



# TERMS & CONDITIONS

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## **1. Definitions In this Agreement**

**1.1.** “Act” means the Telecommunications Act 2003 and any amendments to the Act from time to time or any subsequent substitution thereof.

**1.2.** “Commencement Date” is the date each service starts or if for equipment only, equipment is delivered and is used by the Customer. The Customer acknowledges that the Agreement may be for various Services/Equipment therefore different Commencement Dates may apply to different Services/Equipment.

**1.3.** “Customer” means the person so named on the customer requirements form. Bluebell reserves the right to deal with anyone reasonably appearing to Bluebell to be acting with the Customer’s authority or permission.

**1.4.** “Direct Debit” means any request(s) for any payment or series of payments by bank direct debit payment method.

**1.5.** “Equipment” means any Equipment or products (including for the avoidance of doubt mobile telephones) supplied by Bluebell or any third party on behalf of Bluebell to the Customer.

**1.6.** “Minimum Term” means the period of 60 months from the Commencement Date or such other period as is prescribed for the relevant service or as is otherwise detailed overleaf.

**1.7.** “Mobile Services” means the provision of services in relation to mobile telephony

**1.8.** “Bluebell” means Bluebell Cloud Solutions Ltd also trading as Bluebell whose registered office is at New Lodge, London Road, Collingtree, Northampton, NN4 0NP (Registered number 10181383)

**1.13.** “Agreement” means these standard terms of service apply to provision of the Services specified on one or more Order Forms or Quotes (as applicable) agreed between Bluebell and the Customer, and apply separately to the Services under each Order Form or Quote, as applicable. Together, these terms, an Order Form and/or Quote and the Additional Terms (applicable to the relevant Services) constitute an agreement between you and us for the provision of Services. If there is any inconsistency between these terms, the Order Form or Quote and/or the Additional Terms, the Order Form or Quote (as applicable) shall prevail, followed by the Additional Terms, followed by these terms. These terms of supply shall apply to all orders and contracts for the supply of Services by Bluebell to the exclusion of all other terms (including any terms and conditions you purport to apply) other than any Additional Terms, terms stated by Bluebell on any Order Form or Quote and any third party terms and conditions that Bluebell has expressly stated apply. Any attempt by you (or on your behalf) to impose any other terms or conditions to the trading relationship with Bluebell is hereby explicitly and expressly deemed automatically rejected in advance (and any such terms and conditions are likewise deemed rejected automatically in advance) and will be (and is) wholly ineffective and non-binding upon Bluebell. No terms or conditions other than these terms and conditions are or will be acceptable to Bluebell, save as expressly agreed and physically signed in writing by an authorised representative of Bluebell agreeing to a variation of these terms and conditions in accordance with these terms and conditions.

**1.14.** “Additional Terms” means terms applicable to specific Services, as referred to on the Order Form or Quote (as applicable).

**1.15.** “Charges” and “Payment Period”: as specified on the Order Form or Quote or in the Additional Terms, or as amended from time to time in accordance with the Agreement (including clause 10 below). To the extent Charges for any Services are not so specified, they shall be at our standard daily rates.

- 1.16.** "Information": as defined in clause 12.2 below.
- 1.17.** "Initial Period", "Notice Period", "Renewal Period" and "Start Date": as specified on the Order Form or Quote.
- 1.18.** "Order Form": a Bluebell order form to which these terms relate.
- 1.19.** "Quote": any quote provided by Bluebell to you, the customer, setting out the proposed Services to be provided by Bluebell to which these terms relate.
- 1.20.** "Service Levels": the service levels set out in the Additional Terms.

## **2. Services and Equipment**

**2.1.** Save as provided in these terms and conditions Bluebell shall provide the Customer with such Services/Equipment, Equipment as are requested by the Customer and any use of the Services or payment for the Services/Equipment is deemed acceptance of these terms and conditions. Bluebell shall only become liable to supply Services/Equipment to the Customer once satisfactory responses to credit checks and criminal bureau checks have been received by Bluebell and (where appropriate) any Service Provider. Bluebell will monitor and record information relating to a customer's trade performance and such records will be made available to credit reference agencies, who may share that information with other businesses in assessing applications for credit and fraud prevention.

**2.2.** As a Bluebell customer, you will be automatically protected from Telephony Fraud losses for up to £10,000 in any one calendar month at a cost of only £1.29 per line, per month, providing peace of mind from unforeseen bills.

**2.2.1** As a Bluebell customer, you will automatically be enrolled into our Maintenance Support Cover. This includes cover for future Bluebell engineering visits, and provisioning changes being carried out on Horizon or Xelion. Customers with 1-3 phones will pay a monthly minimum of £25, customers with 4-12 phones will pay a monthly minimum of £50 and customers with 13 or more phones will pay a monthly minimum of £55. If no notice to opt out of the Maintenance Support Cover is given by the customer within 30 days of their email notification being sent; then this will be contracted for the duration of your contract.

**2.2.2.** The Customer shall be responsible for the safe keeping and safe and proper use of the Services and any related Equipment after installation of the Services and the Customer undertakes in particular:

**2.2.3.** Not to cause any attachments other than those approved for connection under the Act to be connected to any Equipment.

**2.2.4.** Not to contravene the Act or any other relevant regulations or licences.

**2.3.** The Customer undertakes to use the Services/Equipment in accordance with the Act and Bluebell's acceptable use policy (as published from time to time at <https://www.bluebellgroup.co.uk/terms-and-conditions>) and the Customer further undertakes not to use the Services/Equipment and to procure that none of its employees use the Services/Equipment:

**2.3.1.** As a means of communication for a purpose other than that for which the Services/Equipment are provided, and for the transmission or receipt of any material which is defamatory offensive or of an abusive or menacing character or otherwise is in breach of Bluebell's acceptable use policy.

**2.4.** Any Equipment supplied by Bluebell remains the property of Bluebell and must be made available for collection on the expiry or termination of this agreement unless equipment has been

leased by the customer.

**2.5.** The Customer will not procure or be party to an agreement or arrangement to provide or receive Services/Equipment to those provided by Bluebell or an alternative like the Services/Equipment provided by Bluebell without the permission of Bluebell in writing and the prior payment in full for the Services/Equipment. For the avoidance of doubt the use of non-Bluebell via using the Equipment provided by Bluebell is deemed a material breach of this Agreement.

**2.6.** The Customer shall not publicise any number in any way or commit to any advertising or publicity until it has received, from Bluebell, in writing, confirmation that the number is live and tested. Bluebell will use reasonable endeavours to provide the Customer with the Services/Equipment by the dates agreed with the Customer and to continue to provide the Services/Equipment until this Agreement is terminated. Bluebell will not be liable for any loss or damage should the Service not commence or restart on the agreed date. Where Bluebell is supplying network services as part of the Services the Customer must provide, to Bluebell, details of all the related Services that it wishes to receive, relating to any telephone number that the Customer wishes to use. Bluebell will provide Services/Equipment through such party as it deems appropriate.

**2.7.** The Customer shall give Bluebell at least 30 days' written notice if above average use of the Services is likely to occur. Bluebell shall not be liable for failure/withdrawal of any part of the Services should such notice not be given.

**2.8.** The service charge for the On-Site Warranty Service is payable annually in advance, it is agreed that this may be 3 months in advance to allow for any annual administration to take place. Payment for services provided to the Customer in addition to the On-Site Warranty Services is due on presentation of an invoice by the Supplier.

**2.9.** Bluebell's acceptable use policy form part of this Agreement and includes any restrictions imposed on Bluebell by the Service Provider. This policy is designed to protect the level and quality of the Services/Equipment that Bluebell offers to all its customers and the policy permits Bluebell to regulate the Customer's use of the Services/ Equipment.

**2.10.** The Customer hereby specifically authorises Bluebell to send/ resend CPS during the continuance of this Agreement, and hereby waives Bluebell's obligation to notify it of the same being done. If the Customer wishes to receive such notification, then it must so inform Bluebell in writing.

**2.11.** Where Bluebell provides software to the Customer as part of the Services and/or Equipment Bluebell hereby licences the software to the Customer solely for the use of the same, by the Customer in connection with the Services and/or Equipment. This licence automatically terminates on termination of this Agreement. Bluebell does not warrant that the software will be error-free and the Customer hereby agrees to make proper back-ups of all data.

**2.12.** Where Bluebell incur provisioning, engineering or other fees associated with meeting the customer's requirements and/or subsequently the line does not become operational for any reason then Bluebell have the right to charge the customer additional administration fees of up to £75 per line.

**2.13.** In the event Your application for third party finance with a Funder is unsuccessful within the Credit Application Period, Bluebell may, in its sole discretion, provide finance for You and enter into a Rental Agreement with You directly, but shall be under no obligation to do so. If Bluebell is agreeable to this, You agree that you will enter into the Rental Agreement accordingly.

**2.14.** Where the Customer is a consumer within the definition of the Ofcom regulations the Customer has the right to cancel the Agreement within 7 working days of the date of the contract. Cancellation can be made by notifying Bluebell in writing by email or post. Any services used within

this period will be chargeable. Cancellation charges will apply if the service is terminated outside of prescribed timescale.

**2.15.** Where the Customer requires on site assistance from Bluebell to correct issues with non-Bluebell supplied equipment or additional work outside of the original scope of works agreed, Bluebell will charge the standard engineering rate of £275 for a half day visitation or £550 for a full day visitation.

**2.16.** Bluebell reserves the right to perform an initial network assessment prior to the provision of the Services. If such network assessment reveals unforeseen problems in providing the Services, we may cancel this Agreement and shall refund to you any Charges paid in advance.

**2.17.** Additional Services will be charged at the Supplier's applicable rates as at the point of supply, which the Customer will be notified of in advance via a durable medium.

### **3. Acceptance and Commencement Date**

**3.1.** Bluebell shall provide you with either an Order Form or a Quote stating the proposed Services to be provided. If you wish to take up the Services as stated on either the Order Form or the Quote (as applicable), you shall sign or e-sign the Order Form or Quote (as applicable) and return it to Bluebell. For existing customers, email or written confirmation will be accepted as the new commencement date. The returned Order Form or Quote (as applicable) shall be deemed to be an offer by you, and if accepted by Bluebell, the Agreement shall be deemed formed. For the avoidance of doubt, any additional terms stated on the Order Form or Quote (as applicable) by you are hereby expressly rejected and shall not apply to the Agreement unless otherwise expressly agreed in writing by an authorised representative of Bluebell.

**3.2.** Various third-party terms and conditions shall apply, depending on the specific Services that are being provided under the Agreement, and these are listed in the relevant Order Form or Quote (as applicable) accompanying these terms and conditions. You shall be obliged and you hereby agree to comply with any and all obligations and restrictions contained in such third party terms including any and all such obligations and restrictions that Bluebell is obliged to ensure you comply with. It is your obligation to keep up to date with any changes to such third party terms and conditions and, as such, you should check them frequently. Bluebell shall not and has no obligation to update or inform you of any changes to any third-party terms and conditions.

### **4. Duration of Service (Term)**

**4.1.** This Agreement shall commence on the Commencement Date of the service, (i.e. should the broadband service connect and go live outside the CRF date, then this will be the commencement date). Subject to the remaining terms of this, Clause 4 shall continue for the Minimum Term and thereafter for further periods. Each is equivalent to the Minimum Term until terminated by either party giving to the other not less than 90 days prior written notice but not greater than 120 days prior written notice expiring at the end of the Minimum Term; or at the end of any subsequent period as appropriate. Such notice is to be sent by recorded delivery to be mailed effective on the date the notice is received by Bluebell.

- 4.2.** Either party shall be entitled forthwith to terminate this Agreement by giving written notice to the other if:
- 4.2.1.** the other commits a continuing or material breach of this Agreement and, if the breach is capable of remedy, fails to remedy it within 14 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied; or
  - 4.2.2.** an administrator takes possession or a receiver is appointed over any of the property or assets of the other party, the other party makes any voluntary arrangement with its creditors or becomes subject to an administration order, the other party becomes bankrupt or goes into liquidation (except for the purposes of an amalgamation, reconstruction or other reorganisation and so that the company resulting from the reorganisation effectively agrees to be bound by or to assume the obligations imposed on the other party under this Agreement); or
  - 4.2.3.** the other party ceases, or threatens to cease, to carry on business.
- 4.3.** Bluebell may terminate this Agreement immediately if:
- 4.3.1.** any licence or agreement under which Bluebell has the right to deliver its Service/Equipment is revoked, amended or otherwise ceases to be valid; or
  - 4.3.2.** the Customer is suspected, in the reasonable opinion of Bluebell, of involvement with fraud or attempted fraud in connection with use of the Service/Equipment; or
  - 4.3.3.** Bluebell reasonably suspects that the Customer is unable to pay or is refusing to pay Bluebell charges and/or budget plan payments.
- 4.4.** For the purpose of clause 4.2, a breach shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects other than as to the time of performance (provided that time of performance is not of the essence).
- 4.5.** A waiver by either party of a breach of a provision of this Agreement shall not be considered as a waiver of a subsequent breach of the same or another provision.
- 4.6.** If the Customer gives less than the specified amount of written notice to terminate this Agreement (as per Clause 4.1) or ceases to use the Service/Equipment or a part thereof (including reduced usage) or attempts to terminate this Agreement prior to the expiry of the Minimum Term or any subsequent period equivalent to the Minimum Term or fails to achieve any estimated spend as set out in this Agreement the Customer agrees that Bluebell shall be entitled to charge the Customer an administration fee of up to 100% (Reducing at set minimum terms within a contract period) of the total expected Customer spend over the Minimum Term, based on an average of 6 calendar months' bills of the Customer in which periods the Customer has made full use of the Services/ Equipment (or such lesser period as is available). Upon termination, Bluebell shall be entitled to raise invoices for all sums due and all invoices (whenever raised) shall become due for payment immediately.
- 4.7.** In the event of termination by either party for any reason:
- 4.7.1.** Bluebell shall be entitled to recover from the Customer:
  - 4.7.2.** the Equipment or cost thereof as appropriate including but not limited to the cost of installing or removing the Equipment;
  - 4.7.3.** all liabilities, claims, costs, losses and expenses incurred by Bluebell (including the initial CPS and engineering costs and of providing the Services); and
  - 4.7.4.** all losses suffered by Bluebell by way of third party or Service Provider claw-back where such claw-back is due to the breach by the Customer of this Agreement or the third party or Service Provider agreement.
- 4.8.** once the customer has terminated their contract, Bluebell shall be entitled to amend its charges to the standard published usage charges.
- 4.9.** The rights to terminate this Agreement given by this clause shall not prejudice any other right or remedy of either party in respect of the breach concerned (if any) or any other breach. Continued

use of the Services post termination will result in Bluebell levying its standard published usage charges for all Services used, which charges the Customer shall pay immediately upon demand.

**4.10.** Where the Customer cancels part only of a bundle of Service/Equipment, Bluebell reserves the right to charge the Customer for the Service/Equipment so cancelled in accordance with Clause 4.6 and amend charges to the Customer for the remaining Service/Equipment to its standard rates.

**4.11.** All provisions of the Agreement which by their nature are intended to continue shall survive termination, including terms relating to exclusions and limitations of liability, and confidentiality.

**4.12.** Termination this Agreement shall not affect accrued rights and liabilities of you or us up to the date of termination, including our rights to payments due from you.

## **5. Charges and Payment**

**5.1.** Following the expiration of a trial period that may be provided to the Customer at the sole discretion of Bluebell and unless otherwise specified in writing by Bluebell the Customer agrees to pay Bluebell's charges and/or budget plan payments monthly by Direct Debit, the first payment to be made at the discretion of Bluebell within thirty days of the start of the provision of the Services and in accordance with the applicable tariffs. Where network connection and/or line rental services form part of the Services the charges shall be paid in advance.

**5.2.** Sums due will become payable in full on the date specified by the invoice. All payments must be made by direct debit or BACS transfer.

**5.3.** Usage charges will be such charges for the use of the Service/Equipment by the Customer as Bluebell may notify to the Customer from time to time by e-mail or by post. Details of the Customer's current charges can be obtained by emailing Bluebell with full account details. There will be a minimum monthly usage charge and low usage charge for each Service as set out in Bluebell's price list from time to time. Usage charges payable shall be calculated by reference to any data recorded or logged by Bluebell or its service carrier and not by reference to any data recorded or logged by the Customer. Bluebell shall be entitled to estimate the usage charges in circumstances where the relevant data is not available to Bluebell in a timely manner, and any estimated usage charge shall be reconciled on a subsequent invoice.

**5.4.** The Supplier may charge the Customer interest (both before and after any judgement) on the amount unpaid, at the rate of 4 per cent per month (or part of a month) until payment in full is made.

**5.5.** To the extent any Charge is a regular fixed fee, it is due at the start of the Payment Period to which it relates. Should any fixed Charge increase during a Payment Period (for example, if you upgrade the Services), a pro rata proportion of the increase in the relevant Charges (corresponding to the unexpired part of that Payment Period) will be due in advance. We shall invoice Charges incurred for other Services and payment is due within 14 days of the date of the invoice. All other charges for equipment are payable by return unless otherwise specified.

**5.6.** Other expenses which you ask us to incur on your behalf will be re-charged at cost or at standard rates prescribed by professional bodies

**5.7.** Unless otherwise stated all other amounts due from the Customer to Bluebell shall be paid within 7 days of the date of Bluebell's invoice.

**5.8.** If the Customer fails to make any payment on the due date then, without limiting any other right or remedy available to Bluebell (such failure to pay being a material breach of this Agreement),



Bluebell may charge the Customer an administration fee of £25 and interest (both before and after any judgment) on the amount unpaid, at the rate of 8 per cent per annum above Royal Bank of Scotland base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

**5.9.** At our discretion we may refer overdue payments to a debt collections agency, and in that event an administration charge will be added to the outstanding amount. The value of the administration charge is discretionary, but would be a minimum of 25% of the overdue amount. Interest may also be charged on overdue payments at the lesser of: (a) 2% per year over the standard Barclays Bank base rate prevailing at the time; and (b) the highest rate allowed by law.

**5.10.** The price for the Service/Equipment is exclusive of any applicable value added tax, which the Customer shall be additionally liable to pay to Bluebell.

**5.11.** The Customer agrees to pay Bluebell in full, without any setoff, all sums due to Bluebell under this Agreement.

**5.12.** The Customer authorises Bluebell to vary the amount, frequency and time of any Direct Debit to such level as Bluebell deem reasonably appropriate (a) to take account of either an increase or decrease in usage of the Services by the Customer (b) to reduce such indebtedness of the Customer to Bluebell and/or (c) to such other operational matter affecting the Service/Equipment as Bluebell shall in its discretion deem reasonable.

**5.13.** If any payment is cancelled or returned unpaid by the Customer's bank or if the Customer fails to discharge any invoice within 7 days of its date, then without prejudice to any right or remedies under this Agreement, Bluebell shall from the time of such failure provide the Service/ Equipment at the standard published usage charges and in addition the Customer agrees to pay Bluebell an administration fee of £25. For the avoidance of doubt the time of payment is of the essence of this Agreement and a failure to pay on time or the cancellation of a Direct Debit shall be a material breach of contract allowing Bluebell to terminate this Agreement immediately. Invoices not paid by direct debit incur an additional £25 or 3% charge of the transaction whichever is the greater.

**5.14.** Should the Customer have any dispute regarding the usage charges or any other charges, the Customer shall give written notice to Bluebell of the amount in dispute and the reason for the dispute. Any rectification or amendment of such disputed charges are limited to the 6 months prior to the written notification being received by Bluebell. Such notice must be received prior to the Customer not paying any amount due to Bluebell, failing which the Customer shall be deemed to be in breach of contract and clause 4.3.3 shall apply together with clause 5.11 and clause 5.5 in respect of the entire balance. The Customer shall remain liable to pay all amounts not in dispute in accordance with the terms of this Agreement.

**5.15.** The Customer remains liable for all charges whether the Customer or someone else used the services and whether the services were used with the Customer's knowledge and consent or otherwise including and not limited to calls made by a rogue callers and calls made by any third party who has gained unauthorised access to the Customer's system.

**5.16.** Bluebell retain the right to vary the charges set out in the tariff at any time upon giving the Customer 7 days' notice such notice to be given either on the monthly invoice or on the Bluebell website and continued use of the Service/Equipment is deemed acceptance of these changes.

**5.17.** Any calls that are routed by any means beyond the control of Bluebell and for which the Customer is invoiced by another provider will remain the responsibility of the Customer.

**5.18.** Additional Services may be agreed separately and charged as follows:

**5.18.1.** Charges will be made at Bluebell's standard rates, unless otherwise agreed.

**5.18.2.** Charges for procurement of hardware and software will be separately agreed with you as required.

**5.18.3.** Other services will incur charges at preferential rates including Office relocations, Server

installations, Networked application, equipment & client/server installations, Cloud computing services, Cloud development projects, and co-ordinated installations or moves of multiple desktops or applications (e.g. Multiple installation of anti-virus software).

**5.19.** Any cashback, credits, hardware funds shall not be payable unless the Client requests it within sixty (60) days from the date of the commencement date of service

## **6. Suspension of The Services**

**6.1.** Bluebell shall be entitled, for business, operational or technical reasons or in order to comply with any numbering scheme or other obligation imposed on Bluebell by its licence or by any other competent authority (including any network provider), to withdraw or change any telephone number or code or group of numbers or codes allocated to the Customer whether on a temporary or permanent basis provided that Bluebell gives the Customer the maximum period of notice in writing thereof practicable in the circumstances.

**6.2.** Bluebell may charge the Customer interest (both before and after any judgement) on the amount unpaid, at the rate of 2 per cent per month (or part of a month) until payment in full is made.

**6.3.** If the Customer is in breach of a material term of this Agreement Bluebell may at its sole discretion and upon giving the Customer written notice elect to suspend without compensation the provision of Service/Equipment for a period not exceeding 14 days. If the breach is capable of remedy and is remedied by the Customer within the 14-day period, then Bluebell shall recommence the provision of Service/Equipment. If the breach is not capable of remedy or if so capable is not remedied within the period of 14 days, then Bluebell shall have the option of either terminating this Agreement under the provision of clause 3 or of continuing the Service/Equipment.

**6.4.** At their sole discretion, Bluebell can reinstate the Services following suspension for which the Subscriber may be liable for an administration fee of £50.00, if suspension is due to the default of the Subscriber.

**6.5.** If the Customer's call charges exceed the estimated call spend or the credit limit given to the Customer by Bluebell, whichever is the lower, then Bluebell reserves the right to request immediate payment of the excess amount and to demand in accordance with clause 5.9 a deposit be paid in such amount as Bluebell shall deem to be reasonable. If payment is not made forthwith by the Customer, Bluebell shall be entitled to suspend all or any of the Services until payment of the excess amount is made in full.

**6.6.** Call storage will incur additional storage charges which cannot be capped by Bluebell. Call recordings will be deleted after 6 months if additional storage is not requested and paid for.

**6.7.** The Company reserves the right to impose a charge equal to the full cost of Broadband service activation or of Broadband migration should the Customer terminate Service within 12 months of service delivery.

**6.8.** Notwithstanding and without prejudice to any of its rights under this Agreement, Bluebell reserves the right to withdraw the Service/Equipment or any part thereof at any time if the monthly

charges to the Customer are not, in the opinion of Bluebell, sufficient to make provision of the Service/Equipment viable for Bluebell.

## **7. Your responsibilities**

**7.1.** You must ensure you have appropriate licenses and permissions and have given all appropriate notifications, for us to install, access, store and/or use your relevant software, intellectual property, equipment, information and data (including, as relevant the Information) in our performance of the Services.

**7.2.** You agree promptly to respond to any queries we raise, and to provide us with access to any information, equipment and other facilities which we reasonably require in order to perform the Services.

**7.3.** It is your responsibility to maintain any internet connection and other equipment and communications facilities with adequate functionality and capacity as may be required to enable us to perform the Services (including, but not limited to, as relevant, Hosting, back-up and remote access Services).

**7.4.** Without prejudice to clause 7.1, you may not upload onto or store on our (or our service providers') servers or equipment any unlawful content, including content which is obscene or abusive or the use or storage of which by us (or our service providers) is (subject to our compliance with clause 12 ) in breach of copyright or other intellectual property rights, data protection or confidentiality obligations or any rights of privacy.

**7.5.** In using our Services, you must comply with all applicable laws, regulations, industry codes of practice and contractual obligations you have to any third parties. You may not make any unlawful or unauthorised use of our or our service providers' equipment, software or networks, including attempting to gain unauthorised access, introducing any virus or malware or causing any "denial of service" attack, sending any unsolicited bulk email or spam, or committing any criminal or fraudulent act.

**7.6.** You agree to comply with such additional terms as we may reasonably request in order to meet requirements imposed by our service and software providers relating to your use of any relevant Service or related software and equipment.

**7.7.** The customer must pay the Supplier's charges for reprogramming the Equipment required as a result of an error by any person other than the Supplier's servants or agents.

**7.8.** You agree to indemnify us and our representatives against any losses, expenses or liability which we suffer as a result of your breach of this clause 7.4.

**7.9.** You will be responsible for procuring any third-party consents that may be required by us (and/or our subcontractors) to provide the Installation Service and/or the Service, including, for example, landlord consents, wayleave consents, tail circuit installation consents, and access consents. You will be responsible for the costs of procuring any such third-party consents.

## **8. Access to Premises**

**8.1.** To enable Bluebell to comply with its obligations under the Agreement:

**8.1.1.** the Customer shall allow or procure permission for Bluebell and any other person(s) authorised by Bluebell to have reasonable access to the Customer's premises and the Services' connection points or, where network connection services form part of the Services, such location on the Customer's premises and/or any neighbouring premises as Bluebell reasonably requires and shall always provide such reasonable assistance as Bluebell requests.

**8.1.2.** Bluebell will endeavour to carry out work by appointment and during normal working hours, but may request the Customer to provide access at other times. If at the request of the Customer Bluebell carries out work outside its normal working hours, the Customer will be responsible for Bluebell's reasonable additional charges.

**8.1.3.** the Customer shall carry out such site preparations as Bluebell may reasonably require.

**8.2.** If the Customer requests maintenance or repair work which is found to be unnecessary or results from an act or omission of the Customer, Bluebell will charge for the work and the costs incurred.

**8.3.** The Customer hereby duly authorises Bluebell, its dealers and agents to reprogram and or remove existing access equipment to provide the Services. If the work is undertaken by the Customer's existing telephone system maintainer and not Bluebell, Bluebell will pay a maximum

contribution of £75 plus vat towards any charges raised by the Customer's existing telephone system maintainer. The Customer to pay all other costs

**8.4.** In relation to the Line Rental Service, if BT Openreach charges Bluebell for repairs and an engineering call out charge, which will occur if the fault is found to be a fault in or is due to damage to the Customer's equipment, Bluebell reserves the right to pass on those charges to the Customer together with Bluebell's own administration charge of £25 per call.

## **9. Third party hardware and software**

**9.1.** If we agree to procure the purchase of hardware (including replacement parts and consumables) and software (including upgrades) on your behalf: (a) you are responsible for complying with any relevant licence terms or other terms of sale or use of such hardware and software which may be imposed by the relevant supplier, manufacturer or licensor, and shall indemnify us for any liability which we suffer as a result of any breach of such terms; (b) we are not responsible for any defects in such hardware and software and make no warranty on their quality, performance or fitness for purpose, nor that their use does not infringe any intellectual property or related rights of any third party; and (c) Bluebell's support Services in relation to such defects are limited to diagnosis and liaising with the Supplier on your behalf. Bluebell's Services are not a substitute for a maintenance agreement with a supplier or distributor of specialist hardware or software. (d) you and we agree to co-operate with each other in enforcing or defending any terms of sale or use, or other relevant warranty or guarantee, against the relevant supplier, manufacturer or licensor, as required.

**9.2.** If additional on-site support is required in any month it may be provided by the Supplier at its option at its then standard rates (as varied from time to time).

**9.3.** Without prejudice to clause 9.1, our total liability in relation to any hardware or software which we procure for you is limited to: (a) where you pay us a regular subscription charge for it, an amount

equal to a quarter of one year's subscription charges; or (b) in any other case, the amount you pay us for it.

**9.4.** The annual service charge of £250 for Support Services and Licences is payable in advance at such intervals as the Supplier shall determine. Payment is due on presentation of an invoice by the Supplier and must be made by direct debit.

**9.5.** The Supplier may charge the Customer interest (both before and after any judgement) on the amount unpaid, at the rate of 4 per cent per month (or part of a month) until payment in full is made.

**9.6.** The charges may be increased by the Supplier at any time to reflect any increase in the rate of inflation determined in accordance with the Retail Prices Index. Any increase will be notified to the Customer in advance.

## **10. Change in equipment and/or users to be supported**

**10.1.** Change in equipment and/or users to be supported in relation to Bluebell's support services, if the type of equipment or number of units, or the number of users to be supported changes, the Services and charges will be adapted accordingly. However, you may not reduce the amount of equipment or the number of users to be supported during any period of notice to terminate the Services unless we have expressly agreed otherwise with you in writing. Where we agree in writing that you may increase, decrease or add licences of a different type by contacting our support team, any such increase, decrease or addition shall be effective on the time and date when such increase, decrease or addition is confirmed as accepted by our support team. In the event of such increase, decrease or addition, our charges will change accordingly with immediate effect on and from the time and date of the same (as logged or confirmed as set out above), regardless of whether such increase or additional licences are then actually utilised by you. If you change your mind and wish to reverse or amend any increase, decrease or addition, you may do so by contacting our support team but you will remain liable for our charges in respect of the same, regardless of your change of mind, until being confirmed by our support team following you contacting them to request the same.

**10.2.** The Supplier reserves the right to make a charge in accordance with its current rates if it is erroneously notified of an Equipment fault on more than two occasions in any calendar month.

## **11. Development Work**

**11.1.** Development work to the extent the Services involve the creation by us of any software or other content (including any web or software development or modifications), you agree that we shall own the intellectual property subsisting in relation to such software and content, but we grant you a non-exclusive licence to use such intellectual property internally within your business for purposes relevant to the Services.

**11.2.** Additional fees will be quoted for by the Supplier if enhanced levels of cover are chosen by the Customer

**11.3.** In the event of early Termination of the Agreement if the Subscriber has received reduced price hardware from Bluebell then the Subscriber shall immediately pay to Bluebell the difference between the actual price paid for the hardware and the price charged by Bluebell in accordance with the monthly schedule of prices issued by Bluebell from time to time;

**11.4.** A free or reduced monthly charge then the Subscriber shall immediately repay to Bluebell the difference between the base Monthly Charge and the actual charge paid by the Subscriber subject to such payment being pro rata for the period of the Term from commencement to Termination.

## **12. Exceptions**

**12.1.** Bluebell shall be under no obligation to supply the Service where in Bluebell's reasonable opinion these are needed because of improper or inadequate installation environment use or maintenance; actions or modifications by unauthorised third parties or you, or accidental or wilful damage.

**12.2.** Loading or reloading of your applications software defects or errors the loading or reloading of your applications software or data or any reconfiguration of the Equipment beyond the reloading of the software as carried out and supplied upon the original Installation Date.

**12.3.** Bluebell are not responsible for problems caused by defective or incompatible operating systems.

**12.4.** Bluebell are not responsible for problems caused by defective or incompatible hardware.

**12.5.** The Supplier will use its reasonable endeavours to ensure that response times to the Customers notification of a fault are not more than: 48 working hours if the equipment has failed completely; or 72 working hours if the equipment has failed partially.

## **13. Liability**

**13.1.** Nothing in this Agreement shall exclude or restrict the liability of either party for death or personal injury resulting from its negligence.

**13.2.** If the Service/Equipment fails to operate or the Customer diverts traffic to another carrier, Bluebell will not be responsible for that carrier's charges.

**13.3.** The Services may be unavailable for occasional periods for repair, maintenance or upgrading, or interruptions in network or communications services. You agree not to hold us liable for any loss or damage caused by such occasional periods of unavailability.

**13.4.** Bluebell shall not be responsible or held liable for the operation, performance, quality, service, delivery, functionality, software bugs or hardware failures for hardware, software or online services provided.

**13.5.** Neither party shall be responsible to the other in contract, tort or otherwise for any loss of business, loss of data, contracts, anticipated savings or profits or for any other indirect or consequential loss whatsoever save that this exclusion shall not apply to the fraudulent activities of either party nor to any claw-back or other loss suffered by Bluebell pursuant to the determination by

a Services Provider that the Customer has used and/or provided services using the Equipment and/or Services which is in breach of Bluebell's acceptable usage policy.

**13.6.** Each party's liability in tort, contract or otherwise arising out of or in connection with the performance of either party's obligations under this Agreement shall be limited to £1,000,000 for any one incident or series of incidents and £2,000,000 in aggregate (excluding products completed operations).

**13.7.** Neither party shall be liable to the other for any damage or loss which may be incurred by the other party due to any cause beyond the first party's reasonable control including without limitation any act of God failure or shortage of power supplies, trade dispute, any act or omission of Government, highways, regulatory bodies, other public telecommunication operators or other competent authority, or supply of Services by Service Providers.

**13.8.** We shall not be liable for any claims not notified to us within 12 months of the cause of action arising.

## **14. Confidentiality, data protection and security**

**14.1.** You and we agree to take reasonable steps to ensure that all personal data and information of a confidential nature provided by the other party is kept confidential. Please see our privacy policy (currently posted at <https://www.wearebluebell.uk.com/privacy-policy>) for more details of how we may use your personal data.

**14.2.** Without prejudice to clause 14.1, as part of our performance of the Services, we may store and process data, information and materials ("Information") as a data processor on your behalf, which may include information of a confidential nature ("Confidential Information") and personal data (including sensitive personal data) relating to your clients, staff and other contacts ("Personal Data"). We agree: (a) unless otherwise agreed with you, or required or permitted by law, to process Confidential Information and Personal Data only for the purpose of performance of the Services; and (b) in our performance of the Services, to implement reasonable technical and organisational security measures (including any specific measures outlined in the Order Form or Quote (as applicable) or Additional Terms) to protect Confidential Information and Personal Data against unauthorised or unlawful processing and against accidental loss or destruction of, or damage to the same.

**14.3.** You acknowledge that Information may not be backed up except to the extent the Services include a backup service.

**14.4.** You agree to keep your passwords relating to the Services (if relevant) confidential; any use of the Services using your login details and/or passwords (other than by our Service administrators) will be your responsibility. We retain the right to administrative access to the Information.

**14.5.** Upon termination of this Agreement, you and we agree to co-operate with each other in good faith, at your reasonable expense, with a view to returning any Information to you. Information may be deleted from our servers and other systems after two weeks of termination of this Agreement unless alternative arrangements are made with us.

**14.6.** Following termination of this Agreement, we shall be entitled to retain such records relating to the Services and this Agreement as we may reasonably require to maintain records of the Services, to comply with our legal obligations and to defend our legal rights.

**14.7.** You acknowledge and agree that all information and services provided to you by us is not, and shall not be construed or deemed to be, legal advice in any way and that we are a technology company and do not provide any legal advice or services. Any references to data protection legislation, including without limitation the General Data Protection Regulations, is purely provided

to illustrate how our services are relevant for your organisation. We do not give any warranty, undertaking or representation that any information given herein or in connection herewith is full, complete or accurate nor does we give any warranty, undertaking or representation that any of our services will ensure that you or your organisation will comply with any legal requirement. The services to be provided by us do not constitute full compliance with all applicable legal requirements, the responsibility and liability for which remains solely with you and your organisation and is expressly hereby excluded by us, which you hereby accept and agree. You must seek your own legal advice from a suitably qualified and authorised professional legal services provider and you are not entitled to (and must not) rely on anything stated in any documentation or orally in connection with the same or our services as providing you with comprehensive advice as to any legal situation or legal compliance. You must implement your own processes and procedures to ensure your legal compliance with all applicable legal requirements.

## **15. Your Data**

Your data Bluebell is reselling services provided by third parties including but not limited to Hosting and Disaster Recovery services and as such you hereby acknowledge and consent to Bluebell sharing their data with those third-party suppliers.

## **16. Our staff**

**16.1.** During the term of the Agreement and for 12 months following its termination, you agree not to solicit for employment or engagement (by you or any third party) for services identical or similar to the Services, directly or indirectly, any of our current staff members (from time to time) or former staff members for a period of 12 months following their termination of employment, who have been involved in the provision of Services to you.

**16.2.** If you breach the requirements of clause 16.1, you agree to pay to us by way of liquidated damages a sum equal to 150% of the annual salary (or other annualised amount last payable by us) of the relevant staff member. For the avoidance of doubt, such remedy shall not prevent us seeking injunctive relief in relation to a threatened breach of clause 16.1.

## **17. Changes to Charges, Services and Terms**

**17.1.** We may make changes to the Charges, Services and/or any other provision of the Agreement upon one month's notice to you. If you do not agree to any such changes, you may terminate the Agreement in accordance with clause 3.2 above, and the relevant Charges, Services and/or provisions shall remain unchanged prior to termination.

**17.2.** The Supplier may increase the Charges for Services in April and October of each year by the increase (if any) in the Rate of RPI announced in February of that year or price increases announced by the relevant network.



**17.3.** If we are required by law or by our service providers to change the Services or any provision of the Agreement, you agree to co-operate with us to implement such changes whilst maintaining, as far as possible, the intention of the Agreement.

**17.4.** If the Supplier deems the level of support being provided is not proportional to the relative charge pursuant to clause 8, then the Supplier will apply an appropriate increase to the annual service charge.

## **18. Mobile Services**

**18.1.** In respect of Mobile Services and unless Bluebell advise otherwise the Customer shall enter an agreement directly with the Services Provider and is responsible for all aspects (including the management) of that airtime service agreement. Bluebell shall assist the Customer wherever possible in the management of the airtime service agreement.

**18.2.** During the Term Bluebell may ask for a deposit as security for payment in respect of additional Services to be provided. The Subscriber may request the return of any deposit at the expiry of the Minimum Term as stated in the Agreement, but the decision to return any monies prior to termination of the Agreement is at the discretion of Bluebell.

**18.3.** If Bluebell agrees to reimburse to the Customer charges for specified mobile numbers in respect of the Customer's transferring Service Provider in respect of such mobile numbers reimbursement must unless otherwise agreed in writing (i) be claimed by the Customer not earlier than four months from the date of transfer and (ii) be only claimed in respect of such mobile numbers as remain live and have not had a notice of termination of agreement served at the date of the claim.

**18.4.** Bluebell will be paid commission (initially and on an ongoing basis) by the Service Provider for introducing the Customer and other customers to it. Such commission may be clawed back in certain circumstances due to the act or omission of the Customer, including if the airtime service agreement is terminated or in respect of gateway or unauthorised use by the Customer. The Customer shall indemnify Bluebell against any such clawback and immediately on demand pay to Bluebell an amount equivalent to that clawed-back.

**18.5.** Where it is agreed that Bluebell shall pay to the Customer a cash/termination incentive or subsidy for entering an airtime services agreement, any such amounts must be invoiced by the Customer in three equal amounts such invoices to be dated and delivered at the end of months 6, 12 and 18 of the airtime services agreement. Payment shall only be due to the Customer where the airtime services agreement has not been terminated before the end of the Minimum Term of the airtime service agreement. The Customer shall produce to Bluebell such evidence as Bluebell may reasonably require as to the continuation in force of the airtime service agreement. Payment shall only be due to the Customer where the airtime services agreement has not been terminated before the end of the Minimum Term of the airtime service agreement. The Customer shall produce to Bluebell such evidence as Bluebell may reasonably require as to the continuation in force of the airtime service agreement.

**18.6.** Any cash/termination incentives or subsidies due under this clause 18.5 that have not been claimed by the Customer within 14 days from the due date, (month 6,12,18) of the airtime service agreement become null and void.

**18.7.** Any Equipment supplied in connection with Mobile Services shall be supplied subject to these terms and conditions. Bluebell shall endeavour to supply the Equipment as soon as practicable and reserves the right to alter specifications or designs at any time to meet such delivery target.

**18.8.** All such Equipment will be supplied with the manufacturer's guarantee, unless otherwise agreed in writing. The Customer hereby acknowledges that the manufacturer's guarantee is only valid if the Customer complies with the terms and conditions of manufacturer's guarantee.

**18.9.** Bluebell will increase the monthly subscription charges for the Mobile Network Services in April of each year following the Commencement Date by the increase (if any) in the Rate of RPI. If the Subscriber fails to pay any part of the aforesaid charges in accordance with these Terms and Conditions, Bluebell reserves the right to charge interest at the rate of 4%.

**18.10.** Any products or services which are terminated in connection with Mobile Services, will be subject to an immediate cease charge of £80.

## **19. General**

**19.1.** Bluebell reserves the right to change the provider of the Service/Equipment at any time; further Bluebell reserves the right to change these terms and conditions at its sole discretion by giving the Customer not less than 14 days' notice (usually on the front page of the monthly bill and/or on its website at and continued use of the Service/Equipment thereafter will be deemed acceptance of such changes.

**19.2.** Nothing in the Agreement creates or shall be deemed to create a partnership or the relationship of employer and employee between you and us (or any our staff).

**19.3.** A notice required or permitted to be given by either party to the other under this Agreement shall be in writing addressed to that other party at its principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice and, save in respect of a notice pursuant to clause 4.1, shall be deemed served on the second after the same has been posted.

**19.4.** If any provision of this Agreement is held by a court or other competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of this Agreement and the remainder of the provision in question shall not be affected.

**19.5.** The Customer shall not assign, sub-license, delegate or otherwise deal with all or any of its rights and obligations under this Agreement without Bluebell's prior written consent, such consent not to be unreasonably withheld. Nothing in this Agreement shall be deemed to grant to the Customer a licence to use any software or other intellectual property right (which shall include the Bluebell trade marks) other than strictly in accordance with the terms of this Agreement. For the avoidance of doubt, the Customer shall not be entitled to sub-license any such software or other intellectual property right.

**19.6.** If the Supplier provides Non-Geographic number services to the Customer providing inbound call revenues, the Supplier shall withdraw all inbound revenues payable to the Customer upon

Termination of this Agreement. The Supplier may in turn, levy a standard monthly rental for the Non-Geographic Number concerned.

**19.7.** These terms and conditions constitute the entire Agreement between the parties and supersede any previous Agreement or understanding and, subject to clause 19.1 and 5.2, may not be varied except in writing and signed by Bluebell or varied orally and then confirmed in writing by Bluebell. All other terms, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law. In entering this Agreement, the Customer acknowledges that it does not rely on any representations which are not confirmed in the terms of this Agreement, but nothing in this Agreement affects the liability of either party for fraudulent misrepresentation.

**19.8.** No provision of the Agreement is intended to be enforceable by any person who is not a party to it.

**19.9.** No failure or delay by either party in exercising any right or remedy under the Agreement shall be construed as a waiver by that party of such right or remedy and no partial exercise of any such right or remedy shall restrict the further exercise of that right or remedy.

**19.10.** These terms, the Order Form or Quote (as applicable) and the Additional Terms constitute the entire agreement between you and us with respect to the Services and supersede all prior discussions and negotiations relating to the same (including any proposals, quotations and purchase orders).

**19.11.** Subject to clause 9, no amendments shall be valid unless in writing and signed by both parties.

**19.12.** The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

**19.13.** The laws of England shall govern this Agreement, and the Customer agrees to submit to the exclusive jurisdiction of the English Court.



# PRICE LIST

Standard published user charges

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## BROADBAND PRODUCTS

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|              |        |
|--------------|--------|
| WLR/PSTN     | £24.95 |
| ADSL         | £45    |
| SOGEA 80:20  | £55    |
| FTTP 80:20   | £85    |
| FTTP 160:30  | £95    |
| FTTP 220:30  | £105   |
| FTTP 330:50  | £115   |
| FTTP 550:75  | £125   |
| FTTP 1GB:115 | £135   |

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## LICENCES & SOFT CLIENTS

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|--------------------|--------|
| HORIZON LICENCE    | £19.99 |
| XELION LICENCE     | £19.99 |
| SOFT CLIENT MOBILE | £6.95  |
| SOFT CLIENT PC     | £6.95  |

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ALL PRICING LISTED IS SUBJECT TO VAT

