



## TERMS AND CONDITIONS OF SERVICE

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Our purpose: to provide our customers with broadband services and products under terms which meet or exceed our customers' expectations.

November 2020

The Company may make additions to or modifications of any provision of this Agreement following 30 days-notice of the same to the Customer (except price changes which require 6 months' notice, subject to clause 11.2). The Company's website at [www.hampshirebroadband.co.uk](http://www.hampshirebroadband.co.uk) may be consulted at any time for the current version.

### Parties

Hampshire Broadband Ltd (trading as Hampshire Community Broadband) is a limited company incorporated in England under company registration number 10669355 whose registered office is at Poveys Barns, Stoney Heath, Tadley, England, RG26 5SN, herein referred to as HCB, **the Company** or we/us; and

**The Customer** being the customer as defined by the customer details completed on the Service Order Form or subsequent renewal or new contracts, herein referred to as the Customer, they or you. You are either a resident or a business intending to use our services wholly or mainly for pleasure or business purposes and not as a reseller.

## 1: Definitions and Interpretation

**Agreement** means the terms and conditions set out in this document, together with all the details set out in any contract document the Company may ask the Customer to sign online or in person including but not limited the Service Order Form.

**Confidential Information** is all information identified as such by the disclosing party in writing together with all such other information which relates to the business affairs, finance, products, data, software programs, specifications, documentation, software listings, source or object code, developments, pricing terms, trade secrets, know how, personnel, customers and suppliers of the other party, together with all information which may reasonably be regarded as the confidential information of the disclosing party.

**E-billing** means an online or email process for sending out or accessing invoices and charges by the Customer for the Services.

**Fixed Term** means a period of 12 months or such term as agreed by the Parties commencing from the 1<sup>st</sup> day of a month. At the end of the Fixed Term, unless otherwise agreed by the Parties in writing, the Agreement will automatically continue subject to the Rolling Term at the then prevailing monthly payments.

**Gigabit Broadband Voucher** means a voucher issued under the rules of the government's Gigabit Broadband Voucher Scheme, and any successor scheme, which may be used for the benefit of an eligible Customer to partially offset his/her/their installation costs.

**Initial Term** means a period of 12 months unless otherwise stated on the Service Order Form. The Initial Term starts from the 1<sup>st</sup> day of the month following the activation of the service post installation (as determined by the Gigabit Broadband Voucher Scheme). At the end of the Initial Term, unless otherwise agreed by the Parties in writing, the Agreement will automatically continue subject to the Rolling Term.

**Intellectual Property Rights** means any patents, trademarks, service marks, design rights (whether registerable or otherwise), applications for any of the foregoing copyright, database rights, know-how, trade or business names and other similar rights or obligations, in any country including, but not limited to, the UK.

**Payment Terms** means the Customer may pay for the selected service by one of two means; either by direct debit in accordance with the Company's prevailing collection agreements, or by an annual payment made in-advance direct to the Company or as may be agreed by the Parties. Payments become due fourteen (14) days after invoicing.

**Products and Service(s)** means all equipment, software or services which are detailed on the Service Order Form and/or which are supplied by us to you under this Agreement including any new, extra or substitute Products or Services which the Company agrees to supply you at a later date. All equipment required to deliver the Service to the router, inclusive of the router, will remain in the ownership of the Company. The Customer should take reasonable care of the equipment and use it in accordance with any instructions, safety and security procedures applicable to the equipment. We recommend the equipment be insured via your household contents policy. The Customer must not remove or damage any equipment. We can supply the Customer with suitable replacement equipment 'at cost'.

**Product Terms** means any additional terms and conditions that apply to products and services and are referred to on the Service Order.

**Rolling Term** means a six-month rolling term, which continues until either party serves six months' notice to terminate the Agreement (see section 7 herein) or as agreed by the Parties.

**Service Order** means the completed **Service Order Form** signed or completed online or in writing by the Customer and submitted to the Company identifying the services ordered by the Customer and their costs plus the various terms and conditions on which such services are delivered. The underlying services and their costs as identified in the Service Order Form will continue under each or any of; the Initial Term, the Fixed Term or the Rolling Term unless varied in writing by the Company.

**Terms and Conditions** means these Terms and Conditions of Service governing the Agreement.

**Unlimited** in the context of our Internet packages means HCB does not apply any monthly data limits but Customers' usage remains subject to HCB's Acceptable Use Policy.

#### **Meanings:**

- 1.1 Words in the singular shall include the plural and vice versa and words importing gender include any other gender.
- 1.2 Unless otherwise expressly provided, any reference to any legislation shall be deemed to include any amendment, replacement or re-enactment thereof for the time being in force and to include any delegated legislation, orders, notices, directions, consents, provisions made thereunder and any condition attaching thereto.
- 1.3 References to writing shall include any modes of reproducing words in a legible and non-transitory form.
- 1.4 The headings of paragraphs are for ease of reference and shall not affect the construction of this Contract.
- 1.5 Unless stated to the contrary, in the event of a conflict between the Terms and Conditions and any Product Terms relating to products and services to be provided by the Company, then the specific Product Terms shall prevail.

## 2: Service Orders

- 2.1 The Customer shall be bound by all Service Orders signed or acknowledged on the Customer's behalf and the Company will only supply the Products and Services on the Company's acceptance of the Service Order and following receipt of payment of any charges detailed therein.
- 2.2 The Company reserves the right to charge for any omission or additional cost arising from the provision of inaccurate or insufficient information by the Customer and to revise prices to take into account increases in any costs of providing the Products which occurs between the date of quotation and delivery.
- 2.3 All orders are accepted subject to the availability of Products, the ability of the Company to provide Services in the local area and to these Terms and Conditions. No terms, conditions or limitations put forward by the Customer shall be binding on the Company.
- 2.4 The Customer accepts that these Terms and Conditions together with any Product Terms and any specific details stated on an accepted order constitute the entire understanding between the parties and supersede any prior promise, representation, undertaking or understanding of any kind.

## 3: Company Obligations

- 3.1 The Company shall supply the Products and Services as detailed in the Service Order in accordance with these Terms and Conditions and any Product Terms.
- 3.2 The Company will configure and install items to the specification provided to the Customer in accordance with the rates detailed on the Service Order.
- 3.3 The Company will use reasonable care and skill in performing such installation/configuration and will perform such Services within a reasonable time.
- 3.4 In the event the Customer changes the specification for such installation/configuration, the Company reserves the right to require payment for implementing such changes at rates notified to the Customer from time to time.
- 3.5 Delivery will be to the address specified on the Service Order. Times quoted by the Company are estimates only and any delay in meeting delivery dates shall not give rise to a right to cancel the order or to claim damages. Any request by the Customer for the Company to delay or split delivery may result in additional costs incurred by the Company and such costs shall be notified to, invoiced to and be payable by the Customer.
- 3.6 In supplying the Services the Company will use its reasonable skill and care but the Company is not able to guarantee fault-free performance. Due to factors outside the Company's control such as access to third party content and services and shared use of networks your internet access availability and speed may vary from time to time. In addition, the speed and limitations of your equipment may affect the transmission speed that we can provide you. We cannot and do not provide a fully guaranteed end-to-end Service to be available at all times.
- 3.7 The Company will endeavour to carry out necessary maintenance and support work outside of UK business hours ('Planned Outages'). The Company shall also endeavour to notify the Customer of any Planned Outages at least five days prior to such work being carried out, although the Customer accepts that, due to the nature of the Services, this may not always be possible.

## 4: Customer Obligations

- 4.1 Customer agrees to abide by the Company's Acceptable Use Policy as may be amended from time to time.
- 4.2 The Customer agrees to only use the Company's network for lawful purposes. Any material transmitted through the Company's network, or use of any part of it, in violation of any UK law or regulation is prohibited.
- 4.3 The Customer hereby consents to our monitoring of the Services (whether authorised by statute or other legislation or otherwise) to ensure lawful use of the Services.
- 4.4 When the Customer is issued with a password to access the Products and Services, they shall take all reasonable steps to keep such password private and confidential and ensure that it does not become known to other persons. If the password becomes known to any other person, the Customer will immediately inform the Company and the password will immediately be changed. The Company may change the Customer's password from time to time at their discretion without prior notice.
- 4.5 Where the Customer has been deemed eligible for a Gigabit Broadband Voucher the Customer will respond in a timely fashion to all email requests made by DCMS (department for Digital, Culture, Media &

Sports) acting as the administrator of the Gigabit Broadband Voucher Scheme. The Customer acknowledges that all payments made in respect of business Vouchers are exclusive of VAT, and the Customer shall be solely responsible for the payment of the VAT element. Conversely, as residential Vouchers are inclusive of VAT, the residential Customer is not responsible for the payment of VAT.

- 4.6 The Customer agrees to be liable for any charges on the Customer's account regardless of whether the Customer or anybody else (with or without the Customer's permission) runs up those charges (unless the charges result from fraud by someone else over which the Customer could have had no control). For example, if someone who has access to the Customer's home uses the Services, the Company would consider them to be within the Customer's control and the Customer would be liable for those charges. If the Customer becomes aware of any fraud by someone else, they must tell the Company as quickly as they can. Under no circumstances should the Customer give the PIN numbers and passwords to anybody else (unless the Customer is happy for them to use the Customer's account and add charges on to the Customer's account).
- 4.7 The Customer may use the Company's network to access other Internet connected networks world-wide and agrees to conform to any published and future protocols and standards. In the event that communications by the Customer do not conform to these standards, or if the Customer makes profligate use of the Company network to the detriment of the Company or any other of the Company's customers, the Company reserves the right to restrict passage of the Customer's communications until they give a suitable undertaking as to use.
- 4.8 HCB is not responsible or liable for any third-party charges from other organisations (such as telephone or content providers) which may be incurred by the Customer while using the Services. The Customer shall indemnify the Company for any claims or charges made against HCB in respect of any such costs incurred.
- 4.9 Any Internet address allocated by the Company to the Customer will at all times belong to the Company and the Customer may not sell or agree to transfer the address to any person. The Customer will have a non-transferable licence to use such Internet address whilst the Customer receives Internet access from the Company. In the event this Agreement is terminated, for whatever reason, the Customer's licence to use the Internet address shall automatically terminate and thereafter the Customer shall not use the Internet address.
- 4.10 The Customer undertakes not to resell, assign, share or in any other way transfer the Services, without HCB's prior written consent.
- 4.11 The Customer accepts that the Company may vary the technical specifications of Products and Services from time to time for operational or regulatory reasons and such reasonable variance shall not invalidate these terms and conditions.

## 5: Using our Services

- 5.1 Due to the nature of the Internet, HCB cannot guarantee specific levels of performance, speed or access for the use of the Services and for internet access.
- 5.2 The Company reserves the right to remove by immediate notice material placed on its servers by the Customer or other users which violates this Agreement or is otherwise harmful to HCB's interests or the interests of other users of the Services.
- 5.3 The Company reserves the right to monitor and control data volume and/or types of traffic transmitted via the Services. In the event that the Customer misuses or their use does not comply with the Company's Acceptable Use Policy which can be read on the website, HCB reserves the right to reduce, suspend or terminate the Customer's access and use of the Services. During any time of reduction or suspension, the Customer will remain liable for the payment of the original level of charges.
- 5.4 The Company cannot guarantee that maximum transmission speeds can be obtained at any time or that the Service will be fault free. However, the Company will endeavour to inform the Customer of any issues and respond to Customer originated fault calls as per clause 5.5.
- 5.5 The Company cannot guarantee that the Services provided will be uninterrupted or error free. If a fault occurs, the Customer should report it by phone or email using the support details provided on the website. We will call back to clarify the nature of the fault and try to rectify the fault as soon as practicably possible. In most circumstances, the issue will be resolved over the phone and/ or tests will be run to check the network up to the Customer's router. If the fault cannot be resolved remotely, the Company will arrange for an engineer to inspect and rectify the fault as soon as practicably possible. All support activity is closely monitored.
- 5.6 If the Customer is using the Services in contravention of the Company's Acceptable Use Policy, the Company is entitled to reduce, suspend and/or terminate any or all of the Services without giving the Customer notice.

- 5.7 The Customer is responsible for maintaining in good order any Products. The Customer must make good any damage to Products (including damage or cuts to HCB's network or fibre), except where such damage is caused by the negligence of HCB or its agents.
- 5.8 The Customer agrees to take responsibility for all liabilities, claims and losses which are in any way connected with misusing the Services supplied under this Agreement, and to fully indemnify the Company if the Company should suffer any costs or losses of this kind.
- 5.9 The Company may email service announcements to the Customer as part of the Services.

## 6: Customer Equipment

- 6.1 The Company will not be liable in any way for any loss or damage which is caused to the Customer's own equipment arising as a result of its use with the Services.

## 7: Term and Termination

- 7.1 This Agreement shall be deemed to have taken effect from signature of the Service Order Form and shall continue for the Initial Term or Fixed Term and thereafter followed by the Rolling Term on the Terms and Conditions herein until terminated by either Party giving six-months' notice in writing unless stated in the Product Terms. The six-month notice period will commence on the day the counter Party receives the written notice and mature six months thereafter. In the interim, both Parties are to perform their obligations and responsibilities under this Agreement in full.
- 7.2 If you are moving address within HCB's coverage area, upon request the Company will attempt to relocate your equipment and allow you to receive your subscribed service at your new address (subject to you settling any 'at cost' costs to connect your new property). If you are not moving within HCB's coverage area or it is not possible to receive a service, for whatever reason, you are required to serve the written termination notice settling your financial obligations in full unless the in-coming occupier to your existing property signs a new Service Order Form for an HCB service, in which case the Company will waive the remainder of your obligations.
- 7.3 If the Company's Services consistently fall below the standards set out in the Agreement and the breach cannot be remedied within 4 weeks of us being notified in writing of the same, then you may terminate the Agreement by giving 10 days' notice in writing and you will not be subject to clause 7.1. Likewise, if you commit a material breach of this Agreement and the breach is not remedied within 4 weeks of us notifying you in writing of the same, then we may terminate the Agreement giving 10 days' notice in writing.
- 7.4 Any termination of this Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination, which includes without limitation, the Customer's obligation to make any payment due to the Company for Products and Services supplied (including for the avoidance of doubt any charges incurred in respect of work in progress) prior to the date of termination. For the avoidance of doubt, charges shall become due and payable during any period of notice of termination and in the event that termination occurs during any Initial Term, the Customer shall pay any and all charges due until the expiry of any such Initial Term.
- 7.5 Either party may terminate this agreement forthwith if an order is made or an effective resolution passed for the liquidation, winding up, dissolution or bankruptcy (other than by way of members voluntary liquidation or pursuant to any amalgamation or reconstruction on mutually agreed terms) of either party or a receiver, administrative receiver, administrator or trustee in bankruptcy is appointed over all or any of the revenues or assets of either party.
- 7.6 The Customer has a right to cancel their Service Order under the E-Commerce Regulations and the Consumer Protection Regulations (as amended from time to time). The Customer has the right to cancel this Agreement for a period of 14 days from the date of confirmation of the Customer's order by the Company (a 'cooling-off period'). In the event of cancellation during the cooling-off period, this Agreement is treated as if it had not been made. Please be aware that the Customer will lose the Customer's right to cancel this Agreement during the cooling-off period once the Company has commenced activation of the Services, i.e. by starting the installation of Services to the Customer.

## 8: Suspending the Services

- 8.1 The Company may suspend any or all of the Services immediately without notice if:
  - 8.1.1. the Customer is in breach of any of the terms or conditions of this Agreement;

- 8.1.2. the Company or our agents need to carry out any maintenance, repairs or improvements to any part of the Services;
  - 8.1.3. the Company is obliged to do so by law or in line with these Terms and Conditions of Service;
  - 8.1.4. the Customer fails to make any payment when due;
  - 8.1.5. the Company has reason to believe that the Customer has provided the Company with false, inaccurate or misleading information either for the purpose of obtaining the Services or at any time during the provision of the Services;
  - 8.1.6. the Company believes that the Customer has or another person at the Customer's home has committed, or may be committing, any fraud against the Company or against any other person or organisation by using the Services;
  - 8.1.7. the Customer or anyone the Customer authorises to deal with us on the Customer's behalf acts in a way towards our staff or agents which the Company reasonably considers to be inappropriate; or
  - 8.1.8. the Customer is in breach of the Company's Acceptable Use Policy.
- 8.2 If the Company suspends the Services because the Customer is in breach of this Agreement or if paragraphs 8.1.4, 8.1.5, 8.1.6, 8.1.7, or 8.1.8 apply, the Company may make a charge to reflect our costs in connection with suspending and starting the Services again. In normal circumstances the Customer must pay this charge before the Customer can use the Services again. The Customer may also be liable for all charges for Services during this period of suspension.

## 9: Warranties

- 9.1 The Company warrants that the Company has the authority to license the Products and to provide the Services as set out under the terms of this Agreement.
- 9.2 The Company will always aim to provide the Customer with the best service possible, but the Company cannot guarantee that the Products and Services will be fault free. The Customer will inform the Company about any fault in the Services by phoning, emailing or writing to HCB's Customer Support Centre, who will aim to respond as promptly as possible.
- 9.3 The Company is not responsible if the Customer is not able to use the Services because the Customer's equipment (for example, any PC, modem, network interface card, printer, switch, local area network or other equipment) does not work properly, is not compatible with the system, does not conform to the relevant standard or does not meet the minimum specifications or because of faults in any third party networks over which the Company has no responsibility.
- 9.4 Where the Company is acting as a reseller in respect of any Products, the Company shall pass on to the Customer such unexpired warranties the Company receives from the manufacturer of the goods as are capable of transfer and the Company's liability shall be limited to such guarantee as the Company receives from the manufacturer.
- 9.5 Except as expressly set forth in these Terms and Conditions and any Product Terms, all warranties, terms and conditions, whether oral or written, express or implied by statute, common law, or otherwise (including but not limited to any warranties, terms and conditions of fitness for purpose, description or quality) are hereby excluded. Please note in particular, that without limiting the generality of this clause 9.5, the Company does not warrant, represent or guarantee in any way whatsoever that our Products or Services will be virus-free, worm-free, spam-free or inaccessible to malicious code or malignant third parties.
- 9.6 The Customer acknowledges that software products are by their very nature susceptible to imperfections in operation and no warranty is given in respect thereof.
- 9.7 The Customer agrees to indemnify and hold the Company harmless from any claim brought by third parties, alleging the proper use of the Services by the Customer has infringed any right of any kind applicable in the UK or by international legislation and regulation. The Customer shall defend and pay any direct costs or damages finally awarded against the Company arising from such claims. The Customer must promptly provide the Company with notice of such claims, full authority to defend, compromise or settle such claims and reasonable assistance to defend such claims at the Customer's sole expense.

## 10: Limitation of Liability and Non-availability

- 10.1 Neither party excludes or limits its liability to the other for death or personal injury caused by its negligent act or omission.

- 10.2 The Company shall not be liable in respect of any adverse effect on Services resulting from application or operation of any process by the Customer unless agreed to by the Company in writing.
- 10.3 Subject to clause 10.1 our maximum aggregate liability for all claims made by the Customer in relation to any Products or Services provided under this Agreement shall not exceed the charges paid in the previous 12 months for that Product and Service against which the claim is made however that claim may arise including, without limitation, negligent error or omission, breach of contract, tort, misrepresentation (excluding fraudulent misrepresentation) or breach of statutory duty.
- 10.4 The Company accepts no liability for failure to deliver the Products or perform the Services that arise from the acts or omissions of any third party including but not limited to the Company's suppliers or third-party telecommunications providers or for any failures or faults of their equipment.
- 10.5 The Company accepts no liability for cancellation of the Service or cancellation of the installation of Services due to insufficient uptake by enough Customers in the local area. In this case, the Company's liability will be limited to returning any pre-payment made by Customers.
- 10.6 The Company will use all reasonable endeavours to provide a prompt and continuing Service. The Company will not be liable for any loss or damage to data or for any loss or damages resulting from delays, non-deliveries, missed deliveries, or service interruptions or events beyond the control of the Company.
- 10.7 The Customer acknowledges that the Company is not the manufacturer of any Products supplied hereunder. Save as expressly provided for in this Agreement, the Company gives no warranties in relation to the Products and shall not be liable to the Customer whether in damages or otherwise for any damage to or defect or failure in the Products. The Customer must rely solely on any warranties given to the Customer by the manufacturer of the Products or as passed to the Customer in accordance with Clause 9.4.
- 10.8 Unless the Company expressly agrees otherwise under a separate contract the Company is not responsible for the security of the Customer's networks and/or systems and shall not be liable for unauthorised access thereto.
- 10.9 The Customer acknowledges that the Company is unable to exercise control over the content of any information passing over the Company connection and or the Company network. The Customer further acknowledges that the Company hereby excludes all liability in respect of any transmission or reception of information of whatever nature.
- 10.10 The Company shall not be liable for any failure of the Products and Services which results from any interference by the Customer or any third party which is not in accordance with the standard use of the Products or Services or following our written instructions. The Customer agrees to tell us immediately about any loss or damage to any part of the Products and Services on the Customer's property or any cable or routers provided to allow the Customer to use the Products and Services and that the Customer is responsible for any loss or damage to a router or cable regardless of how it happens. The Company will charge the Customer for the replacement of or repairs to these routers or cables.
- 10.11 Subject to Clause 10.1, the Company does not accept liability under or in relation to any Service nor its subject matter (whether such liability arises due to negligence, breach of contract, misrepresentation, or for any other reason excluding fraudulent misrepresentation) for any loss of profits, loss of business, loss of anticipated savings, loss of sales or turnover, loss of, or damage to reputation, loss of contract, loss of customers, nor loss of use of any software or data, loss of use of any computer or other equipment or plant, wasted management or other staff time, losses or liabilities under or in relation to any other contract, nor any indirect, consequential loss or damage of any kind. For the purposes of this clause, the term 'loss' includes a partial loss or reduction in value as well as a complete or total loss.
- 10.12 Both parties expressly agree that should any limitation of liability clause or provision contained in these Terms and Conditions be held to be invalid under any applicable legislation (primary or otherwise) or rule of law by reason of some part of that clause or provision it shall, to that extent, be deemed omitted, but if the Company thereby becomes liable for loss or damage which would otherwise have been excluded or limited, as the case may be, such liability shall be subject to the other applicable limitations and provisions set out herein.

## 11: Fees and Payment Terms

- 11.1 The charges for Products and Services will be stated on the relevant Service Order Form. Once your Service has been activated under the Gigabit Broadband Voucher Scheme, or different arrangements, we will send you the Company's E-Billing procedures for monthly payments or an invoice should you elect to settle by a single up-front payment for the 12-months service.
- 11.2 The Company can increase prices of monthly and annually billed Services at its discretion excluding Services delivered under the Fixed Term contract where an up-front 12-month payment has been received. Notification of price rises shall be in writing giving a minimum six months' advance notice. Customers who

do not wish to maintain their contract are entitled to serve notice of Termination in the usual way. Notification of price reductions, discounts or special offers can be made at HCB's discretion at any time.

- 11.3 The Company reserves the right to charge the Customer for the Products and/or Service notwithstanding the Products and/or Service not being available due to either the Customer failing to comply with their obligations under this contract or the Company's reasonable instructions from time to time or a failure of the Customer's systems.
- 11.4 Payment of all charges under any Service Order Form shall be made in full and free from any deductions, rights of set-off, counterclaims or liens.
- 11.5 Should the Company order any third-party equipment or Services on the Customer's behalf the Customer will be responsible for and shall indemnify the Company against all such costs incurred including, without limitation, any costs incurred due to a cancellation by the Customer.
- 11.6 Without prejudice to the Company's other rights if the Customer fails to pay any amount on the due date:
  - 11.6.1. the Company shall have the right to cancel any contract made with the Customer and/or to suspend deliveries;
  - 11.6.2. the Company reserves the right to charge the Customer penalties and interest in accordance with the Late Payment of Commercial Debts Interest Act 1998 as amended and supplemented by the Late Payment of Commercial Debts Regulations 2002;
  - 11.6.3. the Customer shall indemnify the Company and keep it indemnified in respect of all costs (including legal fees) reasonably incurred in attempting to recover such overdue amounts;
  - 11.6.4. the whole of the balance then outstanding to the Company by the Customer on any account whatsoever shall become immediately due and payable.
- 11.7 The Customer shall settle the installation charge upon receipt of the installation charge invoice issued by Fibre Options Ltd or other network partner. Payment is required by bank transfer to the bank account indicated on the invoice.
- 11.8 The Customer must provide the Company with a valid and current email account to use to enable the Company to provide E-billing. The accuracy of that email address is entirely the Customer's responsibility. The Company reserves the right to modify the E-billing service at its discretion.
- 11.9 The Customer will receive a detailed email explaining how the E-billing works which will require the Customer to either complete a Direct Debit mandate supplied by the HCB's collection agent or submit payment in-advance for 12-months usage, bank details to be supplied by HCB.
- 11.10 The Company cannot guarantee uninterrupted and/or reliable access to the E-billing service and makes no guarantees whatsoever as to its operation, availability and functionality, or that it will be free of error or disruption or otherwise.
- 11.11 The Customer agrees to use the E-billing service responsibly.

## 12: Title and Licensing

- 12.1 The Customer acknowledges that the Company (or, where applicable, the third-party owner) shall own and shall retain title to all Intellectual Property to all Products and Services (if any) supplied pursuant to or created as a result of any Service Order Form and any copies thereof.
- 12.2 At the request and expense of the Company, the Customer shall do all such things and sign all documents or instruments reasonably necessary to enable us to obtain, defend and enforce the Company's rights in any software and Products.

## 13: Wayleaves

- 13.1 The Company provides Services over apparatus placed in the public highway, over private land and in the Customer's property. The Customer hereby grants a permanent Wayleave to the Company to permit the Company to place apparatus on the Customer's property to deliver the Service to the Customer and to keep it there.
- 13.2 The Customer shall notify the Company of the location of any buried services of which he is aware so that HCB can avoid any potential damage whilst installing its network.
- 13.3 HCB agrees to take every care to minimise any inconvenience during the installation and also to make good any damage done.



13.4 The equipment to deliver the Service to the Customer including the buried fibre cabling remains in the ownership of the Company. The Customer agrees to let HCB have future access to the land for the purpose of maintaining or repairing the network should this be necessary, and HCB will give a minimum of 24 hours' notice of its intention to take access except in case of emergency. HCB will endeavour to arrange for any such access to be at times agreeable to the Customer and to minimise any disruption and damage caused by the repair. If the need for such a repair was caused by the Customer, the costs associated with the repair are to be settled by the Customer upon presentation of an invoice

## 14: Privacy/Data Protection

- 14.1 Customer must give us promptly and accurately all the information which may be needed so that the Company can perform our respective obligations under this Agreement. The Customer must also tell us immediately if any of the Customer's details change.
- 14.2 By having the Services activated in the Customer's property and/or by using them the Customer gives us the Customer's consent to use the Customer's personal information together with other information for the purposes of providing the Customer with our Services, service information and updates, administration, credit scoring, customer services, training, tracking use of our Services (including processing usage, billing, viewing and interactive data), profiling the Customer's usage and purchasing preferences for so long as the Customer is a customer and for as long as is necessary for these specified purposes after the Customer terminates the Services. The Company may occasionally use third parties to process the Customer's personal information in the ways outlined above. These third parties are permitted to use the data only in accordance with our instructions and in compliance with all applicable laws and regulations.
- 14.3 The Company's Privacy Policy is located on The Company's website at [www.hampshirebroadband.co.uk](http://www.hampshirebroadband.co.uk) and should be consulted at any time for the current version. The Policy sets out how the Company collects, uses, stores and processes any information that the Customer provides to use HCB's Services. General Data Protection Regulation is evolving so we will endeavour to keep the Policy abreast of such changes. For the purposes of existing General Data Protection Regulation, the Company is 'the data controller'.

## 15: Confidentiality

- 15.1 Either party may have access to or become aware of the other party's Confidential Information. The parties agree that any Confidential Information obtained by the other, its employees, agents or sub-contractors remains the property of the other and neither party shall disclose or use the Confidential Information of the other except to the extent necessary for the performance of these Terms and Conditions.
- 15.2 The provisions of clause 16.1 shall not apply to Confidential Information that:
- 15.2.1 is or later becomes generally available to the public, otherwise than through any act or omission on the part of the Customer or the Company;
  - 15.2.2 the Customer or the Company can show was in their possession at the time of disclosure and which was not acquired directly or indirectly from the Customer or the Company under obligations of confidentiality;
  - 15.2.3 is information rightly acquired from others who did not so far as the acquirer was aware obtain it under pledge of secrecy from the Customer or the Company;
  - 15.2.4 is information required to be disclosed or retained by law or relevant regulatory authority.

## 16: General

- 16.1 Neither party shall be liable for any delay in performing its obligations as a result of any circumstances beyond its reasonable control – 'Force Majeure'; such as but without limitation to lightning, flood, exceptionally severe weather, fire, act of God, explosion, war, terrorism, civil disorder, strike industrial dispute (whether or not involving employees of either party), malicious damage (including virus/hacking attacks or other intentional malicious acts of third parties), compliance with a law or governmental order, rule, regulation direction, accident, third party interference, actions or omissions of third party telecommunication providers.
- 16.2 The Customer hereby warrants to the Company that the Customer has not been induced to enter into these Terms and Conditions by any prior representations whether oral or in writing, except as specifically contained in these Terms and Conditions and the Customer hereby waives any claim for breach of any such representations which are not so specifically mentioned.

- 16.3 No forbearance, delay or indulgence by either party in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that party nor shall any waiver of its rights operate as a waiver of any subsequent breach.
- 16.4 The Company may assign or sub-license this Agreement to any associated company or body but subject always that this shall not affect the provision of Services to the Customer.
- 16.5 This Agreement together with the Service Order Form and any relevant Product Terms supersedes all prior agreements, arrangements and understandings between the parties and constitutes the entire agreement between the parties relating to the subject matter hereof. The Company may make additions to or modifications of any provision of this Agreement following 30 days-notice of the same to the Customer (subject to clause 11.2 in respect of pricing changes).
- 16.6 If any provision of this Agreement is invalid or unenforceable at law, then such provision shall be severed and the remainder of these Terms and Conditions shall continue in full force and effect.
- 16.7 All notices that are required to be given hereunder shall be in writing and shall be sent to the address of the recipient set out in this Agreement. Any such notice may be delivered by email or personally or by first class pre-paid letter or facsimile transmission and shall be deemed to have been served if by hand when delivered, if by first class post two business days after posting and if by email or facsimile transmission when dispatched.
- 16.8 All disputes between the parties arising out of or relating to this Agreement or any Service Order Form or the breach, termination or validity thereof shall be referred by either party in writing, first to each party's authorised representative. The authorised representatives shall meet and attempt to resolve the dispute within a period of thirty (30) Business Days of the date of the referral of the dispute to them.
- 16.9 This Agreement shall be governed by and construed in accordance with the laws of England. Any dispute that may arise between the parties shall be determined by the English Courts and the parties hereby submit to the exclusive jurisdiction of the English Courts.