



Fusion Fibre Group Services Terms and Conditions

Fusion Fibre Group Ltd - Terms & Conditions

1. Definitions

- 1.1. 'Beneficiary' – shall mean the valid recipient of a Government funded voucher for connection. This shall be identified within the Key Features document of Your Contract.
- 1.2. 'Contract' – shall mean these terms, conditions, documentation and associated appendices, upon confirmation as defined within Clause 4.1.
- 1.3. 'Equipment' - shall mean any hardware provided on a loan basis (where You have not purchased the Equipment, as indicated on the Key Features document) to You such that We can provide You the Services. This includes, but is not limited to; Wireless routers, ONT's, internal and external cabling.
- 1.4. 'Grantor', 'You', 'Your', 'Yourself' – shall mean the person/s identified on the Key Features document.
- 1.5. 'Infrastructure' – shall have the same meaning as electronic communications apparatus defined within Para. 5, Schedule 3A of the Electronic Communications Code (2003).
- 1.6. 'Initial term' - shall have the meaning as prescribed within Clause 9.4.
- 1.7. 'Operator', 'We', 'Us', 'Our' – shall mean Fusion Fibre Group Ltd (company number 12235635) whose registered address is Arkwright House, Parsonage Gardens, Manchester, England, M3 2LF.
- 1.8. 'Price' – shall mean the gross sum payable contained within Your Contract.
- 1.9. 'Service', 'Services' - shall mean the provision of broadband services, home telephony services and any related installation services.
- 1.10. 'Wayleave Agreement' - shall mean the agreement made within Appendix 1, made under the Electronic Communications Code (set out in Schedule 3A to the Communications Act 2003).
- 1.11. 'Wholesale Partner', 'They', 'Them', 'Their' – shall mean any agents, sub-contractors or otherwise suitably authorized person or organization to provide the services, the details of which can be found on your Contract Summary document.
- 1.12. 'Writing', 'Written' - shall mean any communication issued via post, handed in person or via electronic communication (E-mail) to the addresses specified on the Key Features document.

2. General

- 2.1. Our provision of the Services to You shall also be subject to Our Wayleave Agreement contained within Appendix 1. By accepting this Contract You further confirm that You accept Our Wayleave Agreement and agree to be bound by the provisions contained therein.

3. Information about Us and how to contact Us

- 3.1. We are Fusion Fibre Group Ltd, a company registered in England and Wales. Our company registration number is 12235635 and Our registered office is at Arkwright House, Parsonage Gardens, Manchester, England, M3 2LF.

- 3.2. You can contact Us at 0333 305 7560, by Writing to Us at support@fusionfibregroup.co.uk or by sending Us a letter via post to Our registered address.
 - 3.3. If We have to contact You, We shall do so by telephone or by writing to You at the email address or postal address You provided to Us in the Key Features document.
4. Our Contract with You
 - 4.1. Our acceptance of Your Contract shall take place when We email You to accept it, at which point a Contract shall come into existence between You and Us.
 - 4.2. Our acknowledgement of Your enquiring about the Services does not constitute a Contract between Us. If We provide You with a quotation for the Services, it does not amount to acceptance of a Contract.
 - 4.3. If We are unable to accept Your Contract, We shall inform You of this in Writing and will not charge You for the Service(s). Reasons for refusal include, but are not limited to;
 - 4.3.1. A credit reference We have obtained for You does not meet Our minimum requirement.
 - 4.3.2. An error in the quotation provided for the Contract.
 - 4.3.3. We are unable to meet Your expectations with respect to the Service(s)
 - 4.4. Our Services are available in the United Kingdom Only.
5. Your rights to make changes
 - 5.1. If You wish to make a change to the Services, please inform Us in Writing or via telephone and We shall confirm if the change is possible.
 - 5.2. We shall inform You in relation to any alteration to the Price of the Services, the timing of supply or any other material alteration to Your Contract as a result of Your requested change. Your Written confirmation shall be required prior to Us confirming that the change has been made to Your Contract.
 - 5.2.1. If We cannot make the change or the consequential alterations to Your Contract are unacceptable to You, You may want to end the Contract (Clause 11 – ‘*Your rights to end the Contract*’).
6. Our rights to make changes
 - 6.1. We may change the Services to reflect changes in relevant laws and regulatory requirements; and to implement minor technical adjustments and improvements, for example to address a security threat. Such alterations shall not materially affect Your use of the Services.
 - 6.2. We may make other changes to the Services, but if We do so We shall notify You prior to making any change. You may contact Us to end the Contract (Clause 11 – ‘*Your rights to end the Contract*’) before the changes take effect and, in the event of a material change to Your Contract, You shall receive a refund for any Services paid for but not received.
7. How You may use the Services

- 7.1. It is Your responsibility to ensure that the Services and any Equipment that You borrow from Us as part of the provision of the Services are used in accordance with these terms at all times.
 - 7.2. You agree that You shall, at all times, ensure that You and any person who uses the Services will;
 - i. obtain any consents and permissions that We may need to provide the Services,
 - ii. follow any reasonable instructions We give to You in connection with the Services,
 - iii. assist Us as may reasonably be required to carry out security checks or comply with Our legal obligations,
 - iv. inform Us without undue delay if You change Your name, address, email address, telephone number, payment details or anything else that We might need to know,
 - v. use the Services lawfully and not in any way that breaches any law, regulation or rule in force in England and Wales.
 - 7.3. You must not do anything or allow anything to be done which might negatively affect:
 - i. Our systems, security or servers,
 - ii. Our brand and reputation,
 - iii. other customers' security,
 - iv. any other person's or business's systems, network or security.
 - 7.4. If We reasonably believe that You are in breach of any part of this Clause 7, We may suspend the supply of a Service as described in Clause 10 (*'When We may suspend the supply of a Service'*) and/or We may terminate the Contract as described in Clause 13 (*'Our rights to end the Contract'*).
 - 7.5. If We have reason to believe that You may have misused the Services or have allowed the Services to be misused by someone else, We reserve the right to charge You for any loss or damage that We incur as a result.
 - 7.6. You acknowledge that You do not own the Equipment provided to You and You have no rights to transfer, sell, or loan the Equipment to any third party. If We notify You of a telephone number to provide a Service, You acknowledge that You do not own the telephone number and that You shall not transfer it or attempt to transfer it to a third party or knowingly allow this to occur.
 - 7.7. You acknowledge that You are responsible for ensuring that any home network and devices that You use in connection with the Services are being operated with an adequate, up-to-date firewall and anti-viral security software, as may be applicable to the Services that We are providing to You.
 - 7.8. You acknowledge that, where applicable to the Services that We are providing to You, You are solely responsible for:
 - i. the materials and content You access, download, or upload online,
 - ii. any data on devices that You connect to any of the Services,
 - iii. any pages and/or websites You own or control using the Services,
 - iv. ensuring that Your network and devices are securely password protected.
8. Installation and setting up the Services

- 8.1. You may need to use Equipment from Us or Our Wholesale Partner in order to use the Services, or to activate Your phone line or broadband. We shall agree a suitable date with You to deliver, install, and/or set up the Equipment and the Services.
- 8.2. If You do not reasonably allow Our Wholesale Partner access to Your property to carry out the installation for the Services as arranged, We reserve the right to charge You the cost of an abortive visit of £150.00. If, despite Our reasonable efforts, We are unable to contact You or re-arrange access to Your property We may end the Contract in accordance with Clause 13 (*'Our rights to end the Contract'*).
- 8.3. In the event that We request that You install or set-up the Equipment Yourself, We shall deliver the Equipment to You by post to Your nominated address. You may contact Us to arrange a telephone appointment with Our team, who shall instruct You on installing or setting up the Equipment.
- 8.4. Where We exercise Clause 8.3 and there is no-one to receive the Equipment at the nominated address, We shall advise upon an alternative solution to re-issue. We reserve the right to charge You any abortive costs that We incur as a result of further failure to receive the Equipment. If despite Our reasonable efforts, We are unable to contact You, re-arrange delivery or collection, We may end the Contract in accordance with Clause 13 (*'Our rights to end the Contract'*).
- 8.5. We may charge You a fee for delivery, installation, and/or setting up the Equipment, Infrastructure and/or the Services. If You do not allow Us access to Your Property to comply with Our obligations under this Clause 8, We reserve the right to charge You any costs that We have incurred as a result of delivery, installation and/or setting up the Equipment, Infrastructure and the Services.
- 8.6. Any additional chargeable cost shall be advised to You as soon as the requirement becomes apparent and, in any case, prior to the installation of the Equipment and/or Infrastructure and/or provision of the Services. If the cost is unacceptable to You, You may exercise Your rights under Clause 11 (*'Your rights to end the Contract'*). The following inexhaustive list may result in an additional charge:
 - 8.6.1. Where You would like a connection providing to an alternative entry point to Your property than is currently being utilised,
 - 8.6.2. Where You have requested any external cable routing to be carried out in a non-linear manner,
 - 8.6.3. Where You have requested an alternative route from the Adopted Highways boundary to the external connection point,
 - 8.6.4. Where You have requested an internal cable route greater than 5m (for a residential package) or 5m (for a business package), as identified within the Key Features document.
- 8.7. If Our Wholesale Partner is installing the Equipment or Infrastructure in Your property or on Your land, They may need to carry out intrusive works to Your property, which are subject to Clause 2.1.
- 8.8. We accept responsibility for loss of or damage to Your property resulting from Our Wholesale Partner's negligence while performing Their obligations under this Clause 8, subject to Clause 17 (*'Our responsibility for loss or damage suffered by You'*).
- 8.9. Our Wholesale Partner shall not be responsible for connecting any Equipment that We or They have not provided.

8.10. If Our Wholesale Partner's delivery, installation, and/or setting up of the Services and/or Equipment and/or Infrastructure is delayed by an event outside of Our or Their reasonable control, We shall contact You as soon as reasonably practicable where any such event becomes apparent. We shall take steps, where reasonably practicable, to minimise the impact of any such delay. We shall not be liable for any loss, expense or damages as a result of any such delay. If there is a risk of a substantial delay, You may wish to contact Us to exercise Your rights under Clause 11 (*'Your rights to end the Contract'*) and receive a refund for any Services and/or Equipment that You have paid for but not received.

9. Providing the Services

- 9.1. The Services shall start on the date of Your installation..
- 9.2. We shall provide the Services to You for the fixed duration identified within the Key Features document (the "Initial Term") or until You end the Contract as described in Clause 12 (*'How to end the Contract with Us (including if You have changed Your mind)'*) or We end the Contract by Written notice to You as described in Clause 13 (*'Our rights to end the Contract'*).
- 9.3. Before the end of the Initial Term, We shall contact You to confirm that the Initial Term is due to expire within 30 calendar days of such expiry.
- 9.4. The Initial Term is the duration identified within the Key Features Document, the commencement date of which is subject to Clause 9.1.
- 9.5. After the Initial Term We shall continue to provide the Services to You on a 30-day rolling monthly basis. You may opt out of the continuation of the Services on a rolling basis under this Clause 9.5 at any time before the end of the Initial Term.
- 9.6. Continuation of the Services on a rolling basis shall continue to be subject to these Terms and Conditions. You can end this Contract, upon expiry of the Initial Term, by providing 1 calendar months' notice of Your intention to do so.
- 9.7. If We are providing You with broadband Services, the broadband speed will be specified in the Key Features document (Mbps). The speed specified shall be delivered as advertised, measurable with a wired connection to the ONT.
- 9.8. The broadband speed delivered to You shall be subject to Our minimum guaranteed speeds and Our average speeds as stated on Our website.

10. When supply of Your service may be suspended

- 10.1. We may be required to suspend the supply of a Service to:
 - 10.1.1. troubleshoot technical problems or to make minor technical alterations,
 - 10.1.2. update the Service/s to reflect changes in relevant laws and regulatory requirements,
 - 10.1.3. make changes to the Service/s as requested by You or notified by Us to You, as detailed within Clause 5 (*'Your rights to make changes'*) and Clause 6 (*'Our rights to make changes'*).
- 10.2. We may suspend the supply of the Service/s if We reasonably believe that You are in breach of Clause 7 (*'How You may use the Services'*).

- 10.3. We shall contact You in advance to tell You that We intend to suspend the supply of a Service. In the event that works are as a result of an emergency, We shall endeavor to provide as much notice as is reasonably practicable.
- 10.4. Notwithstanding Our rights in Clause 10.5, If We suspend the Service/s for longer than 30 days in any 6-month period We shall adjust the Price so that You do not pay for the Service/s while suspended. If We suspend or notify You of the suspension of Services for a period greater than 30 days, You may contact Us to end the Contract and We will refund any sums that You have paid in advance for the Services.
- 10.5. If You do not pay for the Services when payment is due (Clause 16 '*Price and payment*') and You fail to make payment within 14 calendar days of Us notifying You that payment is due, We may suspend supply of the Services until You have paid Us any monies owed. We shall contact You to notify You that We are suspending supply of the Services and Clause 10.4 shall not apply. We shall not suspend the Services where You dispute a payment that is due (Clause 16.9). In addition to suspending the Services, We may exercise Our rights under Clause 16.8.

11. Your rights to end the Contract

- 11.1. You may end the Contract as set out in this Clause 11. In some circumstances We may charge You a cancellation fee of your monthly recurring charge multiplied by the number of months remaining of your contract, for doing so.
- 11.2. If You are ending the Contract subject to Clauses 11.2(i) to 11.2(iv), the Contract shall end with immediate effect and We shall refund You in full for any Services which have not been provided or have not been properly provided.
- i. We have notified You about an error in the Price or description of the Services that You have entered into this Contract under and You do not wish to proceed,
 - ii. there is a risk that the Services may be significantly delayed because of events outside of Our or Our Wholesale Partner's control,
 - iii. We suspend the Services for technical reasons, or notify You that We shall suspend them for technical reasons, in either case for a period of more than 30 days,
 - iv. You have a legal right to end the Contract because We have failed to fulfil Our obligations under the Contract, or in accordance with the relevant laws and regulations.
- 11.3. You may end the Contract if You change your mind during the period from the date that this Contract comes into existence defined within Clause 4 ('*Our Contract with You*') up to 14 days ("cooling off period") after whichever is the later of;
- 11.3.1. the Service(s) commencement date; or
 - 11.3.2. the date that You receive an email from Us accepting Your Contract (Clause 4.1).

- 11.4. If You end the Contract in accordance with Clause 11.3 and We have commenced the provision of the Service(s), You shall pay Us the full cost of the Service(s) that You have received and any applicable fees outlined within Clause 8 (*'Setting up the Services'*).
- 11.5. If You end the Contract in accordance with Clauses 11.3 or 12.3 and We or Our Wholesale Partner have provided You with any Equipment, the Contract with which the Equipment relates shall remain in full force and effect until You have returned the Equipment to Us. You shall return the Equipment within 14 calendar days of informing Us that You wish to end the Contract. Contact Us on 03333057560 or email Us at support@fusionfibregroup.co.uk for a return label or to arrange collection.
- 11.6. If You do not return the Equipment within 14 calendar days, You shall be liable for the full cost of the Equipment.
- 11.7. If We reasonably consider that the Equipment has decreased in value as a result of it being used, misused, or damaged, We reserve the right to charge You an amount equal to the decrease in value, up to the full replacement value. If We refund You any monies paid for Services not received before We are able to inspect the Equipment and subsequently determine a loss in value, You shall pay to Us the prescribed amount.
- 11.8. If You end the Contract under Clauses 11.2 or 11.3, the costs of returning the Equipment shall be borne by Us. If You end the Contract under Clause 12.3, You shall be liable for the cost of returning the Equipment.
12. How to end the Contract with Us (including if You have changed Your mind)
- 12.1. To end the Contract with Us, please let Us know by doing one of the following:
- i. Call customer services on 0333 305 7560.
 - ii. Email Us at support@fusionfibregroup.co.uk providing Your name and/or business name, home/business address, details of the Contract, Your phone number and email address.
 - iii. Send a letter to Us at Our registered address detailing Your name and/or business name, home/business address, details of the Contract, Your phone number and email address.
- 12.2. If You are exercising Your rights under Clause 11.3, the refund for any associated delivery cost shall be the cost of delivery by the least expensive delivery method available.
- 12.3. If You exercise Your right to cancel outside of the cooling off period, We reserve the right to charge You the cost of the full Contract value, less any sums that You have already paid, recoverable by any legal means.
13. Our rights to end the Contract
- 13.1. We may end the Contract for the Service(s) at any time by Writing to You if:
- 13.1.1. You do not make payment to Us when it is due and fail to make payment within 14 (fourteen) days of Us notifying You that payment is due.

- 13.1.2. You do not provide Us with any information that is necessary for Us to provide the Services, within a reasonable timescale.
 - 13.1.3. You do not enable Us to deliver the Equipment or provide the Services to You within a reasonable timescale of Us being able to do so.
 - 13.1.4. You do not use the Services in accordance with Clause 7 (*'How you may use the Services'*).
 - 13.1.5. You do not enable Us to comply with Our obligations under the Law of England or Wales, or those imposed by regulatory requirements.
 - 13.2. If We exercise Our rights in accordance with Clause 13.1, We shall refund any monies that You have paid in advance for Services not yet provided. We reserve the right to deduct or charge You reasonable compensation for the costs We incur as a result of Your breach of Contract.
 - 13.3. We shall Write to You to inform You that We are exercising Our rights under this Clause 13, at least 21 (twenty-one) calendar days in advance of ceasing the supply of the Services.
14. If there is a problem with the Service(s)
- 14.1. If You have any questions or complaints about the Services, please contact Us. You can telephone Our customer service team at 0333 305 7560 or write to Us at support@fusionfibregroup.co.uk or by post to Our registered address.
 - 14.2. If Your speed as measured by a wired connection into Your ONT falls below our minimum speeds, notify Us as soon as this becomes apparent and We shall carry out troubleshooting in order to resolve.
 - 14.3. Our Wholesale Partner will endeavor to fix/resolve any issues by the end of the second working day following notification by you, to Fusion Fibre Group Ltd.
 - 14.4. If your service is not resolved to full working order by the end of the second working day following notification by you, to Fusion Fibre Group Ltd, you may be entitled to compensation, which will be calculated on a case-by-case basis.
15. Your rights in respect of defective Services if You are a consumer.
- 15.1. We have a legal duty to supply the Services in conformity with this Contract. Nothing in these terms will affect Your statutory legal rights.
 - 15.2. A summary of Your key legal rights are detailed within the Key Features document, subject to certain exceptions.
16. Price and payment
- 16.1. The Price of the Services (which includes VAT) shall be the Price indicated on the Key Features document when You receive Your Contract.
 - 16.2. If the rate of VAT changes between Your Contract date and the date that We commence supply of the Services, We shall adjust the rate of VAT that You pay in accordance with Clause 6 (*'Our rights to make*

- changes*). If You have paid for the Services in full prior to the change in the rate of VAT taking effect, no such adjustment shall be applied.
- 16.3. If We accept Your Contract and an error in the Price is clear and obvious and could reasonably have been recognised by You as such, We may;
- 16.3.1. End the Contract and refund You any monies You have paid and require the return of any Equipment provided to You.
- 16.3.2. Honour the Price stated to You.
- 16.3.3. Mutually agree an adjustment to the Price incorrectly stated to You.
- 16.4. We reserve the right to increase the Price that You pay following expiry of the Initial Term, which shall be notified in Writing to You at least 30 calendar days prior to such expiry. Any increase shall be applied in a fair and reasonable manner.
- 16.5. We accept payment by monthly direct debit and payment via bank transfer, should You opt to pay in full for the Services prior to the commencement of them.
- 16.6. You must pay for the Services whether You use them or not. You shall receive Your first bill when We commence providing the Services in accordance with Clause 9.1. If You incur any additional charges, We reserve the right to add these to a later bill. You must pay each bill within 14 calendar days after the date of the bill.
- 16.7. You may opt to receive Your bill by post or by email during the order process, to either Your postal address or Your email address. You may alter the method by which We send You bills at a later date by contacting Us in accordance with Clause 5 (*'Your rights to make changes'*) however We reserve the right to charge you an administration fee as a result of this change. We shall notify You of any such fee prior to making the change.
- 16.8. If You fail to make payment to Us by the due date, We may charge You interest on the overdue amount at a rate of 4% above the prevailing base lending rate of the Bank of England, as adjusted from time to time. This interest shall accrue daily from the due date to, and including, the date of actual payment of the overdue amount. You shall pay Us the interest in addition to the overdue amount.
- 16.9. If You consider a bill to be wrong, contact Us promptly to let Us know. You shall not owe any interest (Clause 16.8) until the dispute is resolved. Once the dispute is resolved We will charge You interest on correctly billed sums from the original due date.
- 16.10. If You fail to pay Your bill after We have notified You of failure to do so, We may give Your contact details, including Your personal information, to a debt-collection agency and instruct them to collect the monies owed on Our behalf. You shall pay a recovery fee to compensate Us and the debt-collection agency shall include this fee in Your debt.
- 16.11. All contract prices are subject to an annual increase of CPI+3%.

17. Our responsibility for loss or damage suffered by You

- 17.1. We are not aware of how a breakdown or defect in the Services might affect Your affairs, We shall not be responsible for any financial loss associated with an interruption to the Services, howsoever caused.
- 17.2. We do not exclude or limit Our liability to You where it would be unlawful to do so. This includes liability for death or personal injury caused by Our negligence or the negligence of Our employees, agents, subcontractors or Our Wholesale Partners; for fraud or fraudulent misrepresentation; for breach of Your legal rights in relation to the Services identified within Clause 14.1 and/or for defective products under the Consumer Protection Act 1987.
- 17.3. If Our Wholesale Partner is providing a Service/s to Your property, They shall make good any damage to Your property caused by Them while doing so. We or They shall not be responsible for the cost of repairing any pre-existing fault or damage to Your property that They discover while providing the Services.
- 17.4. We are not liable for business losses. If You use the Services for any commercial, business or re-sale purposes, We shall have no liability to You for any loss of profit, business, business interruption, or business opportunity.

18. How We may use Your personal information

- 18.1. We shall only use Your personal information as set out in Our Privacy Policy.

19. Other important terms

- 19.1. We may transfer Our rights and obligations under these terms to another internet service provider. We shall notify You in Writing prior to any such transfer and shall ensure that it shall not affect Your rights under this Contract.
- 19.2. You may only transfer or assign Your rights and obligations under this Contract to a third party if We consent in Writing. We reserve the right to refuse Your request.
- 19.3. This Contract is between You and Us. No other third parties shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce its terms.
- 19.4. Each of the provisions in this Contract operates separately. If any court or other competent authority deems any provision contained therein to be unenforceable, the remaining provisions shall remain in full force and effect.
- 19.5. Failure by Us to notify You of a breach or a failure to fulfil Your obligations under this Contract does not relieve You of Your obligations under this Contract, nor shall it render any retrospective action against such failure or breach as unenforceable.
- 19.6. This Contract is governed by the laws of England and Wales and both parties hereby submit to the exclusive jurisdiction of the courts of England and Wales.
- 19.7. Alternative Dispute resolution is a process whereby an independent body considers the facts of a dispute and seeks to resolve it, without You being required to commence legal proceedings. If you are

not happy with how We have handled any complaint, You may wish to contact the alternative dispute resolutions service that We use. You can submit a complaint to Fusion Fibre Group via Our website at www.fusionfibregroup.co.uk. Your rights shall not be affected in the event that You make a complaint. If You are not satisfied with the outcome of the alternative dispute resolution, You reserve the right to bring legal proceedings.

20. Termination

20.1. The following clauses shall survive the termination of this Agreement, regardless of howsoever terminated:

- i. Clause 17. Our responsibility for loss or damage suffered by You
- ii. Clause 16. Price and payment
- iii. Appendix 1 - Wayleave Agreement

21. Department of Culture, Media and Sport

21.1. The provision of the Services detailed within this Contract may be funded as a part the Gigabit Voucher Scheme. This shall be confirmed within the Key Features document within Your Contract. The following provisions shall apply:

21.2. You acknowledge that You have read and understood the terms and conditions that apply to Beneficiaries of the voucher scheme. These terms and conditions can be found on Our website. These may be updated from time to time, at the discretion of the Department of Culture, Media and Sport.

21.3. You acknowledge that We or Our Wholesale Partner have the right to request a voucher on Your behalf and Your signature of these terms and conditions constitutes Your Written consent for Us or Them to do so.

21.4. You acknowledge that You shall not unreasonably withhold Your consent to any reasonable request by the Department of Culture, Media and Sport as a result of Our involvement within the scheme.

21.5. In the event that We or They consider that You are failing to engage the Department of Media, Culture and Sport in a reasonable manner, subsequently affecting Our performance in any such scheme, We may exercise Our rights under Clauses 10 and/or 13.

21.6. The inclusion of this Clause 21 shall not affect any of Your other rights, remedies or obligations under this Contract.

Appendix 1

Wayleave Agreement

TO ALLOW ACCESS TO INSTALL AND MAINTAIN ELECTRONIC COMMUNICATIONS APPARATUS

Background:

- i. This is a written agreement made under the Electronic Communications Code (set out in Schedule 3A to the Communications Act 2003).
- ii. The purpose of the agreement is for You to allow Our Wholesale Partner to complete a non-intrusive visual survey of your property prior to installation, and to place electronic communications apparatus on, under or over your property as part of Their communications network. Once installed, the Apparatus will be kept there until They agree to its removal or You obtain an order from the court, although They will do Their best to move it if You obtain planning consent that requires this or you have permitted development rights.
- iii. We recommend You keep this agreement with Your title deeds.

1. Definitions in this agreement:

1.1 **'Agreement'** means this Agreement.

1.2 **'Agents'** means any party or parties nominated by the Operator to carry out Works on their behalf.

1.3 **'Apparatus'** has the same meaning as 'electronic communications apparatus' in the Code and including but not limited to; fibre optic cables and any conduits, pipes, ducts, pole, terminals or transmission equipment and any associated or ancillary apparatus.

1.4 **'Code'** means the Electronic Communications Code contained in Schedule 3A to the Communications Act 2003.

1.5 **'Property'** means the property stated in the Key Features document.

1.6 **'Wholesale Partner', 'They', 'Them', 'Their'** – shall mean any agents, sub-contractors or otherwise suitably authorized person or organization to provide the services, the details of which can be found on your Contract Summary document.

1.7 **'Works'** includes civil and cable work necessary to exercise any or all of the rights granted in this agreement.

2. You agree that Our Wholesale Partner and Their Agents have the right to:

2.1 execute Works at the Property in connection with the exercise of any of Our or Their rights.

2.2 install, inspect, use, operate, repair, maintain, upgrade remove and add to Their Apparatus on, under, or over Your property as detailed.

2.3 enter the Property to exercise any of the above rights.

2.4 may use the Apparatus only for the purpose of providing an electronic communications service.

3. Our Responsibilities – We, Our Agents and our Wholesale Partners agree to:

3.1 give as much notice as reasonably possible (which shall be not less than 24 hours notice) of Their intention to enter the Property to exercise Our or Their rights under this agreement (except in an emergency where we will endeavor to contact You before coming onto your Property).

3.2 carry out Works in a good and workmanlike manner and take reasonable precautions to avoid obstruction to or interference with the use of the Property

3.3 where They break open the ground on Your Property, as far as is reasonably practicable, reinstate it to its former condition;

3.4 we confirm that Our Wholesale Partners is an Operator with powers granted by Ofcom under the Code (this includes Their Agents, servants, employees, contractors and sub-contractors and anyone who takes over Their assets or business).

4. Liability and Insurance

4.1 They will use reasonable endeavours to minimise physical damage in carrying out the Works and shall make good to Your reasonable satisfaction any damage They cause or compensate You where it is not possible to make good the damage, up to a maximum of £10,000 (ten thousand pounds).

4.2 We agree to be responsible for any claims made against You up to a maximum limit of £1,000,000 if someone makes a claim against You as a result of our Works provided that:

4.2.1 You did not cause or contribute towards the claim,

4.2.2 You give Us notice of the claim as soon as is practicably possible,

4.2.3 You do not settle any part of any such claim without Our written permission (which shall not be unreasonable withheld or delayed).

5. Exclusion of Third Party Rights

5.1 Nothing in this Agreement is intended to create rights in favour of a third party under section 1(1)(b) of the Contracts (Rights of Third Parties) Act 1999.

6. Your Responsibilities

6.1 You acknowledge that Our Wholesale Partner owns the Apparatus at all times

6.2 You may not, without Their prior written consent, place, build or plant anything on Your property which denies Them reasonable access to or will interfere with Their Apparatus but this does not apply to pre-existing trees or other vegetation.

6.3 You confirm that You are the freehold owner of the Property or You occupy the Property under a lease which has a term of one year or more. You understand that Your signature means that others are bound by this agreement under the terms of the Code (which will include a purchaser of the Property).

7. Governing Law and Jurisdiction

7.1 This Agreement, and a dispute or claim arising out of or in connection with it (including its formation and non-contractual disputes or claims), are to be governed by the laws of England and Wales.

7.2 The courts of England and Wales are to have the exclusive jurisdiction to determine disputes or claims that arise out of or in connection with this Agreement, including its formation and non-contractual disputes or claims.