

# GENERAL TERMS & CONDITIONS

## 1. Definitions

1. “Additional Services” means any additional services agreed to be supplied by Atema to the Customer as listed overleaf.
2. “Agreement” means these general terms and conditions, the terms and conditions which apply to the supply of the Services as set out, and any amendments to the same.
3. “Airtime” means wireless airtime and network capacity procured from the Network Operator.
4. “Charges” means the charges for the Services payable to Atema by the Customer.
5. “Commencement Date” means the date of signature of this Agreement by the Customer or, if earlier, the date upon which Services are first provided to the Customer.
6. “Customer” means the customer of Atema whose details and registered office appear overleaf.
7. “Disconnection Notice” means a notice from the Customer to Atema to disconnect all or the relevant part of the Services which should be in the form made available to the Customer by Atema.
8. “End-User Licensed Software” means any software, the licence terms for which are governed by a separate agreement with the licensor of such software typically by means of a “click-wrap” or “shrink-wrap” licence agreement.
9. “Equipment” means the telecommunications or routing equipment for connection to the Services whether supplied by Atema or not.
10. “Equipment Termination Fee” has the meaning set out in clause 6.4.
11. “Group” means Atema Ltd.
12. “Hardware Account” means an account provided by Atema for the purchase of Equipment by the Customer during a Minimum Period as specified in the Sales Order.
13. “Internet” means the global data network comprising interconnected networks using the TCP/IP protocol suite.
14. “Rental Charges” means the non-usage dependent part of the Charges.
15. “Minimum Period” has the meaning set out in the relevant terms and conditions.
16. “Network Operator” means the network operator who operates the network or networks to which devices are connected.
17. “Numbers” means the telephone numbers allocated to Atema by the Network Operator and in turn allocated by Atema to the Customer and used by the Customer to access the Services.
18. “Price List” means the descriptions of and the list of prices and tariffs which are charged to customers for the Services.
19. “RPI” means the all-items percentage increase figure of the Index of Retail Prices published by the Office of National Statistics or any official index replacing the same.

20. "Sales Order" means a request by the Customer for Services or a change or variation in respect of the same (but not a disconnection) which should be submitted using the Sales Order form as made available to the Customer by Atema and/or that converted into a Sales Order through the Atema Helpdesk.
21. "Service Period" means the period commencing on the Commencement Date during which period the Services will be provided by Atema to the Customer pursuant to this Agreement.
22. "Services" means the provision by Atema to the Customer of Airtime, Equipment, Additional Services, and/or the Value-Added Services or any other services which Atema may from time to time provide.
23. "SIM Card" means the subscriber identity module supplied by the Network Operator (and which shall at all times remain the property of the Network Operator), which is allocated to the Customer by Atema, and which contains the Number.
24. "Software" means any software (excluding End-User Licensed Software) supplied to the Customer by Atema, the Network Operator or any other supplier under the terms of or in respect of this Agreement which shall be on the terms of a non-exclusive, non-transferable licence and which software is to be used for the sole purpose of operating the Equipment in order to be able to obtain the Services.
25. "Termination Notice" means the notice to terminate this Agreement which should be submitted using the Termination Notice form made available to the Customer by Atema.
26. "Termination Fee" means the fee which may be payable on termination of this Agreement as specified in this Agreement or as reasonably specified by Atema from time to time (including, without limitation, any Equipment Termination Fee which may be payable).
27. "Atema" means Atema Limited (registration number 10827258) whose registered office address is at 1 West End, Gastons Road, Malmesbury, Wiltshire, SN16 0BD.
28. "Atema Helpdesk" means the helpdesk for customers operated by Atema Limited for and on behalf of Atema.
29. "Atema System" means the system and software used by Atema for the time being to record details of the Customer, inventory, call and billing data and to provide the Services.
30. "Atema's Website" means the website for customers operated by Atema Limited for and on behalf of Atema.
31. "Value Added Services" means the value-added Services such as installation, insurance and repair etc. as may be made available from time to time by Atema to the Customer.
32. "Warranty Period" means the period of the manufacturer's warranty in respect of any Equipment supplied by Atema to the Customer under this Agreement.

## 2. Providing the Services

1. This Agreement will commence on acceptance by Atema of any Sales Order.

- i. Atema may, at times, be required or choose to decline a sales order.
  2. The Customer hereby confirms that: -
    - i. in the case of an individual he or she is at least 18 years;
    - ii. the director or person who agreed or completed the Sales Order forming part of this Agreement has the necessary authority to act on behalf of the Customer and bind the Customer to this Agreement;
    - iii. all details of the Customer which were inserted/provided in respect of the Sales Order by that director or person acting on the Customer's behalf are accurate and up to date; and
    - iv. by completion of the Sales Order, the Customer agrees to be bound by the terms of this Agreement.
  3. Atema will use its reasonable endeavours to provide the Services by the date(s) agreed with the Customer and make the Services available for the Service Period, subject to the terms of this Agreement.
3. Orders
  1. At any time after the Commencement Date the Customer may by means of a Sales Order request a change or a variation to
    - i. the Airtime and/or the Additional Services, and/or
    - ii. the Equipment.
    - iii. In respect of any changes or variations specified in (ii) above, Atema reserves the right to charge associated costs at its discretion including, without limitation, any cancellation costs charged by third party suppliers of such equipment. In placing a Sales Order, the Customer shall make use of any agreement number allocated to this Agreement by Atema.
  2. All Sales Orders shall be subject only to the terms of this Agreement and any addendums. Any alternative terms appearing on or referred to in any other communication (whether oral, in writing or by electronic means) by the Customer for the purpose of placing Sales Orders shall be ineffective.
  3. Atema may vary these terms and conditions at any time by posting the changes on Atema's Website and, where reasonably practicable, giving the Customer prior notice. Atema will only do this if Atema has a valid reason, for example to reflect changing arrangements with any third-party operator or changing legal, regulatory or business requirements. The Customer hereby agrees that, if the Customer decides to use the Services after any variation(s) to these terms and conditions that have been posted on Atema's Website, the Customer will be bound by the Agreement as varied.
4. Payment
  1. Unless Atema shall otherwise agree, the Customer shall pay all Charges and any other sums due from the Customer to Atema by within 14 days of the date of Atema's invoice for such charges by Direct Debit.



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2. All Charges are subject to Value Added Tax and any other relevant tax, duty or levy, which shall be payable by the Customer in addition at the prevailing rate from time to time as applicable.
3. In the event that any Charges and any other sums are not paid by their due date:
  - i. Interest may be levied at the rate of 2% above the base lending rate of HSBC Bank from time to time in force, calculated from the date payment was due until the date of actual payment, together with all costs incurred in the collection of such outstanding amount; and
  - ii. Atema shall be authorised to debit the Customer's nominated bank account, or credit card, pursuant to this Agreement, with the full amount of such Charges, together with sums due under Clause 4.3.1.
4. The Customer is solely responsible for all Equipment used by the Customer and which is not owned by Atema including insurance and shall remain liable for all Charges during any period of loss, theft, damage or other inability to use the Equipment.
5. Atema will only consider billing queries regarding Charges from the Customer if made within 1 month of the date of invoice (providing Atema with sufficient detail to investigate the matter and determine whether the Customer's dispute is genuine and reasonable). If Atema determines (at Atema's sole discretion): (a) that the Customer's dispute is not genuine or reasonable, or where notification is not made before such date, the Customer must pay the invoice in full in accordance with clause 4.1 above, plus any interest charged on the full invoiced sum in accordance with clause 4.3.1 above; or (b) that the Customer's dispute is genuine and reasonable, the Customer must pay the undisputed part of the notice in accordance with clause 4.1 above and Atema will both use all reasonable endeavours to resolve the dispute as quickly as possible. If any such dispute is resolved:- (i) such that the Customer still owes Atema money, the Customer must pay all sums owed to Atema within 14 calendar days of resolution of the dispute, plus interest in accordance with clause 4.3.1 above from the date payment of the disputed invoice was due; or (ii) such that we owe the Customer money, Atema will (at its sole discretion) repay or credit on the next invoice sent to the Customer following resolution of the dispute any amount overpaid by the Customer, plus any interest paid thereon under clause 4.3.1 above. Atema will each bear its own costs in resolving any dispute under this clause 4.5.
6. If required by Atema at any time, the Customer shall pay a deposit to be used as security against any Charges due to Atema, or which may become so due, which will be returnable to the Customer only when payment has been made to Atema of all Charges due under this Agreement, or upon termination, whichever is the later. The Customer shall not be entitled to any interest on any deposit held by Atema.
7. Atema may, in its absolute discretion, provide a Hardware Account for use by the Customer. If provided, the Customer shall be entitled to offset the cost of all Equipment against the balance held by Atema in such account from time to time. No

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other charges, costs or interest may be offset against sums held in the Hardware Account. Any balance remaining on the Hardware Account will be forfeited upon the expiry of any Minimum Period. Any account or fund previously provided by Atema or any other member of the Group shall be deemed to expire on the Commencement Date. For the avoidance of doubt, Atema shall (in its absolute discretion) specify the terms on which the Hardware Account shall be operated, including, without limitation, Atema's right to determine that only a fixed or pro rata amount of the Hardware Account balance can be offset on a monthly basis against the cost of such Equipment during the Minimum Period. Such additional terms shall be specified in the Sales Order.

8. Atema may, in its absolute discretion, discount the Line Rental Charges to prices below the recommended retail price during any Minimum Period (as specified in the Sales Order). Following the expiry of such period Atema reserves the right to increase such charges to the recommended retail price until such time as the Customer terminates or renews the Agreement.

#### 5. Credit Limit

1. The Customer may be allocated a credit limit on or before the Commencement Date or at any subsequent time, which credit limit may be varied by Atema from time to time, and in the event of such variation, Atema shall be entitled to carry out such credit checks on the Customer as Atema reasonably deems necessary.

#### 6. Equipment

1. The Customer warrants that all Equipment owned by the Customer and to be used for connection to the Services shall be (i) technically compatible with the same and will not harm the Services, and (ii) will be connected to the same in accordance with all relevant instructions, standards and laws.
2. Acceptance of Equipment supplied by Atema to the Customer shall take place when the Customer takes delivery or possession of the same. Save as is otherwise set out under Part B, title to such equipment will not pass to the Customer until the date on which all invoices relating to such equipment have been paid in full and any Equipment Termination Fee which may apply has been paid and provided that no other sums are overdue to Atema from the Customer on any account whatsoever.
3. Where the Equipment is supplied by Atema and title to such equipment is passed to the Customer, Atema will use its reasonable endeavours to transfer to the Customer the benefit of any warranty or guarantee given to Atema in respect thereof. All other warranties, conditions and other terms implied by statute or common law (save for conditions as to title) are excluded from this Agreement.
4. For the purposes of this clause 6, "Equipment Termination Fee" means the fee which may be payable in the event of any early termination of this Agreement (whether prior to the expiry of the Minimum Period or other fixed period specified in the Sales Order) which occurs during the Warranty Period, and is calculated as follows: (Remaining months of Warranty Period Following early termination / Warranty Period) x SIM free price of Equipment.

## 7. Intellectual Property

1. The Customer shall not use or permit anyone else to use, the Atema name, logo or trademark without the prior written consent of Atema. The Customer also agrees not to infringe any copyright or registered or unregistered trademark belonging to any third party in respect of the use of the Services. The Customer shall indemnify Atema against any action, claim, loss, damage, proceedings, expense (including legal costs) suffered or incurred by Atema arising from any action which is directly or indirectly related to infringement of any third party's intellectual property rights.

## 8. Termination

1. This Agreement may be terminated by either party if the other party is in material breach, and the breach, if capable of remedy, has not been remedied by such party within thirty (30) days of written notice specifying the breach and requiring its remedy.
2. A Termination Notice may be given by Atema at any time if:
  - i. the Customer has persistently failed to pay monies properly due to Atema under this Agreement; or
  - ii. the Customer is otherwise materially or persistently in breach of the Agreement; or
  - iii. bankruptcy or insolvency proceedings are brought against the Customer, or if an arrangement with creditors is made by the Customer, or a receiver or administrator is appointed over any of the Customer's assets, or the Customer goes into liquidation, or there is a corresponding event under the law of any other country;
  - iv. the Services become unavailable due to the termination of any of Atema's agreements with any provider(s) of the Services or where the such provider(s) is/are not permitted by law to supply the Services;
  - v. Atema is unable to provide the Services generally or for any other reason; or
  - vi. Atema is directed by a competent authority to cease the provision of the Services.
3. A Termination Notice may be given to Atema at any time by the Customer if Atema increases its prices or tariffs in respect of the Services from the Charges set out overleaf to the Customer's material disadvantage or substantially varies these terms to the Customer's material disadvantage OTHER than where such increases in prices or tariffs or change to these terms arises as a consequence of (i) an increase in line with any increase in the RPI during the Service Period, or (ii) a change or variation in prices, tariffs, terms or otherwise made or requested by the provider(s) of the Services and/or third party manufacturers or suppliers and/or due to a variation in the rate of Value Added Tax.
4. In addition to the parties' rights to terminate under this clause 8:
  - i. Atema may at any time during the Service Period serve on the Customer a Termination Notice on a minimum 7 days' notice and the Customer shall be liable to any Termination Fee imposed by Atema at its sole discretion; or





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- ii. the Customer may serve on Atema a Termination Notice in respect of all or any part of the Services in accordance with the relevant terms and conditions for such Service(s) set out in Part B and the Customer shall be liable to any applicable Termination Fee.
  5. Upon the giving of a Termination Notice by Atema to the Customer this Agreement will come to an end 7 days thereafter, and upon the giving of a Termination Notice by the Customer to Atema this Agreement will come to an end 30 days thereafter.
  6. Upon the expiry of any Termination Notice or otherwise upon the determination of this Agreement Atema will disconnect all Equipment from the Services, the Customer will pay to Atema any applicable Termination Fee and neither party shall lose any rights accrued under this Agreement prior to it ending. The Customer shall also return all Equipment to Atema which it does not own or have legal title to at the date of expiry of any Termination Notice or otherwise upon the determination of this Agreement, in accordance with clause 6.2 above or under Part B.
  7. In the event that this Agreement is terminated (i) prior to the expiry of any Minimum Period, the Termination Fee shall include all Line Rental Charges for the remainder of such period which shall be charged at the full retail price from time to time, or (ii) following the expiry of any Minimum Period, the Termination Fee shall include any discount which Atema has applied to the Line Rental Charges from the date on which the Minimum Period commenced until the date of expiry of any Termination Notice or otherwise upon the determination of this Agreement.
9. Export Control
1. Delivery of any Equipment by Atema to the Customer may be subject to export control law and regulations. Atema does not represent that any necessary approvals and licences have been obtained or will be granted.
  2. The Customer agrees to comply with any applicable export or re-export laws, regulations, prohibitions or embargoes of any country, including obtaining written authority from any relevant licensing authority where necessary.
  3. In the event that the Customer procures Equipment, including 'xda' Equipment or similar computer technology from Atema, the Customer agrees that in signing this Agreement the Customer accepts the terms of the following end-user undertaking: the Customer certifies that it will be the end-user of the Equipment and further certifies that it shall use the Equipment only for the purposes of allowing its employees to send, receive, store and process data and voice Services in order to perform their everyday contractual duties; that the Equipment will not be used for any purpose connected with chemical, biological or nuclear weapons, or missiles capable of delivering such weapons; that the Equipment will not be re-exported or otherwise re-sold or transferred if it is known or suspected that it is intended or likely to be used for such purposes; and that the Equipment, or any replica of it, will not be used in any nuclear explosive activity or unsafeguarded nuclear fuel cycle activity; and agrees to sign a formal "End-User Undertaking" in a format specified by

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the United Kingdom Department of Trade and Industry if requested to do so by Atema.

#### 10. Confidentiality

1. The parties will each keep confidential any proprietary information and/or any information obtained from the other in connection with this Agreement (including for the avoidance of doubt details of the Customer's employees) which is reasonably identified by either party as commercially confidential or which is obviously confidential in nature and neither will, without the consent in writing of the other, divulge the same to any third party except such of its employees contractors and agents as may need to know the same for the purposes of the implementation of this Agreement and who agree to be bound by the provisions of this clause.
2. The obligations aforesaid shall not apply to any material or information which is (i) in the public domain (other than as a result of a breach of this Agreement), (ii) already known to the receiving party, or (iii) lawfully received from a third party and/or ordered to be disclosed by any court or other tribunal or regulatory authority of competent jurisdiction.

#### 11. Limitation of Liability

1. Neither party shall be liable to the other in respect of any matter arising out of or in connection with this Agreement in contract or tort or otherwise for any loss (whether direct or indirect) of profit, business, revenue, anticipated savings, or any loss or corruption of data, or any indirect or consequential loss or damage whatsoever.
2. Atema's aggregate liability to the Customer resulting from Atema's negligence or otherwise arising in connection with this Agreement shall be limited to the amount paid by the Customer to Atema during the year preceding the breach.
3. Nothing in this Agreement shall exclude or restrict the liability of either party for fraud, death or personal injury resulting from the negligence of the party concerned or of its employees acting in the course of their employment.
4. The express terms of this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law.
5. Atema does not accept liability for the acts, omissions or failures of (i) providers of telecommunication services to Atema in relation to the provision of the Services under this Agreement; or (ii) the Customer 11.6 The Customer shall indemnify Atema against any and all losses, damages or costs which Atema incurs as a result of any negligent act or omission or reckless or wilful misconduct by the Customer in the performance of its obligations or any breach of its obligations under these terms and conditions.

#### 12. Matters beyond the parties' reasonable control

1. Neither party to this Agreement shall be deemed in default or liable to the other party for any matter whatsoever, for any delays in performance or from failure to



perform or comply with the terms of this Agreement due to any cause beyond that party's reasonable control including, without limitation, acts of God, acts of Government or other competent regulatory authority, telecommunications network operators, war or national emergency, riots, civil commotion, fire, explosion, flood, epidemic, lock-outs (whether or not by that party), strikes and other industrial disputes (in each case, whether or not relating to that party's workforce), inability or delay in obtaining supplies of Equipment or in the non-availability of Airtime due to the act of a third party.

#### 13. Assignment

1. The Customer shall not assign or transfer the benefit of this Agreement to any third party without the prior written consent of Atema, such consent not to be unreasonably withheld.
2. Atema may assign or transfer the benefit of this Agreement to any third party and may subcontract the performance of all or part of the same.

#### 14. Entire Agreement

1. This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, representations, proposals, understandings and agreements whether written or oral relating to the subject matter of this Agreement.
2. Notwithstanding Clause 14.1 above, neither party shall have any remedy in respect of any untrue statement made to him upon which he may have relied in entering into this Agreement, and a party's only remedy is for breach of contract. However, nothing purports to exclude liability for any fraudulent statement or act.

#### 15. Invalidity

1. If any of the provisions of this Agreement is or becomes invalid, illegal or unenforceable, the validity or enforceability of the remaining provisions shall not in any way be affected or impaired. In any such circumstances, the parties shall negotiate in good faith in order to agree the terms of a mutual satisfactory provision, achieving as nearly as possible the same commercial effect, to be substituted for the provision which is found to be invalid, illegal or unenforceable.

#### 16. Waiver

1. The failure or delay by either party to this Agreement to exercise or enforce any right, power or remedy under this Agreement shall not be deemed to operate as a waiver of any such right, power or remedy; nor shall any single or partial exercise by any party operate so as to bar the exercise or enforcement thereof or of any right, power or remedy on any later occasion.

#### 17. Data Protection

1. Atema may use and share details of the Customer, its use of the Services and any disclosure, which is within the scope of Atema's data protection registrations or required under law to Atema associated companies, agents or other telecommunications companies. This information may be used for marketing purposes and to inform the Customer from time to time about other wireless,



telecommunications services or associated technologies, discounts, offers and promotions. If the Customer does not want its details to be used in this way then the Customer should contact Atema's Data Controller at the address shown on this contract.

18. No Partnership

1. Nothing in this Agreement shall create, or be deemed to create, a partnership between the parties.

19. Third Party Rights

1. Save as provided by the terms of this Agreement a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from by that Act.

20. Notices and Communications

1. Any notice under this Agreement, whether required to be written or otherwise may be given by Atema to the Customer by post, personal device or email, to any address, email address or phone number the customer has given to Atema to correspond with Atema, or by posting it on Atema's Website. The Customer must give notices to Atema by post or personal service to the address set out on the Sales Order.

21. Law

1. This Agreement shall be governed by English Law and subject to the exclusive jurisdiction of the English courts to which both parties hereby submit.