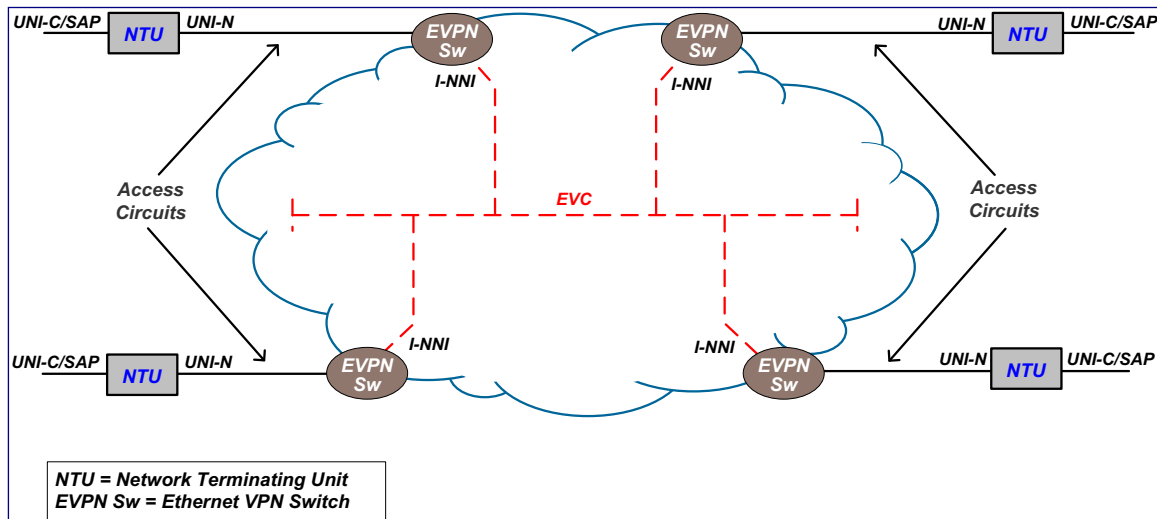
2 TECHNICAL DESCRIPTION

The Supplier's Ethernet VPN Service is a standards based Layer 2 switched Ethernet VPN service. The Supplier's ingress and egress Ethernet ports are 802.1Q Tunnels and will pass any Customer-VLAN-ID (C-VLAN-ID) tagged Ethernet frames (IEEE 802.1Q) from point "A" to point "B" unmodified.

The Supplier's Ethernet VPN Service adheres to the MEF standards. In this section, the following terms have the following MEF meanings:

- a) **UNI-C/SAP** - The standard Ethernet interface, as delivered on the NTU that is the point of demarcation between the Customer Provided Apparatus and the Ethernet VPN. This is equivalent to the Customer's SAP.
- b) **UNI-N** – The interface between the NTU and the Ethernet VPN switch.
- c) **I-NNI** - Any interface that interconnects Ethernet switches within the Supplier's Ethernet VPN network.
- d) **EVC** - Ethernet Virtual Circuit is the term for the communication relationship between two or more UNIs on a carrier network. (A point-to-point EVC must have exactly two UNIs associated with one another; for a multipoint-to-multipoint EVC, two or more UNIs must be associated with one another.)
- e) **Access Circuit** - The circuit between the Site and the Supplier's point of presence (PoP).

Vaioni VPLS / E-LAN Terms and Conditions



As illustrated in the above diagram, all sites have single SAP with an Access Circuit within which a contracted bandwidth may be defined. Contracted bandwidth represents a bandwidth profile configured on the Ethernet VPN ingress switch port.

A single broadcast or multicast ingress frame at a given SAP will be replicated in the Ethernet VPN and a single copy delivered to each of the other SAPs in the EVC. This kind of delivery would also typically apply to a service frame for which the Ethernet VPN has not yet learned an association of the destination MAC address with an EVC/SAP pair. This is an “E-LAN” service as defined by the MEF. Unicast traffic will be point-to-point based on MAC address.

The Access Circuit will always be specified as 10, 100 or 1000Mbit/s dependent on the requested EVC data speed across the Ethernet VPN. Capacity across the Ethernet VPN will be between 2 and 1000Mbit/s.

The Service comprises one NTU at each Customer Site providing connection to the Supplier Network. The NTUs will be located on the Customer Sites (at the end locations specified in the Order) and the Customer will be presented with either RJ45 copper interface for 10/100Mbit/s service or options of SM or MM on LC fibre connectors, or 1000BaseTx RJ45 copper interface for 1000Mbit/s.

The Service demarcation point is the Customer-facing ports of the Customer-sited NTUs.

This Service Definition covers Ethernet VPN Circuits at the following speeds:
Access Circuit speeds at 10, to 100, to 1000Mbit/s, via Supplier fibre or Short Haul Data Service.

EVC bandwidth options are: 2, 4, 6, 8, 10, 20, 30, 40, 50, 60, 70, 80, 90, 100, 200, 300, 400, 500, 600, 700, 800, 900 and 1000Mbit/s increments (to the limit of the tail capacity and connection speed).

The key technical characteristics of the Ethernet VPN circuit are shown below:

- a) Speed – Access Circuits will always be specified as 10, 100 or 1000Mbit/s.
- b) Delivery media – Supplier fibre or Short Haul Data Service.
- c) User Interface – Ethernet port on the Supplier deployed NTU. The Customer will be presented with either RJ45 copper interface for 10/100Mbit/s service or fibre options of SM or MM on LC fibre connectors, or 1000BaseTx RJ45 copper interface for 1000Mbit/s
- d) Topology – Ethernet over fibre.
- e) Resilience – Single access to a Site; full resilience of label switch paths through the MPLS core.
- f) Class of Service – circuits are available with up to 7 Classes of Service which offer a choice of traffic prioritisation (Edge QoS on network entry and exit) levels and committed and burst data rates. Full details are available from the Supplier on request.
- g) Performance reporting –on-line performance reporting can be provided. This reporting can provide traffic throughput for each Class of Service deployed plus round trip delay (latency multiplied by two), jitter and packet loss measurements from the Supplier Network as detailed below.

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Service Performance: Latency

For Ethernet VPN Circuits, latency means the time taken for an Ethernet frame to travel across the Supplier Network between the Supplier's PoPs. The target for the Service is set at less than 15ms. Measurement of latency is taken from a sample value from the Supplier Network and may be the average of more than one test result. No more than 1 in 1000 samples should exceed the target latency under normal conditions, excluding periods of planned maintenance and outages however caused. For the purposes of the on-line performance reporting tool, the latency measure is multiplied by a factor of 2 and represented as round trip delay.

Service Performance: Jitter

The target jitter for the Service is measured by sending four test packets of 80 bytes (with 20ms spacing), periodically and regularly, 24 hours a day between the Supplier's PoPs with appropriate averaging. The target jitter for the Service is set at less than 8ms. Any traffic exceeding the Customer's CDR will be discarded and not included in the jitter measurement. Jitter is taken from a sample value from the Supplier Network and may be the average of more than one test result. No more than 1 in 1000 samples should exceed the target jitter under normal conditions, excluding periods of planned maintenance and outages however caused.

Service Performance: Packet Delivery

The target packet delivery for the Service is measured by sending four test packets of 80 bytes (with 20ms spacing), periodically and regularly, 24 hours a day between the Supplier's PoPs with appropriate averaging. The target packet delivery for the Service is set at better than 99.9%. Any traffic exceeding the Customer's CDR will be discarded and not included in the packet delivery measurement.

3 RESTRICTIONS ON SERVICE

Ethernet VPN Networks are only available in areas where the Supplier has existing local access infrastructure or the Supplier can use a Short Haul Data Service access connection.

The Ethernet VPN Service is transparent and therefore the Supplier imposes no restrictions on applications or protocols run across the Service. Layer 2 Control Protocols are not transportable over the Service. All offers for the provision of Ethernet VPN are made subject to survey. On receipt of an Order, the Supplier will carry out surveys and network capacity checks in order to validate its budgetary quotation and delivery timescale. In exceptional circumstances this may result in the Supplier's offer being modified or withdrawn.

MAC Address Learning

The Ethernet VPN switch in the Supplier's PoP must learn the destination of each Customer MAC address in an Ethernet VPN VPLS instance, so frames can be forwarded correctly.

If the Customer connects to the NTU using a router, then only the MAC addresses of the router interfaces connected to the Ethernet VPN are entered into the MAC address tables as all other devices will be hidden behind the router MAC address. This is the recommended and preferred method of connectivity.

If the Customer connects to the NTU using a layer 2 switch, there will typically be one MAC address per device on the Customer's LAN. This has the potential to create large MAC address tables. Ethernet VPNs with a large amount of large sites in one Metro Domain (eg over 100 sites each with 500 Ethernet devices or 50 sites with 1000 Ethernet devices) should be connected via a Router to reduce MAC addresses learnt by the MetNet switches. If connected via a Layer 2 switch instead of a Layer 3 router advice must be sought from the Supplier's Technical Pre-Sales team.

4 SERVICE MANAGEMENT AND REPORTING

The Supplier provides service management for each Service as set out below:

- a) Investigating unplanned Service outages;
- b) Producing major incident reports and reason for outage reports;

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- c) Identifying fault trends and initiating corrective action;
- d) Managing Planned Works;
- e) Managing Service queries and requests from the Customer; and
- f) Managing provision of Service reports.

Full details of service management are set out in the Operations and Maintenance Manual.

5. FAULT MANAGEMENT

Full details of the fault reporting process and contact names and numbers are set out in the Operations and Maintenance Manual.

6. CANCELLATION AND MODIFICATION

6.1 Cancellation of Service by the Customer

- a) *Cancellation prior to Customer Execute Date.* If an Order for an Ethernet VPN Circuit is cancelled before the Customer Execute Date, the Supplier reserves the right to make a Cancellation Charge to cover all reasonable costs incurred by the Supplier as a result of such cancellation or modification, in accordance with the following formula, as a percentage of the Installation Charge plus eighty per cent (80%) of the Rental which would have been due and payable in the first year of the Contract had it not been cancelled:

$$\frac{\text{Number of Working Days between Order acceptance date and the earlier of: (a) Order cancellation date; or (b) Customer Promise Date (or Initial Delivery Date if there is no Customer Promise Date)}}{\text{Number of Working Days between Order acceptance date and Customer Promise Date (or Initial Delivery Date if there is no Customer Promise Date)}} \times 100$$

- b) *Cancellation after Customer Execute Date.* If an Ethernet VPN Circuit is cancelled following the Customer Execute Date, the following cancellation terms will apply:

Notice required by the Supplier	3 months written notice
Circuit cancellation date	3 months after receipt of written notice
Cancellation Charge	80% of any outstanding Rental calculated pro-rata from the Circuit cancellation date to the end of the Minimum Period

6.2 Modification of Service by the Customer

If the details of a Circuit are changed substantially at any time by the Customer (such as but not limited to change in A-end or B-end location, change in capacity or change in presentation), the Supplier reserves the right to charge Reconfiguration Charges or treat the modification as a cease and re-provide and charge a Cancellation Charge. A Circuit will be considered to have been regraded if, at the Customer's request, the access circuit, CDR, or any Services Equipment has been changed. In this case a planned outage may be required.

7. SERVICE LEVEL TARGETS AND CREDITS

The Supplier shall use reasonable endeavours to provide the Services throughout the term of the Contract in a manner which meets or exceeds the Service Levels set out in this section.

The Service Credits set out in Tables 2A, 2B and 3 are subject to a maximum, in aggregate in any calendar month, of 100% of the monthly Rental for the Ethernet VPN Circuit in question.

Service Credits shall not apply and, for the purposes of these Service Levels, the Services shall be deemed to be Available in respect of any period where the Supplier's failure to meet the Service Levels results directly or indirectly from:

- a) Force Majeure;

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- b) any actions or inactions of the Customer (including, without limitation, requests for testing of the Service by the Customer although no Fault has been detected, requests for modifications, failure of Customer Provided Apparatus, failure by the Customer to provide access to Service Equipment, failure by the Customer to operate the Services in accordance with the Contract);
- c) misuse of the Services contrary to the Contract;
- d) any planned outage
- e) any Fault that is not reported to the Supplier;
- f) any reported period of non-Availability where the Supplier can find no Fault;
- g) any Fault that is due to user error; and/or
- h) the Customer's failure to provide accurate forecasts if required in accordance with the Contract.

7.1 Customer Promise Dates

For each Ethernet VPN Circuit, the Supplier will agree a Customer Promise Date. If the Supplier fails to meet this date and cannot demonstrate that the delay is caused by circumstances beyond its reasonable control (which, for the avoidance of doubt, shall include the late delivery of any third party circuit elements), the Customer will be entitled to compensation for the late delivery of the Circuit in accordance with Table 1 below.

Table 1

Number of whole calendar days by which the Customer Execute Date exceeds the Customer Promise Date	Compensation
1 to 5	5% of Installation Charges applicable to the affected Circuit
6 to 10	15% of Installation Charges applicable to the affected Circuit
11+	30% of Installation Charges applicable to the affected Circuit

In the event that the Customer Execute Date of a Circuit is delayed by more than thirty (30) days (the "Deadline") after the Customer Promise Date and it cannot be demonstrated that the delay is caused by circumstances beyond the Supplier's reasonable control (which, for the avoidance of doubt, shall include the late delivery of any third party circuit elements), then in addition to the compensation set out in Table 1, the Customer shall have the right to terminate the relevant Circuit. The compensation and the right to terminate the relevant Circuit in the circumstances set out herein shall comprise the Customer's sole remedy in respect of delays to the Customer Execute Date.

7.2 Target Service Availability

For Ethernet VPN Circuits, the Supplier guarantees the circuit Availability for each Circuit to be at least 99.9% for a Service provided with a third party access circuit and 99.95% for a Service provided wholly on the Supplier Network, in each 12 month period following the Customer Execute Date and each anniversary thereof. For the purpose of calculating Availability, "Unavailable Time" means a period of time when there is a total break in transmission or where the bit error rate in each of ten consecutive seconds is worse than 1×10^{-3} . Where the Availability of the Service falls below the percentages set out above, the Customer shall be entitled to Service Credits in accordance with Tables 2A and 2B below.

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Table 2A

Circuit Availability in each 12 month period, where Circuit is provided using 3 rd party access circuit	Service Credits as percentage of one month's Rental applicable to the affected Circuit
99.9% or greater	0%
Less than 99.9% to 99.79%	60%
Less than 99.79% to 99.5%	90%
Less than 99.5%	100%

Table 2B

Circuit Availability in each 12 month period, where Circuit is provided wholly using the Supplier Network	Service Credits as percentage of one month's Rental applicable to the affected Circuit
99.95% or greater	0%
Less than 99.95% to 99.85%	60%
Less than 99.85% to 99.5%	90%
Less than 99.5%	100%

7.3 Service Repair Time

The Target Repair Time for Ethernet VPN Ethernet Circuits is 5 hours. Where the Ethernet VPN Circuit utilises a BT Shorthaul Data Service or where the Fault is caused by a fibre break, the Target Repair Time is 48 hours. In the event that the Supplier fails to repair a Fault within the specified Target Repair Time then Service Credits will be payable in accordance with Table 3 below:

Table 3

Hours past Target Repair Time	Service Credits as percentage of one month's Rental applicable to the affected Circuit
up to 2 hours	6%
2 to 3 hours	12%
3 to 4 hours	18%
4 to 6 hours	24%
Greater than 6 hours	30%

Repair times for nonService affecting faults will be agreed on a case by case basis. No Service Credits shall be payable for failure to repair nonService affecting faults within the Target Repair Time.

Measurement of Repair Time will commence at the time the Customer or the Supplier raises a Remedy Fault ticket and will end when the Supplier confirms to the Customer that Service has been restored, or in the event that the Supplier is unable to contact the Customer, then from the time logged by the Supplier that Service is Available. Any period during which the Service is deemed Available pursuant to Paragraph 7 above shall not be included in the measurement of Repair Time.

Vaioni Virtual Network Terms and Conditions

Virtual Network

1 DEFINITIONS

These Specific Terms and Conditions of Supply are to be read in conjunction with our General Terms and Conditions of Business. All definitions contained within these Specific Terms and Conditions have the same meaning as those set out in the General Terms and Conditions of Business unless specified below in which case they will have the meaning specified below;

"Customer Order Form" means the order form for the supply by the Company of the Equipment and/or Services, completed by, or in accordance with an order from, the Customer;

"Minimum Cancellation Notice Period" means the minimum period of notice that a Customer must give the Company to terminate a specific Service or this Agreement, as set out in Clause 8;

"Virtual Network" means the Core Cloud Network service described in the Company's literature at the date of completion of the Customer Order Form;

"Service Level Agreement" or "SLA" means the service level agreement at <http://www.vaioniwholesale.com/tcaupsla> relating to the Virtual Network section that describes the service levels to be met by Vaioni Group Limited together with the remedies available to the Customer for failure to meet such service levels;

"Service Period" means the period of an individual Service provided in accordance with this Agreement;

"Telecommunications Circuit" means a circuit that allows that transmission of TCP/IP data;

"Vaioni Group Limited" means Vaioni Group Limited Ltd (Company Registration Number 4314251) of Floor 6, Tomorrow, MediaCityUK, M50 2AB.

2 THE SERVICES

- 2.1 Vaioni Group Limited shall provide the Service at the data transfer speed stated on the Customer Order Form subject to the terms of this Agreement.
- 2.2 You can place your order for the Service by completing the online order form via the myVaioni Portal or signing a quotation/proposal via EchoSign or hand signature.
- 2.3 Vaioni Group Limited shall not be obliged to provide the Service to you unless and until we have received written confirmation, or (if requested in our discretion) evidence, that all installation work at the Customer's premises is complete and the other terms specified in Clause 2 of the General Terms and Conditions have been satisfied, subject to Clause 2.4.
 - (a) we have sent written notice to you (either by post, fax or e-mail) of our acceptance of the Customer Order Form; and
 - (b) we have received any initial Charges due from you in respect of the Services and/or Equipment.
- 2.4 Acceptance and/or use of the Services and/or Equipment by you constitutes your automatic acceptance of the terms and conditions of this Agreement. Whilst we will use reasonable endeavours to provide the Services and/or Equipment to you within any timescales specified by us or agreed with or requested by you, we will not be liable to you for any delay in providing or failure to provide the Services and/or Equipment within such timescales.
- 2.5 We shall allocate a range of Internet Protocol (IP) addresses for use by the Customer for machines on its network for the duration of this Agreement. It will be the responsibility of the Customer to connect the Equipment to, and to configure its machines on, its own network.
- 2.6 Save in relation to the Private WAN Circuit, we will provide you with transit and routing services for e-mail and general Internet access. We will (in consideration of the Charges) deliver IP

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packets to the Customer network boundary only and will not be, or be held responsible for, the transit, routing and delivery of IP packets to individual workstations on the Customer network.

- 2.7** We will endeavour to ensure that the Services are of a high quality. In order to maintain the quality and safety of the Services, and any other services which we provide to our customers, we may from time to time: (a) Suspend, close down or restrict the whole or any part of the Services in order to carry out emergency or other repairs, maintenance and/or improvements or to prevent overload of the network or to preserve the safety, security or integrity of the Services and any Internet traffic conveyed (although we will give you as much notice as is reasonably practicable before doing so and will endeavour to carry out such works during the relevant scheduled maintenance periods as published by us); and/or (b) Give you instructions on how to use the Services. You agree to comply with any instructions we may give you in accordance with this Clause.
- 2.8** We shall send you, via e-mail, online usage statistical reports detailing the bandwidth used on the Telecommunications Circuit by the Customer and will endeavour to do so daily as specified in accordance with the Customer Order Form.
- 2.9** The Equipment shall at all times remain the property of Vaioni and Customer shall have no rights or interest in the Equipment except for quiet possession and the right to use the Equipment under this Agreement to provide the Customer Service.
- 2.13** A Wires-Only service will exclude any CPE equipment.
- 2.14** The Customer is responsible for the configuration of a routing device and implementation of any intelligence for the Wires-Only Ethernet Service.
- 2.15** DSL Failover, Wireless Ethernet, Diverse and Flex are not available with Wires-Only Ethernet.
- 2.13** Technical Support on Wires-Only services is limited and initial diagnosis is the responsibility of the Customer. Support guidelines for Wires-Only Internet Leased Lines from the Supplier will be provided to assist in the diagnosis process and must be followed and reported back to Technical Support before it is raised with the Telco Operator and the clock starts on the SLA.

3 SERVICE LEVELS/CREDITS

- 3.1** Vaioni Group Limited shall provide the Service in accordance with these Specific Terms and Conditions and subject to the applicable Service Level Agreement.

4 SERVICE PERIOD

- 4.1** We will use reasonable efforts to activate the Services, as soon as possible following completion of the matters referred to in Clause 2.3 above. However, all dates are estimates and we cannot guarantee that they will be met.
- 4.2** Unless otherwise terminated or suspended in accordance with this Agreement the following Services shall be provided for a Minimum Service Period of 12 months from the date of activation:
- (a)** Access
 - (b)** Ethernet
 - (c)** Private WAN Service
- 4.3** On expiry of the periods referred to at Clause 4.2 above (as appropriate) the Services will, unless terminated on or before the date of such expiry, automatically renew until terminated pursuant to this Agreement or until a new contract term is agreed between Vaioni Group Limited and the Customer.

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5 PROVISION OF SERVICE

- 5.1** We may be required to carry out additional construction work prior to or during installation of a Telecommunication Circuit (for example because fibre or copper is not present, or buildings entries are required and/or additional equipment is needed). You may be subject to additional charges for such work, and these are described in Clause 7.6.
- 5.2** Vaioni Group Limited may monitor the Service 24 hours a day, 7 days a week, 365 days a year. Relevant details of this activity are set out in the applicable Service Level Agreement.
- 5.3** Where EFM & GEA services are purchased through TalkTalk Wholesale or BT including EFM Lite, you will agree that the final speed of the service you purchase may vary and this will not give right to early termination or reduction in charges.
- 5.4** When EFM services are purchased you will take note, EFM services are not transferable between sites or postcodes due to limitations applied by the Operator. You must pay for the existing contract and order a new service.

6 CONDITIONS OF USE

- 6.1** You agree that you will be responsible for all use of the Services and (unless, we have agreed to supply it as part of the Equipment) for providing all additional equipment and/or services (including, without limitation, a PSTN line, if required), and for obtaining any permits and/or licences which are necessary for connecting to, and accessing, the Services. You agree that you are responsible for complying with all terms and conditions (including, without limitation, terms of payment) relating to any telecommunications service which is required by you to access the Services.
- 6.2** With regard to DSL Backup, the PSTN line for DSL Backup will only receive maximum line speed, and is subject to availability, according to BT's advertised coverage of exchanges in the UK. Where DSL is not available, a backup dial-up account will be provided.
- 6.3** With regard to DSL monitoring of Private WAN circuits, the PSTN line for DSL monitoring is subject to availability, according to BT's advertised coverage of exchanges in the UK. Where DSL is not available, a recommended alternative will be provided.
- 6.4** You agree to:
- (a)** provide an authorised technical contact, authorised contact number, and pass phrase, to keep any records of such details in separate places and take all necessary steps to ensure the security of such records;
 - (b)** without prejudice to the General Terms and Conditions, keep such information private and confidential and ensure, at all times, that it (or they) does (do) not become known to any unauthorised personnel.
- 6.5** You agree that you will notify us immediately if you become aware of any change in circumstances which may lead you to believe that such information has become known to any unauthorised personnel.
- 6.6** You agree that we may, from time to time, suspend and/or change your pass phrase (at our discretion if we feel that such step is in the interests of security).
- 6.7** Any managed hardware, and/or routers, which you purchase from us, will be tested by us and configured to meet your basic network and Internet specifications. In the event that you wish to make alterations to configuration of such Equipment, you agree to contact the Technical team at Vaioni Group Limited to request such changes. Upon confirmation of authorisation, TECHNICAL will make such changes.
- 6.8** Any fault with the Services and/or the Equipment, which you detect must be reported to us as soon as possible either:-

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- (a) by telephone to the TECHNICAL team on 0870 160 0650 9am -5pm;
- (b) by telephone to the TECHNICAL team on 0870 160 0650 outside office hours;
- (c) to such other telephone number as we may notify to you from time to time for this purpose.

7 CHARGES

- 7.1 Except as otherwise provided in the Agreement, all Charges and other sums due from you in respect of the Services and/or Equipment shall be set out in the Customer Order Form and/or the invoice relating to such Equipment and/or Services.
- 7.2 You agree to pay for any and all charges in relation to any additional work for installation of (i) an Access Circuit or, (ii) an Ethernet Circuit. However, prior to incurring such costs, the Customer will be presented with a revised quotation and given the option to proceed or not with the installation work. If the Customer elects not to proceed, no costs will be incurred.
- 7.3 BT and / or all associated carriers we use can change this contract (including charges) at any time.
- 7.4 The supplier reserve the right to raise an 'Abortive Visit Charge' of £150 + VAT when entry to your premises is refused, or no access can be gained despite you having agreed that we or any other person may access your premises.
- 7.5 The supplier reserve the right to raise a 'Special Faults Investigation Charge' of £500 + VAT when you report a fault, and an engineer visits your premises, and discovers that the fault is not a result of a failing or defect in the Ethernet Services and/or Equipment.

8 TERMINATION

- 8.1 Unless otherwise stated, the Minimum Cancellation Notice Period is 90 days (to expire after the Minimum Service Period).
- 8.2 The Service is otherwise subject to the termination provisions of the General Terms and Conditions.
- 8.3 In the event The Service is cancelled by the customer at the survey result stage or during the installation stage where no excess charges have been presented by Vaioni to the customer, the full contract amount equal to that stated on the order form will be payable, unless there are excess charges presented by Vaioni relating to The Service to the customer which were not agreed to by the customer. In this case the service can be cancelled with no penalty.
- 8.4 Where the customer has ordered an EFM based service which ranges from 1mb to 35mb, but not limited to this, it maybe possible for you to cancel the service within 24 hours of you placing the order with Vaioni without receiving a penalty. Any cancellations received later than 24 hours, the full contract amount equal to that stated on the order form will be payable.

9 NOTICES

- 9.1 You agree to keep the contact details which you have provided to us up to date. Any notice or other information to be served by us on you in accordance with this Agreement will be validly sent if in writing and sent by either e-mail or first class post to your last known e-mail or postal address. Any notice sent by first class post will be deemed served two days after posting. Any notice sent by e-mail will be deemed served on the day that it is sent.

Any notice to be served on us must be in writing and sent either by pre-paid first class post to our registered office or to such other address as may be specified by us to you for this purpose from time to time. Any notice sent in accordance with this sub-clause will only be deemed served if and when you have received a written acknowledgement from us.

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10 REGRADES AND SHIFTS

- 10.1** The bandwidth of an individual Ethernet circuit cannot be downgraded to a bandwidth which is below the Circuit bandwidth that was initially provisioned for that particular Circuit. For the avoidance of doubt, Circuit bandwidths can be upgraded at any time during the Agreement, subject to the payment of revised Charges as notified to you by The Supplier from time to time.
- 10.2** Once a Circuit's bandwidth is re-graded, the new Circuit bandwidth will be subject to a minimum term of one (1) month and any revised Charges will apply for that Circuit from the date upon which it is regraded. For example, where a Circuit bandwidth is regraded from 10Mb to 20Mb, the Minimum Term at 20Mb is one (1) month; thereafter the Circuit's bandwidth may be re-graded either up or down, provided that the regraded bandwidth is no lower than the original order of 10Mb.
- 10.3** Site Access bandwidths can be upgraded. Where the existing Site Access bandwidth is within the Minimum Service Period, upgrades will be permitted providing that new Charges and a new Minimum Service Period will apply for the upgrade. The new Minimum Service Period will have a duration of at least twelve (12) months or until the end of the original Minimum Service Period, whichever is the longer. Where a new Minimum Service Period is agreed in respect of any upgrade, this will supersede the existing terms in relation to the applicable Customer Order Form governing the Site Access bandwidths.

10.4 If an external shift is possible, where the existing Site Access is within its existing Minimum Service Period, an external shift will be permitted provided that a new Minimum Service Period is agreed with a duration of at least twelve (12) months or until the end of the existing Minimum Service Period, whichever is the later. Where a new Minimum Service Period is agreed in respect of any upgrade, this will supersede the existing terms in relation to the applicable Customer Order Form governing the Site Access bandwidths. If a shift is not possible, a new Site Access will need to be ordered into the new Site.