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**TERMS AND CONDITIONS FOR VOIPLEX CONFERENCING SERVICES**  
**IMPORTANT – READ CAREFULLY**

THE CUSTOMER IS INVITED TO SAVE AND/OR TO PRINT THESE TERMS AND CONDITIONS IN ORDER TO KEEP A COPY FOR FUTURE REFERENCE.

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE ACCEPTANCE.

By Ordering or using the Services, You (“the Customer”) acknowledge having read and accepted, without reservation, to be bound by these Terms and Conditions. Voiplex (trading name of Kinitron Communication Systems Ltd., a company incorporated in the United Kingdom and having its registered office a 5 Astwood Mews, London SW7 4DE) may make future changes or modifications to these Terms and Conditions at any time without notice. Your subsequent access or use of the Services will constitute your agreement to any changes and modifications and to the most current version of these Terms.

You represent and warrant that you are being duly authorized to commit the entity on behalf of which you are acting. These Terms and Conditions are intended for the exclusive use of professionals.

For clarity and avoidance of doubt, Voiplex is not obliged to accept your order. Voiplex reserves the right to reject a Customer who does not agree to these terms and conditions or does not satisfy Voiplex’ credit checking procedure.

## 1. TERMS USED IN THIS CONTRACT

- 1.1. **“Voiplex”** means trademark, brand and trading name of Kinitron Communication Systems Limited of 5 Astwood Mews, London -SW7 4DE, United Kingdom registered in England & Wales No. 04344971
- 1.2. **“Company”** means Voiplex or Kinitron Communication Systems Ltd.
- 1.3. **“Charges”** means the charges for the Service(s) notified to the Customer by Voiplex from time to time
- 1.4. **“Contract”** means, in order of precedence, these Conditions, the applicable Service Schedule and Charges Schedule, the order form (if any) and the Registration Process
- 1.5. **“Customer”** means the person so named on the order form (if any), or, the person named in the Registration Process. Voiplex may accept instructions from another person who Voiplex reasonably believes is acting with the Customer's authority or knowledge
- 1.6. **“Registration Process”** means the registration process described in the applicable Service Schedule.
- 1.7. **“Service”** means the conferencing service provided by Voiplex.
- 1.8. **“Free service” or “Free promotional service”** means the initial free conferencing service provided by Voiplex for promotional purposes only.
- 1.9. **“Site”** means the place at which Voiplex agrees to provide the Service
- 1.10. **“Systems Administrator” or “Account Manager”** means a person named by the Customer as the point of contact with Voiplex for matters relating to the provision of the Service
- 1.11. **“User-ID(s)”** means the pass codes or access codes or participant code or leader PIN or PIN or other codes allocated by Voiplex to the Customer, to allow the Customer to use the Service
- 1.12. **Confidential Information:** information that is proprietary or confidential and is either clearly labelled as such or otherwise identified as Confidential Information
- 1.13. **Intellectual Property Rights:** all vested contingent and future intellectual property rights including but not limited to goodwill, reputation, rights in confidential information, copyright, trademarks, logos, service marks, devices, plans, models, diagrams, specifications, source and object code materials, data and processes, design rights, patents, know-how, trade secrets, inventions, get-up, database rights (whether registered or unregistered) and any applications or registrations for the protection of these rights and all renewals and extensions thereof existing in any part of the world whether now known or in the future created
- 1.14. **Normal Business Hours:** 9.00 am to 5.00 pm local UK time, Monday to Friday, excluding public holidays
- 1.15. **Equipment:** The Voiplex hardware including Additional Equipment and software required to provide the Services as specified in the Order Confirmation(s). Unless otherwise agreed in advance, the Customer purchases all Equipment at the commencement of this Agreement

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## **2. COMMENCEMENT**

- 2.1. This Contract begins on the date the Customer receives acceptance from Voiplex following completion of the Registration Process or when the Customer starts to use the Service, whichever is the earlier

## **3. PROVISION OF THE SERVICE**

- 3.1. Voiplex will provide the Service to the Customer on the terms of this Contract
- 3.2. The provision of the Service is at all times subject to the availability of appropriate facilities and Voiplex does not guarantee to provide the Service on each occasion that the Customer requests the Service unless specified within the Service Schedule
- 3.3. Voiplex will provide the Service with the reasonable skill and care of a competent telecommunications service provider. Voiplex cannot guarantee a fault free Service, and from time to time faults may occur. Voiplex will repair faults as quickly as reasonably possible
- 3.4. Occasionally Voiplex may:
  - 3.4.1. For operational reasons, change the codes or the numbers used by Voiplex for the provision of the Service or the technical specification of the Service, provided that any change to the technical specification does not materially affect the performance of the Service
  - 3.4.2. Give the Customer instructions which it believes are necessary for reasons of health, safety or the quality of any telecommunications service provided by Voiplex to the Customer or any other customer; or
  - 3.4.3. Temporarily suspend the Service because of an emergency or for operational reasons, maintenance or improvements. Service will be restored as soon as possible
  - 3.4.4. Before doing any of these things Voiplex will give the Customer as much notice as possible

## **4. ASSIGNMENT AND SUBCONTRACTING**

- 4.1. Voiplex reserves the right to assign this contract to one of its affiliate companies without the consent of the Customer or delegate performance of any of its duties, obligations and responsibilities hereunder to any of its affiliate companies or to any independent contractor selected by Voiplex, provided that Voiplex shall not be relieved of any of its duties, obligations or responsibilities hereunder by delegation to such affiliate company or independent contractor
- 4.2. This contract is personal to the customer who may not assign this contract without Voiplex' express prior written consent

## **5. SECURITY**

- 5.1. The Customer is responsible for the security and proper use of User IDs
- 5.2. The Customer must take all necessary steps to ensure the User IDs are kept secure and confidential and must not disclose the User IDs to unauthorised people
- 5.3. The Customer must immediately inform Voiplex if there is any reason to believe that a User ID has or is likely to become known to someone not authorised to use it or is being or is likely to be used in an unauthorised way
- 5.4. The Customer must not change or attempt to change a User ID. If a Customer forgets or loses a User ID the Customer must contact Voiplex and satisfy such security checks as Voiplex may operate
- 5.5. Voiplex reserves the right to suspend access to the Service and/ or change User IDs if at any time Voiplex considers that there is or is likely to be a breach of security
- 5.6. The Customer must immediately inform Voiplex of any changes to the information the Customer supplied when registering for the Service

## **6. USE OF SERVICE**

- 6.1. It is the Customer's responsibility to obtain and keep in force any licence necessary for the Customer to use the Service in any country in which it is provided
- 6.2. Unless Voiplex agrees otherwise in writing the Service is provided solely to the Customer and the Customer will not resell or attempt to resell the Service or any part or facility of it to any third party
- 6.3. The Service must not be used:
  - 6.3.1. In a way that does not comply with the terms of any legislation or any licence applicable to the Customer or that is in any way fraudulent or unlawful
  - 6.3.2. To send, knowingly receive, upload, download, use or re-use any information or material which is, abusive, indecent, defamatory, obscene or menacing, or in breach of confidence, copyright, privacy or any other rights
  - 6.3.3. To send or provide unsolicited advertising or promotional material, or knowingly to receive responses to any unsolicited advertising or promotional material sent or provided using the Service by any third party; or
- 6.4. If the Customer or anyone else, with or without the Customer's knowledge or approval, uses the Service in contravention of paragraphs 6.1 to 6.3; or the server capacity or any software made available to it in any way which, in Voiplex' opinion, is, or is likely to be, detrimental to the provision of the Service to the Customer or any other customer and fails to take corrective action within a reasonable period of receiving notice from Voiplex to do so; Voiplex may treat the contravention as a breach of this Contract for the purposes of paragraph 14
- 6.5. The Customer must indemnify Voiplex against any claims or legal proceedings which are brought or threatened against Voiplex by a third party because the Service is used in breach of paragraphs 6.1, 6.2 or 6.3. Voiplex will notify the Customer of any such claims or proceedings and

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keep the Customer informed as to the progress of such claims or proceedings and have due regard to the Customer's representations

- 6.6. The Customer is responsible for the acts and omissions of all users in connection with the Service and is liable for any failure by any users to perform or observe the terms and conditions of this Contract
- 6.7. The free conferencing service offered by Voiplex is for promotional purposes only and the customer is bound by all the terms and conditions mentioned in this contract except Charges and Payments Schedule in paragraph 9. Additionally, the following conditions apply to the use of this free service:
  - 6.7.1. The free conferencing service is based on UK landline numbers only
  - 6.7.2. Voiplex is not responsible for providing any telephone customer support for the free promotional service. Email support may be provided at the discretion of Voiplex.
  - 6.7.3. Voiplex reserves the right to withdraw the promotional offer at any time
- 6.8. The conferencing service is based on UK landline numbers. Additional UK non-geographic numbers, UK landline numbers and local access numbers for international destinations are only available on request and at the discretion of Voiplex

## **7. INTELLECTUAL PROPERTY RIGHT INDEMNITIES**

- 7.1. Except as expressly set out in this contract, all Intellectual Property Rights in Voiplex products and services will remain with Voiplex or Voiplex' suppliers or licensors.
- 7.2. Where Software (including Firmware) is provided to enable you to make use of the Services, Voiplex grants to you a non-exclusive non-transferable license to use the Software solely for the purpose of receiving the Services. Where any additional terms and conditions apply to your use of Software Voiplex will make these known to you and you will, if requested, sign any Agreement reasonably required to protect the owner's rights in the Software
- 7.3. You will not copy, decompile or modify the Software without our prior written consent (except as permitted by law) and will not distribute or disclose the Software to any third party
- 7.4. You acknowledge that Voiplex has no obligation to review or edit any of your information or third party information which you store on or transmit through our product or use in connection with the Services. However, Voiplex reserves the right to access, retain and disclose copies of such information for the purposes of:
  - 7.4.1. Correcting, maintaining and improving the Services
  - 7.4.2. Complying with any applicable laws, regulations, statutory instruments or the terms of our licenses and Agreements
  - 7.4.3. Observing the performance of the Services including for Service Level monitoring
  - 7.4.4. Retaining a record of activity on our products Equipment or systems;

- 7.4.5. Complying with any request for information or disclosure from a court or other appropriately authorised body;
- 7.4.6. Ensuring that you are complying with your obligations under this Agreement

## 8. CONFIDENTIALITY

- 8.1. Each party may have access to Confidential Information of the other party under this Agreement. A party's Confidential Information shall not include information that (i) is or becomes publicly known through no act or omission of the receiving party; or (ii) was in the other party's lawful possession prior to the disclosure; or (iii) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or (iv) is independently developed by the receiving party, which independent development can be shown by written evidence; or (v) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body
- 8.2. Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party or use the other's Confidential Information for any purpose other than the performance of this Agreement
- 8.3. Each party agrees to take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement

## 9. CHARGES AND PAYMENTS SCHEDULE

- 9.1. Charges for the Service will be as specified on the Order Confirmation and included in the Voiplex' invoices. Unless otherwise stated in the Order confirmation, charging will begin when the Customer starts to use the Service. Charges for use of the Service will be calculated in accordance with the details recorded by, or on behalf of Voiplex
- 9.2. The following types charges which may apply to you will be specified in on the Order Confirmation and included in the Voiplex' invoices:
  - 9.2.1. Charges for additional equipment and customisation services
  - 9.2.2. Account maintenance charges
  - 9.2.3. Charges for conferencing
- 9.3. Charges for additional equipment and customisation services: The customer will pay Voiplex the Charges in such amounts and in accordance with deadlines specified in the Order confirmation and duly invoiced by Voiplex
- 9.4. Account maintenance charges: are invoiced monthly or quarterly in advance, the first month or quarter commencing on activation
- 9.5. Charges for conferencing: The charges for conferencing will be based on the duration of the conference, the number of participants and any other items as specified on the Order confirmation by Voiplex

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- 9.6. The Customer agrees to pay all Charges for the Service whether the Service is used by the Customer or someone else, and upon receipt of Voiplex' invoice
  - 9.7. All Charges will be invoiced and paid in pounds sterling unless otherwise agreed in writing by Voiplex.
  - 9.8. All Charges are stated exclusive of value added tax (VAT) or other applicable taxes. You will be responsible for paying VAT and other applicable taxes which will be included in our invoices at the applicable rate(s)
  - 9.9. Invoices will normally be sent out by email, unless agreed otherwise. Invoices sent by post will incur an additional fee of £3 per quarter to cover expenses
  - 9.10. The customer will pay invoices within 14 days of the date of the invoice by BACS or cheque, unless otherwise agreed by Voiplex in writing.
  - 9.11. The customer shall pay an interest charge on any sum outstanding to Voiplex pursuant to the Late Payment of Commercial Debts (Interest) Act 1998 on a monthly basis from the due date of payment until payment has actually been made whether before or after judgment in respect of the overdue amount.
  - 9.12. When under this agreement, a Service Credit or other sum of money becomes payable by Voiplex to the customer, Voiplex shall be entitled to deduct that sum from Charges due from the customer to Voiplex from time to time. Voiplex will show any such deductions as a credit in the invoice issued by us following the due date for payment of the sum owed by Voiplex to the customer
  - 9.13. Voiplex may, at any time, require the Customer to pay a deposit or provide a guarantee as security for payment of future bills

## **10. LIMITATION OF LIABILITY**

- 10.1. The following provisions set out the entire financial liability of Voiplex (including any liability for the acts or omissions of its employees, agents and sub-contractors) to you in respect of:
  - 10.1.1. Any breach of the Contract; and
  - 10.1.2. Any representation, statement or tortuous act or omission (including negligence) arising out of or in connection with the Contract.
- 10.2. All warranties, conditions and other terms implied by statute or common law are excluded from the Agreement to the fullest extent permitted by law
- 10.3. Nothing in these conditions excludes or limits the liability of Voiplex for:
  - 10.3.1. Death or personal injury caused by Voiplex' negligence; or
  - 10.3.2. Fraud or fraudulent misrepresentation
- 10.4. Voiplex is not liable to the Customer, either in contract, tort (including negligence) or otherwise for any direct or indirect loss of profits, business or anticipated savings, nor for any indirect loss or damage or for any destruction of data

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10.5. Voiplex is not liable to the Customer either in contract, tort (including negligence) or otherwise for the acts or omissions of any other providers of service used in connection with the Service or for faults in or failures of equipment

## **11. FORCE MAJEURE**

11.1. Neither party will be liable to the other for any delay in performing or failure to perform any of its obligations under this Agreement (other than the obligation to pay the Charges) which occurs as a result of circumstances beyond a party's reasonable control. For the avoidance of doubt, circumstances beyond our reasonable control include, but are not be limited to, power failures, interruption or non-availability of any third party telecommunication services, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors breakdown of any equipment not supplied by us (Force Majeure Event).

11.2. In the event of either party being so hindered or prevented, the party concerned shall give notice of suspension as soon as reasonably possible to the other party stating the date and extent of the suspension and its cause, and the omission to give such notice shall forfeit the rights of that party to claim suspension. Any party whose obligations have been suspended as aforesaid shall resume the performance of those obligations as soon as reasonably possible after the removal of the cause and shall so notify the other party

11.3. If the Force Majeure Event prevails for a continuous period of more than six months, either party may terminate this Agreement by giving 30 days' written notice to the other party. On expiry of this notice period, this Agreement will terminate. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination

## **12. ESCALATION AND DISPUTE RESOLUTION**

12.1. If a dispute arises between the parties to this Contract, the parties will use their reasonable endeavours to settle the dispute in accordance with the following procedures:

12.1.1. A dispute which has not been settled by the Customer's representative and the Voiplex representative within 7 days of the matter being raised, may be escalated by either party to the first level by written notice to the other party

12.1.2. If the dispute is not resolved at the first level within 7 days of escalation either party may refer the dispute to the second level

12.2. If a dispute is not resolved after the procedures set out in paragraph 12.1 have been followed then, if the parties agree, the dispute will be referred to a mediator

12.2.1. The mediator will be appointed by agreement of the parties. In the event of a failure to agree within 3 days of a proposal by one party, the mediator will be appointed by the Centre for Dispute Resolution (CEDR);

- 12.2.2. Within 14 days of the appointment of the mediator the parties will meet with the mediator in order to agree the procedure to be adopted for the negotiations
- 12.2.3. All negotiations connected with the dispute will be conducted in confidence and without prejudice to the rights of the parties in any further proceedings
- 12.2.4. If the parties reach agreement on the resolution of the dispute the agreement will be put in writing and once signed by the parties will be binding on them
- 12.2.5. If the parties are not prepared to agree to the dispute being referred to a mediator, or fail to reach agreement within 2 months of the mediator being appointed then either party may exercise any remedy that it has under this Contract

### **13. TERMINATION OF THIS CONTRACT BY NOTICE**

- 13.1. Either party may terminate this Contract or the Service provided on giving 30 days written notice. If the Customer terminates the Contract, Service or part of the Service, the Customer must pay any outstanding Charges as specified in the Charges Schedule

### **14. BREACHES OF THIS CONTRACT**

- 14.1. Either party may terminate this Contract or the Service (or both):
  - 14.1.1. Immediately on notice if the other party commits a material breach of this Contract, which is capable of remedy, and fails to remedy the breach within a reasonable time of a written notice to do so; or
  - 14.1.2. Immediately on notice if the other party commits a material breach of this Contract which cannot be remedied; or
  - 14.1.3. On reasonable notice if the other party is repeatedly in breach of this Contract and fails to remedy the breach within a reasonable time of a written notice to do so; or
  - 14.1.4. Immediately on notice if the other party is the subject of a bankruptcy order, or becomes insolvent, or makes any arrangement or composition with or assignment for the benefit of their creditors, or goes into voluntary (otherwise than for reconstruction or amalgamation) or compulsory liquidation, or a receiver or administrator is appointed over their assets, or if the equivalent of any such events under the laws of any of the relevant jurisdictions occurs to the other party
- 14.2. If Voiplex is entitled to terminate this Contract under paragraph 14.1, Voiplex may, on giving prior notice where practicable, suspend the Service without prejudice to such rights. Where the Service is suspended under this paragraph the Customer must pay the Charges for the Service until this Contract is terminated
- 14.3. If either party delays in acting upon a breach of this Contract that delay will not be regarded as a waiver of that breach. If either party waives a breach of this Contract that waiver is limited to that particular breach

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## **15. CHANGES TO THIS CONTRACT**

- 15.1. If the Customer asks Voiplex to make any changes to the Service Voiplex may ask the Customer to confirm the request in writing. If Voiplex agrees to a change, this Contract will be amended from the date when Voiplex confirms the change in writing to the Customer
- 15.2. Voiplex can change the Conditions of this Contract including the Charges, by giving you 30 days written notice of such change. The revised Charges will apply to all services provided after the effective date of the notice of change

## **16. TRANSFER OF RIGHTS AND OBLIGATIONS**

- 16.1. Neither party may transfer any of its rights or obligations under this Contract, without the written consent of the other, except that Voiplex may transfer its rights or obligations (or both) to a Voiplex affiliate or delegate its obligations to any supplier without consent

## **17. NOTICES**

- 17.1. All notices under this Agreement shall be in writing. Notices shall be deemed to have been duly given:
- 17.1.1. When delivered, if delivered by courier or other messenger (including registered mail) during Business Hours of the recipient; or
  - 17.1.2. When sent, if transmitted by fax or e-mail and a successful transmission report or return receipt is generated; or
  - 17.1.3. On the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid;
  - 17.1.4. In each case addressed to the most recent address, e-mail address, or facsimile number notified to the other party

## **18. SEVERABILITY**

- 18.1. If any provision of this Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of its provisions will continue in full force and effect as if this Contract had been executed with the invalid, illegal or unenforceable provision omitted

## **19. LAW AND JURISDICTION**

- 19.1. This Contract is governed by the law of England and Wales and both parties submit to the exclusive jurisdiction of the English Courts