

OUR 02/36 Appendix 3

Draft GT Private Service Terms and Conditions

GT PRIVATE SERVICES PRODUCT DESCRIPTION

Private Circuits are permanently connected, point-to-point communication links dedicated exclusively to a particular customer (or pair of customers). They offer instant or constant access between specified customer locations and are categorised as Local (Guernsey and the Bailiwick), National (Jersey and the UK) and International. GT can provide a complete Private Circuit within Guernsey and the Bailiwick and also for digital services of 2 and 45 Mbit/s to the UK. For other National and International Private Circuits GT provides the Guernsey portion of the circuit, allowing customers to select the remote provider of their choice. GT has interconnect agreements with Jersey Telecoms, BT and Cable and Wireless.

GT provides a range of analogue and digital Private Circuits capable of carrying voice, data, or image traffic. Private Circuits are based upon international standards and GT's resilient Synchronous Digital Hierarchy (SDH) core network to ensure a high level of performance and reliability. Private Circuits are available with different speeds and interfaces so that customers can easily match their business application to the service

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Draft GT Private Service Terms and Conditions

1. DEFINITION AND INTERPRETATION

In these terms and conditions:

“Agreement” means the contract between You and Us incorporating these terms and conditions, Our Order Form, Price List and Service Schedule.

“Consumer Code of Practice” means Our published Consumer Code of Practice that can be seen at or obtained from Our main offices or sent to You upon request.

“Contact Details” means the name and telephone number of a person who is Your contact point.

“Customer Premise Equipment” means Telecommunications Apparatus (including any extension wiring and sockets) located at Your Premise and connected to a Telecommunications Network at a Network Termination Point.

“Fault” means any failure of the Service causing continuous total loss of the ability to convey messages, but does not include the loss of such ability arising as a result of Our suspension of Service under the provision of this Agreement;

“Interconnection” means the physical and logical linking of telecommunication networks used by the same or a different organisation in order to allow the users of one organisation to communicate with the users of the same or another organisation or to access service provided by another organisation; and services may be provided by the parties involved or other parties who have access to the network.

“Network Termination Point” means any physical point of connection forming part of a Telecommunications Network at which another Telecommunications Network or Customer Premise Equipment may be connected.

“Normal Working Hours” means work carried out between 08-00 to 17-00 hours, Monday to Friday (but excluding Public/Bank Holidays);

“Order Form” means Our Order Form, signed by You, detailing the Service and other relevant information forming part of this Agreement;

“Other Licensed Operator” means a person other than Us to whom an individual licence has been granted or who is authorised by a class licence to establish, operate or maintain a telecommunications network of a class or description specified in the licence, or to provide a

telecommunications service of such a class or description, or both in accordance with The Telecommunications (Bailiwick of Guernsey) Law, 2001 or law in any other jurisdiction under which a telecommunications licence has been granted.

“Premise” means the premise in which Service is or is to be provided under this Agreement;

“Price List” means Our published Price List detailing the Service and other relevant information forming part of this Agreement;

“Service” means a telecommunications service or any facilities provided by Us for You in connection with the Service, as specified in Our Order Form, Price List and Service Schedule that forms part of this Agreement.

“Service Delivery Date” means the date on which We make Service ready for use.

“Service Number” has the same meaning as “numbers” in section 31 of The Telecommunications (Bailiwick of Guernsey) Law, 2001.

“Service Schedule” means a schedule detailing additional terms and conditions that form part of this Agreement;

“Telecommunications Apparatus” has the same meaning as in section 31 of The Telecommunications (Bailiwick of Guernsey) Law, 2001.

“Telecommunications Equipment” has the same meaning as in section 31 of The Telecommunications (Bailiwick of Guernsey) Law, 2001.

“Telecommunications Network” has the same meaning as in section 31 of The Telecommunications (Bailiwick of Guernsey) Law, 2001.

“You” means the customer entering into this Agreement;

“We”, “Us” or “Our” means Guernsey Telecoms Limited;

words in the singular include the plural and vice versa.

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2. PROVISION OF SERVICE

2.1 We shall provide Service to meet the delivery date specified in Our Service Schedule or, another date that We agree with You.

2.2 If You ask Us to provide any part of the Service outside Normal Working Hours then We will charge You at Our applicable hourly rate as set out in Our Price List.

2.3 Should cabling form part of the service then this is provided on the basis of surface mounted wiring in a standard environment.

3. SPECIAL PROVISION OF SERVICE

3.1 If in order to meet Your requirements We need to provide any part of the Service in a non standard or exceptionally expensive manner then We may make additional charges. We will notify You of any additional charges and You may cancel Your application for Service within 14 days of the notice being sent.

3.2 If the special provision of Service requires additional or amended terms and conditions then We will notify You of them and You may cancel Your application for Service within 14 days of the notice being sent.

4. USE OF SERVICE

4.1 We may from time to time give You instructions about the use of Service that We believe are in the interests of health, safety or quality of Service to You or other customers.

4.2 You or any other person may only use the Service in accordance with The Telecommunications (Bailiwick of Guernsey) Law, 2001 and any instructions that We may notify to You.

4.3 You shall not use the Service or permit any other person to use the Service:

4.3.1 for any communication that is grossly offensive or of an indecent, obscene or menacing character; or

4.3.2 for the purpose of causing annoyance, inconvenience or needless anxiety to another by sending messages that are known to be false or of a persistent nature;

4.3.3 in breach of instructions We have given You under paragraph 4.1.

4.4 We may give You immediate notice and suspend Service:

4.4.1 if it is used in a manner that materially harms the integrity, security or interoperability of the Telecommunications Network; or

4.4.2 is used with equipment that is not approved for connection to the Telecommunications Network; or

4.4.3 under the direction of a competent authority, if it is used in a manner, or in relation to, the commission of offences against the laws of the Bailiwick.

4.5 We may vary the technical specification of Service from time to time and occasionally may change the Service Number.

4.6 You have no right to sell or transfer the Service Number.

5. TELECOMMUNICATIONS EQUIPMENT

You are responsible for any Telecommunications Equipment that We provide at Your Premise and for its safe and proper use. You must not interfere with it nor let anybody else do so, unless authorized by Us. If any part of Our Telecommunications Equipment is lost, destroyed or damaged, apart from fair wear and tear, You will be charged for its repair or replacement.

6. FAULT REPAIR

6.1 We will provide You with a working Service although We cannot guarantee that it will always be Fault free.

6.2 If You detect a Fault in Service then You must report it to Us by telephoning the number specified on Our Order Form or any other number that We may notify You of. You must provide Us with details of the nature of the Fault, the Service Number and Contact Details so that We can inform You of progress.

6.3 If You report a Fault in Service We will respond as detailed in Our Service Schedule, to correct the Fault by undertaking one or more of the following actions:

6.3.1 We will provide advice to You by telephone including any tests and checks that You should carry out;

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6.3.2 where appropriate, We will carry out diagnostic tests from Our premises, or

6.3.3 attend a point in Our network or visit Your Premise if Our previous actions have not cleared the Fault and We consider that such a visit is necessary.

6.4 If We undertake work to correct a reported Fault in Service and find there is none We may charge You for the work at the applicable hourly rate set out in Our Price List.

6.5 If We agree to attend a reported Fault in Service outside Our Normal Working Hours then You will be charged at the applicable hourly rate set out in Our Price List or as detailed in Our Service Schedule.

7 RELOCATION AND RECONFIGURATION

7.1 If You ask Us to relocate or reconfigure the Service then We may either:

7.1.1 agree to Your request and You must pay Our applicable charges set out in Our Price List; or

7.1.2 require You to give notice to terminate the Service and apply for a new Service.

8 TERM OF SERVICE

The Service provided under this Agreement is for an initial term as detailed on Our Order Form or in Our Price List and unless terminated under the provisions of paragraph 17 will continue for one or more continuous terms of the same length. A further initial term of service shall apply in respect of each new facility added or changes made to the Service at Your request.

9 TEMPORARY SERVICE

If We accept an application for Service for a term that is less than the normal term for the Service We shall regard the Service as temporary and charge You accordingly, as set out in Our Price List.

10 INTERCONNECTION

10.1 If the Service requires Interconnection with Other Licensed Operators then We are only responsible and liable for the part of the Service under Our direct control.

10.2 We may suspend or terminate Service immediately, without notice, if any other part of the service is terminated or suspended.

10.3 You shall be responsible for making any necessary application for Service to Other Licensed Operators. If You request and We agree, then We shall act as Your agent and negotiate and enter into a contract for Service with Other Licensed Operators on Your behalf. You shall be responsible for complying with the terms and conditions of the Other Licensed Operator.

10.4 If We agree to pay the Other Licensed Operators charges on Your behalf then We will charge You for their fees in advance.

11 CHARGES

All charges for Service are detailed in Our Price List that can be seen at or obtained from Our main offices or sent to You upon request.

12 PAYMENT

12.1 You shall pay to Us on demand all applicable charges for the relevant Service at rates specified in Our Price List.

12.2 Rental for the Service will start on the Service Delivery Date, unless:

12.2.1 We notify You of a later date for the start of Service when rental will be payable from; or

12.2.2 You use the Service before the Service Delivery Date, in which case rental will be payable from the date You first use the Service.

12.3 Rental is normally payable in advance but We may bill You in arrears. Except for temporary Service, You must pay rental in accordance with Our billing cycle. We will apportion rental on a daily basis for incomplete billing periods.

13 DEPOSITS AND PAYMENTS IN ADVANCE

13.1 We may from time to time require payment of a deposit. If a deposit is required We shall notify You of the amount and You shall pay Us immediately. We may credit the deposit against any charges due to Us or upon discharge of Your liabilities to Us; refund it together with any interest that We may deem appropriate.

13.2 We may ask for payment in advance, which does not exceed the connection charge and rental for the term of Service requested, prior to providing the Service.

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14 DEFAULT

14.1 If You:

14.1.1 do not pay any charge within 28 days of it falling due or break this Agreement in any other way; or

14.1.2 are subject to bankruptcy or insolvency proceedings; or

14.1.3 You have been declared en désastre: or

14.1.4 do not prevent Service being used in a way prohibited by this Agreement.

We can (without losing or reducing any other rights or remedy) suspend Service (including partially) temporarily without notice, though You remain liable to pay rental during the period of suspension, or terminate this Agreement by immediate notice or both. If We suspend Service because You do not pay any charge, then any further suspension within a period of 12 months following restoration of Service may take place 14 days after a failure to pay instead of after 28 days.

14.2 "Bankruptcy or Insolvency proceedings" means bankruptcy proceedings, becoming insolvent, making any composition or arrangements with creditors or an assignment for their benefit, any execution, distress, diligence or seizure; or if You are a company, being the subject of proceedings for the appointment of an administrator, going into liquidation whether voluntary or compulsory (except for the purpose of amalgamation or reconstruction) or having receiver or administrative receiver of any assets appointed.

14.3 On termination under paragraph 14.1; as well as other sums payable up to the end of the Agreement, You must pay Us the rental or other charges which would have been payable for the remainder of the term of Service at the rate in force in Our Price List at termination but We will make due allowances for any rental You have paid in advance for a period ending after end of the term of Service, and make a repayment where appropriate.

14.4 as well as other sums You continue to be liable to pay all charges that are due for Service during the period in which You do not comply with this Agreement and for a period ending after the end of the term of service.

15 CANCELLATION

15.1 Prior to Service being provided, this

Agreement may be cancelled by:

15.1.1 You although We may make a charge for any abortive work undertaken and/or any money spent to meet Your requirements;

15.1.2 Us if paragraph 30 of this Agreement applies.

16 SUSPENSION

16.1 We may suspend Service immediately and without notice in an emergency in order to provide or safeguard service to a hospital or to the emergency, or other essential, services.

16.2 We may suspend Service giving You as much written or oral notice as reasonably practical and possible and not less than 24 hours:

16.2.1 for the purpose of repair, maintenance or improvement of Our Telecommunication Network; or

16.2.2 to permit the passage of vehicles with abnormal loads.

We will restore Service as soon as possible after the suspension.

17. TERMINATION

17.1 We may terminate this Agreement by giving You at least three months notice. If We give You notice then You must pay rental and any other applicable charges up to the expiry of the notice. We will credit or refund the appropriate proportion of any rental paid in advance for the period after Your liability for rental ceases.

17.2 You may by giving notice to Us at least six weeks before the expiry date of the term of Service, terminate this Agreement on the expiry date. If You terminate this Agreement during the term of Service You shall be liable for any outstanding charges at the rate in force in Our Price List. Outstanding rental charges shall not be payable:

17.2.1 if the Service is replaced with another Service from Us that We deem to be comparable; or

17.2.2 We materially change the rental charge or terms and conditions of this Agreement to Your detriment.

Your notice does not avoid any other liability for Service already provided.

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18 ALL MONITORING AND RECORDING

We may monitor and record calls made to or by Us. We do this for the protection of You and Us, training, customer service and telemarketing purposes.

19 ACCOMMODATION, POWER AND LIGHTNING PROTECTION

19.1 In order to provide Service We will have to place Telecommunications Equipment on Your Premise. You must provide a suitable location and environment for Our Telecommunications Equipment. You must prepare Your Premise before Service is provided according to any instructions that We may give You. We will take reasonable care when carrying out work on Your Premise but You will be responsible for any necessary re-decoration and for putting items back once We have completed the work.

19.2 You must supply at Your own expense, a suitable mains electricity supply and connection points, where We need them, if they are required for Our Telecommunications Equipment.

19.3 If You require You must provide at Your own expense, suitable lightning protection equipment for use with any Customer Premise Equipment associated with the Service.

20 CUSTOMER PREMISE EQUIPMENT

20.1 You must only connect Customer Premise Equipment to Our Service at Our designated Network Termination Point.

20.2 Your Customer Premise Equipment must only be used with Our Service as directed under The Telecommunications (Bailiwick of Guernsey) Law, 2001 and in a way that meets all relevant standards and instructions applicable to You. If Your Customer Premise Equipment does not comply with the above then You must disconnect it immediately or allow Us to do so at Your expense.

21 INFORMATION AND PERMISSIONS

21.1 You must provide to Us when asked any information and /or co-operation that We may reasonably require in order for Us to provide Service under this Agreement.

21.2 You shall promptly inform Us of any changes to any details originally provided to Us in relation to Service and this Agreement.

21.3 In order to investigate abuse of the Telecommunications Network You must provide to Us, when asked, any information and records relating to the use of the Service or equipment.

21.4 You confirm that in respect of the Service:

21.4.1 We may install and keep the Service and Telecommunications Equipment at the Premise and have reasonable access to it; and

21.4.2 You have obtained all permissions, licenses and consents from third parties that are necessary or desirable for the supply of Service until its removal.

22 ACCESS TO PREMISE

You shall let Us or Our representatives enter Your Premise for the purpose of installing, maintaining or removing the Service as long as We show You Our Identity badge. We will meet Your reasonable requirements for the safety of people on Your Premise and You shall be responsible for the safety of Our representatives whilst on Your Premise.

23 COMPLAINTS AND ARBITRATION

All complaints and arbitration shall be dealt with in accordance with Our Consumer Code of Practice.

24 ASSIGNMENT

We shall have the right to assign or transfer all or any of Our rights and obligations under this Agreement to any person and shall notify You prior to exercising that right.

25 COPYRIGHT

Copyright of all information supplied to You in connection with the Service shall remain Ours or the copyright owners. Such information shall not be copied, used or disclosed (other than for the purpose for which it was supplied) without Our prior written consent.

26 DURATION AND ENTIRE AGREEMENT

26.1 This Agreement shall come into force immediately and shall continue until Service is terminated.

26.2 This Agreement sets out the entire terms and conditions under which We provide Service to You.

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27 INDEMNITY

You must indemnify Us against all claims that anyone other than Yourself threatens or makes against Us because of the way in which Service is used or because the Service is faulty and cannot be used.

28 LAW

This Agreement shall be governed by and constructed and interpreted in accordance with the Laws of the Island of Guernsey, and each party hereby submits to the exclusive jurisdiction of the Guernsey Courts.

29 LIABILITY

29.1 We do not exclude or restrict liability for death or personal injury resulting from Our negligence.

29.2 We are not liable to You either in contract, tort, (including negligence) or otherwise for loss (whether direct or indirect) of profits, business or anticipated savings, or for any indirect or consequential loss or damage whatever.

29.3 Our liability to You in contract, tort (including negligence) or otherwise in relation to the Service is limited to £1 million for any one incident or series of related incidents and to £2 million for all incidents in any period of 12 months.

29.4 Each provision of this paragraph limiting or excluding liability operates separately. If any part is held unreasonable or inapplicable in any circumstances the other parts shall continue to apply.

29.5 We will accept liability for failure to meet any of Our obligations stated in any Service Schedule applicable to the Service but only to the extent stated in paragraph 30 of this Agreement and in the relevant Service Schedule. In any conflict between the terms and conditions of paragraph 30 and the applicable Service Schedule the terms and conditions of paragraph 30 shall prevail.

30 MATTERS BEYOND REASONABLE CONTROL

We are not liable for any breach of this Agreement which is caused by a matter beyond Our reasonable control including but not limited to Act of God, fire, lightning, explosion, war, disorder, flood, industrial disputes (whether or not involving their employees), extremely severe Weather or acts of Government or other competent authorities.

31 NOTICE

31.1 Notices given under this Agreement must be in writing and delivered by hand or sent by telex or prepaid post as follows:

31.1.1 To Us: at the address of Our office shown on Our Order Form or on Your last bill or any alternative address that We may notify You of;

31.1.2 To You: at the address that You ask Us to send bills, the address of the Premise, or if You are a limited company to Your registered office.

32 USE OF INFORMATION

32.1 We will use the information We have about You and Your use of the Service for marketing purposes. We will not do so if You ask Us not to.

32.2 We will process Your billing data and information about Your use of Service for marketing Our own telecommunications products and services. This enables Us to better inform You about products, services and options that We provide and believe may be of particular interest to You. We will not disclose this information to anyone else. We need Your consent to continue to give You all the benefits that this processing provides and You should indicate this on the Order Form for the service.

33 VARIATION

We may change the terms or conditions of this Agreement at any time. Where practicable, or unless necessary to comply with any regulatory obligation to which We may from time to time be subject, We will publish details of any change in each of Our main offices at least 21 days before the change is to take effect. We will also provide You with notice of the change in La Gazette Officielle, on the next bill that is sent to You or by letter, as appropriate.

34 WAIVER

If either party fails to exercise or enforce any right conferred by this Agreement it shall not be deemed to be a waiver of those rights nor bar the exercise or enforcement of them on any later occasion. If We waive a particular breach of this Agreement by You, that waiver is limited to the particular breach.