



MOTIA 3CX T&CS (N. IRELAND)

LAST UPDATED:
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3CX Terms & Conditions

1. ABOUT THESE TERMS AND THE CONTRACT

- 1.1. These Conditions will govern our relationship with you regarding our provision of the Services to you. The Order Form, any Commercial Terms, any Service Specific Terms and these Conditions together form our contract with you (the "Contract").
- 1.2. In these Conditions capitalised words are given specific meanings which are set out in Condition 20.
- 1.3. If there is any inconsistency between these Conditions, the Commercial Terms, and the Order Form, the following decreasing order of precedence shall apply:
 - 1.3.1. the Order Form;
 - 1.3.2. the Commercial Terms; and
 - 1.3.3. these Conditions.
- 1.4. By connecting and using the Services you confirm that you have read and agree to these Conditions, the Order Form and any Commercial Terms; you have instructed us to install the Services (if your Services include 3CX); and you agree to receive the selected Services in the quantities and at the prices set out in the Order Form.

2. LENGTH OF THE CONTRACT

- 2.1. The Contract begins on the date that Motia accept your order for the Services either by notifying you of our acceptance or by commencing implementation of your order. The Minimum Period for the Services will start on the Commencement Date set out in the Order Form and the Services will continue for the Minimum Period unless terminated under Condition 13.
- 2.2. Unless Motia or you end the Contract in line with Condition 13, Motia will continue to supply you with, and charge you for, the Services.
- 2.3. You must pay all Charges until you or Motia end the Contract in line with Condition 13.

3. SERVICES AND COVERAGE

- 3.1. Motia always aim to provide you with the Services from the start of the Commencement Date or such other date Motia will agree with you. However, due to the nature of mobile technology, it's impossible to provide a fault-free service and Motia do not warrant that the Services will be secure, uninterrupted or without error.
- 3.2. An order for Equipment and/or Services will only be binding when Motia have accepted it by giving you written confirmation or if Motia don't provide you with written confirmation when Motia commence implementation of the order.

- 3.3. For mobile services only Motia will use reasonable efforts to give you access to networks in other countries. Motia call this roaming. Overseas networks may be limited in quality and coverage. Any access to overseas networks depends on the arrangements between us and the foreign operators. Not all Services may be available while abroad. Motia will notify you of any terms of access that you need to comply with to use the overseas networks.
- 3.4. Motia will aim to give you accurate dates for the performance of Services but unless Motia agree with you otherwise, any dates given are estimates only and time is not of the essence in relation to such dates. If you or a third party cause us to be unable to provide the Services, the dates for provision of (but not payment for) the Services shall be delayed by a reasonable period of time.
- 3.5. Unless Motia agree with you otherwise where Motia have expressly agreed to advise you, you are responsible for deciding the suitability, adequacy and accuracy of any Equipment and Services for any particular purpose.
- 3.6. If Motia supply you with Equipment as part of the Services Motia warrant that the Equipment (excluding any software) will be materially free from defects for 12 months following the date of the order, however, this warranty does not apply to damage to Equipment which is not due to a defect in the Equipment, including for example where you use the Equipment incorrectly. If Motia provide Services to you Motia warrant that those Services will be performed with reasonable skill and care by appropriately experienced, qualified and trained personnel.
- 3.7. Some countries prohibit the use of encryption and if you use devices containing encryption technology outside the UK, you accept any responsibility and risk of such use.
- 3.8. Motia may change the Equipment and Services Motia offer at any time.

4. CHARGES AND PAYMENT
 - 4.1. All Charges for Services are stated exclusive of VAT unless specified otherwise.
 - 4.2. All Charges not specified in the Commercial Terms shall be at Standard List Price.
 - 4.3. Access Fees, where charged, shall be invoiced by us monthly in advance and all other Charges shall be invoiced monthly in arrears.
 - 4.4. Rounding and minimum charges shall apply in accordance with our Billing Manual.
 - 4.5. You must pay all Charges by direct debit within the payment period specified on our invoice. Motia may accept payment by methods other than direct debit, but Motia will charge you a fee each month. Motia will charge you VAT, if this applies. Unless Motia agree with you otherwise, Charges shall include the cost of delivery to the UK mainland of any Equipment Motia supply to you but shall not include any special equipment or work such as cutting away, decoration, ducting, ground work, building work and other similar work.
 - 4.6. If you owe us any money, and are not disputing the payment, and you do not pay it when due, Motia may charge you interest and withdraw any discount in relation

to the Services and may suspend the Services under Condition 11.1.2. Motia charge interest daily at the rate of 2% above the base rate of Barclays Bank each year from the date the amount becomes due to the date of payment by you in full. Motia may also charge you reasonable administration costs as a result of you paying your bill late or failing to pay it.

- 4.7. You will raise any billing queries within one month of the date of the relevant invoice and shall not withhold payment of any Service Charges set out in the queried invoice or any other invoice, by reason of your billing query. Disputed invoices shall be dealt with under Condition 19.12.
- 4.8. You are not entitled to offset any sums that Motia owe to you under the Contract or any other agreement or dispute between the Parties against any sums that you owe to us under the Contract.
- 4.9. Motia may credit assess you from time to time as reasonably required to assess our risk. Each credit assessment shall entitle us to have a credit limit on our account (details of which are available on request).
- 4.10. End User tariff changes (including the addition and removal of additional services) are not allowed within 30 days of a previous change. You are not entitled to move from the Flat Rate Option price plan to a Pence Per Minute tariff.

5. USING THE SERVICES

- 5.1. You must use the Services and ensure your End Users use the Services in accordance with these Conditions, all applicable law (including regulatory codes of practice) and our instructions on using the Services. You are responsible for anyone who uses your Equipment.
- 5.2. You must tell us immediately if the information you have provided to us (for example, information about the status of your business, your name, address, bank account or payment details) is inaccurate or changes.
- 5.3. You must not use your Equipment or the Services (or allow them to be used) for any purpose which could reasonably be regarded as abusive, improper, immoral, offensive, illegal, fraudulent, or which is a nuisance, hoax, menacing, indecent, racist, obscene or defamatory. Motia may report such incidents to the police or any other relevant official organisation.
- 5.4. You must not sell to anyone else all or any part of the Services without our written agreement.
- 5.5. You must not do anything which causes the Network to be impaired or damaged.
- 5.6. You must not modify Equipment or Services (including any software and/or integral safety features) Motia have supplied to you except in accordance with the manufacturer's published specification, applicable law or with our prior written permission.
- 5.7. Motia will choose numbers for you to use with your Equipment on the Network. The number does not belong to you and Motia may charge you a fee to transfer your number to another service provider. If you decide to move to another network operator, and wish to retain your mobile and fixed line telephone

numbers allocated to you by us, Motia shall transfer those telephone numbers to the new network operators in accordance with OFCOM regulations (including any relevant timescales).

- 5.8. Any SIM Card Motia provide remains our property. The software in the SIM Card does not belong to you and Motia are licensing it to you only for use with the Services and only for as long as Motia have agreed to provide the Services to you. Motia may change your SIM Card or tell you to return it at the end of the Contract. Subject to Condition 6.1, if you need a replacement SIM Card, Motia will charge you the price set out in our most current price plan that applies. You will use all reasonable efforts to ensure that SIM Cards are only used with your authorisation and you must inform End Users of this policy. You are responsible for all costs resulting from unauthorised use until you have notified us of this.
- 5.9. If Motia provide you or your End Users with security codes as part of the Services you agree to keep the security codes confidential and ensure your End Users do the same. You must tell us immediately if you suspect that security codes have been disclosed to a third party so that Motia can issue new security codes.
- 5.10. If you have purchased mobile internet services you may access the internet but Motia accept no responsibility for any content or services you may access which is at your cost and risk. You will be responsible for all costs from such access except where the Services allow such access to be disabled and you have asked disable access, where you will be responsible for the costs until Motia receive your written request. Unwanted programs or material may be downloaded from the internet without your knowledge. This may then give unauthorised people access to your Equipment.
- 5.11. You must only use equipment which is legally approved for connection to our network. If you are not sure whether the equipment is approved, you should contact us.
- 5.12. You shall provide a customer representative who will be your point of contact with us or where applicable our sub-contractors. You will notify us of the name and contact details of the customer representative and any replacement from time to time.
- 5.13. You shall take prudent and appropriate measures to back up data and otherwise protect against loss of data.
- 5.14. Where Motia have issued you with a SIM card for use with a 3G desk phone you are not permitted to use this SIM card in any other device without our written consent. Breach of this requirement shall constitute a material breach of the Contract.
- 5.15. If you order a service other than the Services provided pursuant to the Contract, the supply of such services may be subject to additional terms and conditions.
- 5.16. If you need to transfer mobile or fixed line numbers from other networks to us prior to the commencement of the provision of the Services, you will need to complete the porting authority letters that Motia will provide to you. You

acknowledge that any delay in completing and returning this authority may result in a delay to the provision of Services.

- 5.17. As part of the provision of the Services, Motia shall agree with the configuration of your users with you.

6. EQUIPMENT

- 6.1. If Equipment or SIM cards are lost or damaged before Motia have delivered them to your address, Motia will repair or replace these at our cost provided you tell us of any damage within 5 business days of receipt and notify us of loss if you have not received your order within 10 business days of our confirmation of the order. Once Motia have delivered Equipment or SIM cards to you at your premises you shall take the risk of loss or damage to the Equipment and/or SIM cards which Motia have delivered. If Motia have not delivered the right Equipment and/or SIM Cards you must tell us within 5 business days of receipt and Motia will remedy the error at our cost.
- 6.2. If your SIM Card or Equipment is lost or stolen after Motia have delivered it to you, you must tell us as soon as possible so that Motia can prevent further use on it. You must pay for all Charges due until you tell us. You must also continue to pay the line-rental Charges until the Contract has ended as described in Condition 13.
- 6.3. Where you have bought Equipment from us you will own the title to the Equipment (other than any SIM Card or embedded software) when Motia have received full payment from you of the amount in the invoice (or if the invoice is incorrect, full payment from you of the correct amount in relation to the Equipment). Until that time you must identify the Equipment as belonging to us.
- 6.4. If Motia supply you with Equipment which become faulty (other than through your misuse) within the manufacturer's warranty period, you may return the Equipment to us at our cost and Motia will repair or replace (at our option) the Equipment within 28 days. If Motia have replaced the Equipment with a better alternative Motia may at a later stage replace this with standard replacement Equipment meeting the agreed specification.
- 6.5. If you have caused the Equipment to become faulty or if the Equipment becomes faulty outside the manufacturer's warranty period Motia may provide a quote for the costs of the non-warranty repair Service.
- 6.6. If Motia provide you with Equipment or software made by our suppliers, where Motia receive warranties or guarantees in relation to that Equipment or software Motia will endeavour to pass the benefit of these to you to the extent Motia are permitted to do so by the suppliers, provided that our obligation to liaise with suppliers in respect of any warranty ends when the Contract ends. Motia have no obligation in relation to equipment which Motia do not directly supply to you.
- 6.7. You must only use Equipment which Motia supply or which Motia have approved as compatible with the Network.
- 6.8. Motia will deliver the Equipment and SIM Cards to the Site or such alternative delivery address that you may ask us to deliver to.

7. SOFTWARE

- 7.1. The Services and Equipment Motia provide to you may contain software which belongs to us or our suppliers and may be subject to separate terms and conditions (which Motia refer to as a software licence) provided with the relevant Equipment or Service. You agree that your use of the Equipment and Services is conditional on your acceptance of applicable software licences prior to such use. In all other cases where Motia provide software to you, Motia grant you and/or your End Users (as applicable) a personal, non-transferrable, non-exclusive, royalty-free licence (with no right to sub-liscence) to use the software for the term and for the purposes of the Contract. You may also make a single copy of the software for backup purposes.
- 7.2. Motia and our suppliers may electronically audit each system configuration containing software licensed to you to verify your compliance with applicable licence terms on at least two (2) Business Days prior notice.
- 7.3. You shall not modify, adapt, copy, translate, decrypt or reverse-engineer the software except that if you have a right to decompile the software for interoperability with other software, you will notify us and Motia will at our option provide a software interface to enable such interoperability or such information subject to reasonable conditions including but not limited to a reasonable fee.
- 7.4. If Motia provide you with user documentation you may print copies for those End Users who have a licence for the relevant software.
- 7.5. If Motia provide software which is licensed by a third party, they may require you to upgrade the software from time to time. The charges and risks associated with such upgrades are your responsibility unless Motia expressly agree with you otherwise. If you choose not to take any upgrade, support in relation to the software shall be at our absolute discretion or the absolute discretion of the software licensor as applicable. Software upgrades may affect existing Services (including smart devices) and it is your responsibility to check with us regarding implications of upgrades before you implement them.
- 7.6. If the Services require you to operate server software, it is your responsibility for maintaining appropriately configured server software on your systems throughout the term of the Contract.
- 7.7. Motia have no responsibility for any software which Motia have not supplied to you or which Motia have not expressly authorised for use with our software. If Motia provide Services which integrate with your computer systems Motia are not responsible for any part of those systems (including any software which Motia provide which is stored within those systems).
- 7.8. Motia may provide technical support and assistance relating to integration, implementation, migration and management through our professional services portfolio and/or our managed services portfolio.
- 7.9. Some mobile services Motia provide which use the internet rather than software applications may not be suitable for some internet service provider email

accounts and you should check for any limitations, compatibility issues and additional charges with your internet service provider.

8. PROVISION OF SITE ACCESS AND INFORMATION FOR 3CX SERVICES
- 8.1. If Motia agree to provide Services to you on your premises:
 - 8.1.1. you grant us, our subcontractors and agents access to the premises and agree to provide us with such facilities and information as Motia reasonably require to perform the Services (including access outside normal working hours) and comply with our environmental responsibilities including the disposal of packaging;
 - 8.1.2. you will ensure the premises provides a safe working environment for our personnel and a suitable environment for the housing of any Equipment which are used as part of or in conjunction with the Services;
- 8.2. If our provision of Services involves access to your systems, you warrant and undertake that you have full power to permit us to perform those Services and agree to indemnify us against any and all liability and costs which Motia suffer if you breach such warranty.
- 8.3. Where Motia have carried out a Site Survey Motia will provide you with a written report detailing the results of the Site Survey and any remediation work that is required to be undertaken prior to the installation of the 3CX solution. Failure to carry out any such work may delay the Commencement Date and/or mean that Motia are unable to provide the Services to you.
- 8.4. If the Site Survey reveals that remediation work is required you shall be entitled to cancel the Contract in respect of Services for that site (but not for any other sites to which Motia provide Services) by giving us written notice within 14 days from the date Motia inform you of the Site Survey results. Where you decide to cancel the Contract and the cost of the remediation work is estimated as less than £500 (exc vat) Motia shall be entitled to charge you £500 plus vat for carrying out the Site Survey of that site.
- 8.5. Motia shall carry out a Suitability Test to assess the quality of the DSL provided from the local BT exchange. If the Suitability Test results indicate that the quality of the access is insufficient for the Services to be provided to a reasonable standard Motia will notify you of this, in which event the Contract shall automatically terminate in respect of the site (but not for any other sites to which Motia provide Services).
- 8.6. Following completion of the Site Survey and Quality Test, Motia shall give you an estimate of the maximum number of concurrent connections supported by the Service which will be determined by a number of factors including broadband speed and the proximity of the site to the local exchange. If this estimate is less than 80% of our initial estimate of the same provided to you at the time of the Purchase Order then you shall be entitled to cancel the Contract in respect of Services for that site (but not for any other sites to which Motia provide Services)

by giving us written notice within 14 days from the date Motia inform you of the Site Survey results.

- 8.7. Motia may in our absolute discretion reject any notice to cancel under Conditions 8.4 or 8.6 which is served after the 14 day notice period or allow you to cancel subject to a cancellation fee of £500 or 10% of the mobile and fixed line rental Charges for the Minimum Period, whichever is higher.
- 8.8. You shall provide us with any information reasonably requested by us to enable us to provide the Services to you.
- 8.9. If there is any undue delay in you providing us with information requested pursuant to Condition 8.8 above, Motia shall be entitled to extend any target dates to accommodate the effects of the delay.

9. CHANGING CHARGES AND TERMS

- 9.1. Motia may change our Charges or introduce new Charges at any time. If Motia increase our Charges, Motia will give you at least 14 days' notice and you may have a right to end the Contract under Condition 13. If Motia believe any change in our Charges will not disadvantage you, Motia may include it without telling you.
- 9.2. Motia can make changes to or withdraw Services at any time and Motia can make changes to these Conditions or introduce new terms to the Contract at any time. Motia will give you at least 30 days' notice of these changes if Motia do and you may have a right to end the Contract under Condition 13.
- 9.3. Motia may need to change your phone number or other number. Motia will let you know if this is the case.
- 9.4. You can apply to port the mobile number(s) relating to SIM Cards to another network or migrate the mobile phone number(s) to another service provider on the same network but Motia may charge you a reasonable administration fee per number in addition to any Charges for termination that may be applicable under Condition 13.
- 9.5. Except where you have agreed to a Minimum Period of 5 years, Motia are not obliged to agree to any upgrades to the Equipment Motia supply to you during or after your Minimum Period but if Motia do so Motia may extend the Minimum Period or impose a new Minimum Period.
- 9.6. Motia do not allow an End User to change from one tariff to another tariff with a lower monthly fixed charge during the Minimum Period.
- 9.7. New Users will be subject to a Term per New User unless Motia agree otherwise with you in writing. If the Contract is terminated before the end of a New User's Term per New User you will be obliged to pay the outstanding monthly charges relating to that New User and the company monthly access fee until the end of that New User's Term per New User.
- 9.8. If the law changes or VAT or any other tax is increased, Motia can change these Conditions or any other term of the Contract to comply with law without your

consent although Motia will try to tell you about the change before it occurs otherwise within a reasonable time after it has been made.

10. CALL LIMIT, DEPOSIT AND PART PAYMENTS

- 10.1. Motia may set a limit on the amount of Charges you may run up during each calendar month and/or a maximum number of active Connections and/or a bar on SIM Card(s) being used on overseas networks or for making international calls or premium rate calls, which Motia refer to as a call limit. Motia may agree to increase or remove the call limit after making credit checks. You may be able to go over your call limit, but if this happens, you must pay all Charges. Motia may not provide Equipment and/or Services to you if to do so would result in you exceeding your credit limit or if the credit limit is already exceeded.
- 10.2. Motia may ask you for a deposit:
 - 10.2.1. when Motia connect your SIM Card;
 - 10.2.2. to increase or remove your call limit;
 - 10.2.3. if you increase how much you use the Services; or
 - 10.2.4. to unblock your SIM Card from contacting international numbers, using overseas networks or making premium-rate calls.
- 10.3. You can ask for a refund of your deposit at any time, but Motia may reduce your call limit if you do. Motia can use the deposit to pay off any Charges you owe us. When the Contract comes to an end, Motia will repay any deposit you have given us less any money you owe us. Motia will not pay any interest on any deposit Motia take from you.
- 10.4. If there is a significant increase in your usage between bills, Motia may contact you. Motia may need a part payment so you can continue to use the Services.
- 10.5. Where your usage exceeds limits imposed on us by our third party suppliers e.g. BT, Motia shall be entitled to charge you the additional costs Motia incur as a result of such usage.

11. SUSPENDING THE SERVICES

- 11.1. Motia can suspend or restrict use of any of the Services (other than emergency services) by you and/or any End User(s) if:
 - 11.1.1. Motia believe your equipment (including Equipment Motia supply to you) or the Services are being used in a way Motia do not allow under the Contract;
 - 11.1.2. you or your End User(s) have not kept to the Contract (for example, you fail to pay any Charges when due);
 - 11.1.3. Motia have asked you for a deposit or part payment which you have not paid;
 - 11.1.4. you go over your call limit;
 - 11.1.5. Motia believe that you have entered into the Contract fraudulently;

- 11.1.6. Motia believe you and/or your End User(s) have or are likely to use any number, Equipment or Services in an unauthorised, illegal, or fraudulent way;
- 11.1.7. you tell us that your Equipment has been lost or stolen;
- 11.1.8. you become bankrupt or make any arrangement with creditors or go into liquidation or an administration order is made or a receiver is appointed over any of your assets;
- 11.1.9. you and/or your End Users do anything (or allow anything to be done) which Motia think may damage or affect the operation of the Network;
- 11.1.10. the emergency services tell us to, or a law or regulation is passed which means Motia need to do so; or
- 11.1.11. where Motia identify what Motia reasonably determine to be Artificially Inflated Traffic.

11.2. Motia can suspend or restrict the Services to carry out necessary planned maintenance services or during any technical failure of the Network or Services where it is necessary to safeguard the security and integrity of the same or where Motia are obliged by law to do so to comply with Emergency Planning Measures provided that in each case Motia will aim to keep all service suspensions to a minimum. If a service suspension for planned maintenance is likely to exceed 10 minutes Motia will endeavour to give you 24 hours prior written notice.

11.3. When Motia suspend or restrict your use, the Contract will continue and you still have to pay all Charges due during any period when Motia suspend or restrict the Services.

11.4. If Motia have suspended the Services for your non-payment and Motia have subsequently agreed (in our discretion) to reactivate the Services following your request, Motia may charge you a reasonable administration charge in addition to all arrears.

11.5. If Motia have suspended Services to an End User for their failure to use the Services in accordance with these Conditions where Motia have decided not to suspend the Services provided to you or other End Users Motia may reinstate the Services to that End User following remedy of the End User's default subject to the payment of a reasonable administration charge.

12. **GSM GATEWAYS**

12.1. You will not connect or continue the connection of any GSM gateways to the Network or otherwise provide telecommunications services to a third party or allow any End User to do same without our prior written consent which, Motia can withhold in our absolute discretion according to our current GSM Gateway Commercial Policy as communicated from time to time.

13. **ENDING THE CONTRACT**

13.1. Subject to Condition 13.6, either of us may end the Contract by giving the other 30 days' notice in writing. Your notice must include your mobile and fixed line

numbers and the signature of the account holder. You must pay the Charges during the notice period.

- 13.2. You may end the Contract in its entirety or part only insofar as it relates to the Services delivered in respect of a particular number by writing to us if:
 - 13.2.1. Motia materially breach the Contract and cannot correct the situation within 14 days of you telling us about the breach;
 - 13.2.2. Motia increase your Charges in the UK which have the effect of increasing your total call and usage Charges (based on your usage in the previous month) by more than 10% and you write to us before the increase applies; or
 - 13.2.3. You exercise your right to cancel Services in relation to a site subject to and in accordance with Conditions 8.4, 8.5 or 8.6 where Motia do not provide Services to any other site.
- 13.3. Motia may end the Contract at any time by writing to you if:
 - 13.3.1. you become bankrupt, insolvent or go into liquidation or if you enter into a voluntary arrangement or have a receiver or an administrator appointed over any or all of your assets (in which event Motia do not have to give notice to you);
 - 13.3.2. you do anything (or allow anything to be done) which Motia think may damage or affect the operation of the Network;
 - 13.3.3. Motia believe that your use of the Services may be fraudulent or is otherwise not consistent with good faith commercial use of the Services (this includes where Motia identify Artificially Inflated Traffic);
 - 13.3.4. you materially breach the Contract and do not correct the situation within 14 days of us telling you about the breach (examples of material breach include your failure to pay the Charges when they are due, your breach of any software licence and where Motia have repeatedly suspended provision of the Services to you or your End Users for cause); or
 - 13.3.5. Motia are permanently unable to provide the Services to you.
- 13.4. When the Contract comes to an end:
 - 13.4.1. Motia will disconnect your Equipment from the Network;
 - 13.4.2. you will have to pay immediately all Charges you owe on the date Motia disconnect your Equipment from the Network;
 - 13.4.3. you and your End Users must stop using (and remove from your systems and return to us) any software which Motia have licensed to you (except software which is embedded within any Equipment Motia have supplied which belongs to you);
 - 13.4.4. you must stop using Services Motia have provided to you.

- 13.5. If the Contract ends before the end of the Minimum Period and where you have not terminated under Condition 13.1, you will have to pay us immediately (as one lump sum) the mobile and fixed line-rental Charges left for the rest of the Minimum Period.
- 13.6. If the Contract ends for any reason other than our breach, Motia may immediately enter your premises without prior notice to recover Equipment which belong to us and you will not re-sell or transfer possession of them to any third party until you have paid us in full all amounts due to us under the Contract.
- 13.7. If you end the Contract before the end of the Minimum Period (other than under Condition 13.2), you must still pay all the line-rental Charges and monthly access fees left for the rest of the Minimum Period.
- 13.8. If you end the Contract before the end of the Minimum Period under Condition 13.2 or Motia end the Contract under Condition 13.1, you will only have to pay the Charges you already owe.
- 13.9. You may terminate an End User's use of the Services (without terminating the Contract) by giving us 30 days notice in writing, Where this occurs prior to the end of the Minimum Period or such End User's Term per New User, you will have to pay the all the line-rental charges left for the rest of the Minimum Period or such End User's Term per New User.
- 13.10. In the event that a customer cancels an order prior to connection following a purchase order being signed, disconnects, ports or migrates a connection prior to the expiry of the minimum term (without consent from Motia Ltd) or a connection is downward migrated during the minimum term without written consent from Motia Ltd, then Motia Ltd shall be entitled to charge the customer an administration charge up to £250 per handset connection reporting into the 3CX system. For the avoidance of doubt if you are a business customer there is no 14 day cooling off period unlike consumer regulations.

14. LIABILITY AND EXCLUSIONS

- 14.1. Motia will be legally responsible to you if our negligence causes death or personal injury or if Motia commit fraud. The remaining Conditions of this Condition 14 are subject to this Condition 14.1.
- 14.2. If Motia break the Contract or are negligent Motia will not be responsible for the losses you suffer as a result, except those losses that are a foreseeable consequence of the breach and except those under Condition 14.1.
- 14.3. Our maximum liability for all claims relating to the Services or Equipment provided under the Contract whether for breach of contract or in tort, including negligence will be limited to 100% of the Charges paid or payable in the twelve months prior to the date of the Claim.
- 14.4. Motia shall provide the Services with reasonable skill and care but Motia exclude all liability for breach of warranties, conditions, terms, undertakings, and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are excluded to the fullest extent permitted by law.

- 14.5. Motia will not be liable for any indirect, punitive, special, incidental or consequential damages in connection with or arising out of the terms of the Contract; nor any direct or indirect loss of business, revenue, profits, goodwill, use, data, compensation, ex gratia payment or other economic advantage however they arise, whether in breach of contract (including repudiatory breach) breach of warranty or in tort, including negligence, and even if Motia have previously been advised of the possibility of such damages or whether such liability could be assumed to be our responsibility.
- 14.6. Motia will not be legally responsible to you if Motia cannot provide the Services because of something outside of our reasonable control or where Motia are reliant on third party suppliers.
- 14.7. If you use the Services to make an emergency call, the caller location information that is provided to the emergency services may not be the location from which the call is made, which may delay the emergency services' response to the call. It is not possible to make fixed line calls using the Services if there is a power failure or a failure of your broadband connection although this will not prevent calls made from mobile devices. It is your responsibility to make your End Users aware of the contents of this Condition 14.7.

15. OUR INTELLECTUAL PROPERTY

- 15.1. All intellectual property rights to the Services and Equipment (including any created by providing the Services) that belong to us and our licensors at all times during the Contract and you agree not to do anything which might jeopardise or diminish the value of those rights.
- 15.2. You are not permitted to use our trademarks as part of a business or trading name and you must not remove or modify any trademark or proprietary notice from Equipment, software or documents or other material which Motia supply to you.
- 15.3. You will promptly tell us if you become aware of any actual or threatened infringement of or challenge to our intellectual property rights and will assist us with enforcing or defending our rights (at our expense) if Motia reasonably request your help.

16. PERSONAL INFORMATION

- 16.1. For the purposes of this Condition 16, the terms controller, processor, data subject, personal data, personal data breach and processing shall have the meaning given to them in the UK GDPR.
- 16.2. Both parties will comply with all applicable requirements of Applicable Data Protection Laws. This Condition 16.2 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.
- 16.3. For the purposes of Applicable Data Protection Laws, Motia shall process the Customer Personal Data as a processor on your behalf.
- 16.4. Without prejudice to the generality of clause 16.2, you will ensure that you have all necessary appropriate consents and notices in place to enable lawful transfer of

Customer Personal Data to Motia and the lawful collection of the same by Motia for the duration and purposes of the Contract.

- 16.5. In relation to the Client Personal Data, the Order Form shall set out the scope, nature and purpose of processing by Motia, the duration of the processing and the types of personal data and categories of data subject.
- 16.6. Without prejudice to the generality of clause 16.2 we shall, in relation to your Client Personal Data:
 - 16.6.1. process that Client Personal Data only on your documented instructions, which shall be to process your Client Personal Data for the purposes set out in the Order Form, unless we are required by Applicable Laws to otherwise process that Client Personal Data. Where we are relying on Applicable Laws as the basis for processing your Client Processor Data, we will notify you of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit us from so notifying you on important grounds of public interest. We shall inform you if, in our opinion, your instructions infringe Applicable Data Protection Laws;
 - 16.6.2. implement the technical and organisational measures to protect against unauthorised or unlawful processing of Client Personal Data and against accidental loss or destruction of, or damage to, Client Personal Data, which are appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - 16.6.3. ensure that any personnel engaged and authorised by us to process Client Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;
 - 16.6.4. assist you insofar as this is possible (taking into account the nature of the processing and the information available to us), and at your cost and written request, in responding to any request from a data subject and in ensuring your compliance with your obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 16.6.5. notify you without undue delay on becoming aware of a personal data breach involving your Client Personal Data;
 - 16.6.6. at your written direction, delete or return your Client Personal Data and copies thereof to you on termination of the Contract unless we are required by Applicable Law to continue to process that Client Personal Data. For the purposes of this clause 16.6.6 Client Personal Data shall be considered deleted where it is put beyond further use by us; and

16.6.7. maintain records to demonstrate our compliance with this clause 16.

16.7. You hereby provide your prior, general authorisation for Motia to:

16.7.1. appoint processors to process the Client Personal Data, provided that we:

- (a) ensure that the terms on which we appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on us in this clause 16;
- (b) remain responsible for the acts and omission of any such processor as if they were our acts and omissions; and
- (c) inform you of any intended changes concerning the addition or replacement of the processors, thereby giving you the opportunity to object to such changes,

16.7.2. transfer Client Personal Data outside of the UK as required for the Purpose, provided that we ensure that all such transfers are effected in accordance with Applicable Data Protection Laws. For these purposes, you shall promptly comply with any reasonable request of ours, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the UK Information Commissioner from time to time (where the UK GDPR applies to the transfer).

16.8. You or we may, at any time on not less than 30 days' notice, revise this Condition 16 with any applicable standard clauses approved by the EU Commission or the UK Information Commissioner's Office or forming part of an applicable certification scheme or code of conduct (Amended Terms). Such Amended Terms shall apply when we agree in writing, but only in respect of such matters which are within the scope of the Amended Terms.

17. CONFIDENTIALITY

17.1. Our relationship may require us to provide you with confidential information which belongs to us and may require you to provide your confidential information to us.

17.2. You and Motia agree to keep confidential and not disclose any confidential information received from the other and only to use that confidential information to the extent necessary to perform its obligations under the Contract or as may be required by law. You shall procure that your employees and End Users keep confidential our confidential information and only use the same for the purposes of the Contract. The requirements of this Condition do not apply to information which:

17.2.1. is or becomes public knowledge through no fault of the recipient of the information;

17.2.2. was already known to the recipient prior to its disclosure by the disclosing party; or

17.2.3. is authorised for disclosure by the disclosing party; is required to be disclosed by a court, regulator or the rules of any recognised investment exchange.

18. CREDIT-REFERENCE AND FRAUD-PREVENTION AGENCIES

18.1. You can ask us for information about how Motia use your details for credit checking and fraud prevention when you take out the Contract. Motia will also release, to credit-reference agencies and fraud-prevention agencies, details of your agreement with us including any change of address, payments you make, account balances, missed payments, disputes and queries. Motia, and other organizations, may use this information to help make decisions about other credit applications made by you or other members of your household you are linked to financially and to protect both our business and our customers from fraudulent activity. Motia may also use any information Motia hold to trace debts and assess claims. If you do not pay us in full and on time, Motia may tell credit-reference agencies who will record the debt.

19. GENERAL

19.1. Motia may transfer the Contract to anyone at any time. You may not transfer the Contract to anyone unless Motia have agreed in writing beforehand. Motia will not unreasonably refuse this request. Except for any rights our suppliers have as licensor of software supplier to you under a software licence, no other third party may benefit from or enforce the Contract. Please contact us if you want to transfer your SIM Card(s) or Equipment to someone else within your organisation (subject to a satisfactory credit check).

19.2. Motia may perform some or all of our obligations under the Contract by using subcontractors

19.3. You and Motia acknowledge that neither you nor Motia have entered the Contract relying on any non-fraudulent statement which is not expressed in the Contract.

19.4. You and Motia shall not make any public announcement regarding the Contract unless Motia have agreed with you otherwise although Motia may include you in our generic list of customers which Motia may publish from time to time.

19.5. If you are migrating to 3CX or 3CXExpress from another mobile services agreement, you will be subject to any applicable migration rules. In particular you may lose any existing hardware credits or other benefits that you may be entitled to under your existing agreement.

19.6. If you or Motia fail to enforce our rights under the Contract, it will not prevent you or us from taking further action.

19.7. Motia may apply any payment which you owe to us against any payment which Motia owe to you under the Contract or any other agreement. You shall not make any deductions from amounts which you owe to us.

19.8. When you use your Equipment, your number may be shown to the equipment being called. Your number will always be shown if you are calling UK emergency services.

19.9. Motia will send you notice by post, voicemail, text or other form of electronic message. Motia will treat you as having received the notices 48 hours after Motia have sent them. Motia will send all bills and notices served by post, to the address you have given. You must tell us about any changes to your address. You must send us notices by post or email to our address shown on the bill. You can assume Motia have received these notices 48 hours after you have sent them.

19.10. The Contract is governed by the law of Northern Ireland.

19.11. If Motia have a disagreement with you in relation to the Contract then you and Motia shall use our respective best endeavours to resolve the dispute within seven (7) days (or such shorter time as is reasonable in the circumstances) from the date of it being raised. If Motia are unable to resolve the dispute within such time, then Motia and you agree to escalate the dispute to senior managers or their equivalent. If Motia are still unable to resolve the dispute with you within seven (7) days after the escalation to senior managers then you and Motia agree to act in good faith to seek to agree whether the dispute should be settled through mediation provided that if no such agreement is reached or if Motia are unable to resolve the dispute with you through mediation then either party may commence proceedings through the Northern Ireland courts.

20. DEFINITIONS

“3CX”	means the service that integrates your fixed line and mobile voice services and fixed line data services, delivering a converged communications experience.
“Access Fees”	means the monthly or other periodic fee payable by you for the use of a Service.
“Applicable Data Protection Laws”	means: (a) to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data. (b) to the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which Motia is subject, which relates to the protection of personal data.
“Applicable Laws”	means: (a) to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom. (b) to the extent EU GDPR applies, the law of the European Union or any member state of

	the European Union to which Motia is subject.
“Artificially Inflated Traffic”	means A flow or volume of traffic via any Service, which Vodafone believes is: (i) disproportionate to the flow or volume of traffic which Vodafone expects from good faith commercial practice and usage of the Service; (ii) disproportionate to your previous traffic profiles (in any given month) with Vodafone; (iii) uses automated means to make calls, send data (including text and multimedia messages, video) (save where this is expressly approved by Vodafone in writing); or (iv) may result in you exceeding the credit limit which Vodafone places on your account from time to time.
“Billing Manual”	means 3Cx’s call- and billing rounding measures from time to time, which shall be available to you on request.
“Business Day”	means day (other than a Saturday or a Sunday) on which clearing banks are open for business in the city of London (other than solely for trading or settlement in Euro).
“Charge”	means Access Fees, Connection Fees, fees for Equipment, software license fees, call fees, airtime fees and all other fees payable by you for use of the Services.
“Client Personal Data”	any personal data which Motia processes in connection with the Contract, in the capacity of a processor on your behalf.
“Codes of Practice”	means All guidelines governing use or provision of mobile telecommunications and data services, issued by any generally recognised bodies (such as PhonepayPlus) or that are adopted by Vodafone from time to time, and all instructions, regulations or guidance issued by the Regulatory Authorities, whether or not mandatory.
“Commencement Date”	means the date set out in the Order Form or the date that Motia start providing the Services to you.
“Commercial Terms”	means the commercial terms and Charges set out in the Order Form.

“Connection”	means a SIM Card or Fixed Line connection that has been configured to attach to the Network or Fixed Line Network with a price plan or SOC associated with it so that End User can use and be charged for Services supplied under the Commercial Terms.
“Contract”	means the contract between you and Motia comprising the documents set out in Condition 1.1, including these Conditions.
“Emergency Planning Measures”	means the measures that may be taken as a result of Vodafone’s obligations under (i) the General Conditions under section 45 of the Communications Act 2003 and (ii) the Civil Contingencies Act 2004; or any similar law.
“End User”	means a person using Equipment or a Service, who is your employee or contractor.
“Equipment”	means any tangible material, but not a SIM Card, supplied by Vodafone to you or connected to the Network on your behalf, such as a mobile phone, a connecting cable, a power supply, or a PC data card.
“EU GDPR”	the General Data Protection Regulation ((EU) 2016/679).
“Force Majeure”	means any cause beyond a party’s reasonable control including without limitation, acts of God, war, fire, flood or other accident, strike, lockouts, delays in transport, material shortages, failures or fluctuations in electric power or telecommunications services or equipment, restrictions or prohibitions of any government or semi-government authority.
“GSM Gateway Commercial Policy”	means Vodafone’s policy from time to time governing your use of GSM Gateways, available at: www.vodafone.co.uk/enterprisecontracts
“GSM Gateway”	means any equipment containing a SIM Card which enables the routing of calls from fixed apparatus to mobile equipment by establishing a mobile-to-mobile call.

“Intellectual Property Rights”	means patents, design rights, trademarks, copyrights (including any such rights in typographical arrangements, websites or software), rights subsisting in trading, business or domain names and e-mail addresses, rights in inventions, rights in databases and all other intellectual property rights of a similar or corresponding character which subsist now or in the future in any part of the world whether registered or not and whether or not capable of registration, and any applications to register or rights to apply for registration of any of the foregoing in all parts of the world.
“Minimum Period”	means the minimum period for the supply of the Services as stated in the Order Form.
“Motia”, “we”, “us” or “our”	means Cubo Solutions Ltd, trading as Motia, registered in Northern Ireland with registered office Unit E1 Plasketts Close, Kilbegs Business Park, Antrim, BT41 4LY and company number 050118.
“Network”	means the telecommunication systems used to provide the Services.
“New User”	means an additional End User who starts using the services after the Commencement Date.
“OFCOM”	means the UK communications industry regulator appointed and empowered under the provisions of the Communications Act 2003, or any appointment that replaces it.
“Order Form”	means the document setting out the agreed Commercial Terms relating to Motia’s provision of Equipment and/or Services, which incorporates the Service Specific Terms and these Conditions. In the absence of other documents, a ‘welcome letter’ from Vodafone detailing your commercial terms may comprise an Order Form.
“Overseas Networks”	means Telecommunication systems outside of the UK Mainland used (but not controlled) by Vodafone in providing the Services.
“Purpose”	the purposes for which the Client Personal Data is processed, as set out in the Order Form.

“Service Description”	means the service description relating to 3CX or 3CXExpress as applicable as provided to you and as amended from time to time.
“Service Specific Terms”	means a schedule that sets out service specific information such as terms and conditions, specifications and other technical information.
“Services”	means the 3CX or 3CXExpress Service provided pursuant to the Contract and any other service supplied to you pursuant to the relevant Service Specific Terms.
“SIM Card”	means a subscriber identity module card, which is an electronic memory device for storing user specific data to allow controlled and secure use of Equipment on the Network.
“Site Survey”	means a survey of a Customer’s site to assess whether (in Vodafone’s opinion) the existing infrastructure is sufficient for the deployment of the Services at that site.
“Software License”	means the terms and conditions that prescribe how you shall use Software and set out the rights of the Software owner/licensor and the Software user in relation to such Software.
“Software”	means a machine executable computer program, software module or software package or any part thereof (in object code only), supplied by Vodafone or its licensors to you irrespective of how it is stored or executed.
“Solution Design”	means the solution designed prepared for a customer for the provision of 3CX.
“Standard List Price(s)”	means Standard unsubsidised Charges for business Services and Equipment as advised to you by Motia and/or as made available on request by Motia (as amended by Motia from time to time).
“Suitability Test”	means a test to determine the suitability of the DSL available to the Customer’s site from the local exchange to assess whether (in Vodafone’s opinion) the quality of access is sufficient for the deployment of the Services at that site.

“Term per New User” means the minimum period of time that the Services shall be provided to a New User which shall be 24 months unless otherwise agreed.

“UK GDPR” has the meaning given to it in the Data Protection Act 2018.