

MAGNET NETWORKS LIMITED

GENERAL TERMS & CONDITIONS

These general terms and conditions (the “**Terms and Conditions**”) are between the Customer and *Magnet Networks Limited trading as Magnet Plus (“Magnet Plus”)*.

The Terms and Conditions, together with the information *Magnet Plus* provided in the Pre-Contractual Information and the Customer's Contract Summary (collectively the “**Agreement**”), will govern the Customer's purchase and on-going use of the Facility (as **defined below**) and, where applicable, the installation of the Facility.

Magnet Plus may from time-to-time make its services available on a promotional basis. These promotions will be subject to special terms and conditions which amend these Terms and Conditions and will be notified to the Customer with details of the promotion. Promotions may also be subject to qualifying conditions which the Customer will need to meet. The Customer will only be able to avail of promotions where it agrees to terms and conditions applicable thereto. Where it utilises such promotional services, it will be deemed to have read and accepted same.

DEFINITIONS

If there is any inconsistency between the documents in the Agreement, the Terms and Conditions shall take precedence.

- “**ADSL Line**” means an asymmetric digital subscriber line;
- “**Anticipated Savings**” means any expense, which the Customer expects to avoid incurring or to incur in a lesser amount than would otherwise have been the case by reason of using the Facility;
- “**Applicable Laws**” means any Act of Oireachtas, statutory instrument or regulation, EU Directive or EU Regulation or judgment of any court or tribunal which, in each case, has legal effect in the Republic of Ireland or any part thereof and as may be amended from time to time;
- “**Best Tariff Advice**” means the information / advice to be provided by providers of electronic communication services to enable end-users to make informed decisions as regards electronic communications services and products which best meet their needs, before the fixed term contract expires;
- “**Best Tariff Information**” means the information to be issued annually, by providers of electronic communication services after renewal of the initial fixed term contract, and irrespective of the duration of its renewal.

- **“Charges”** means the Recurring Charge, connection and any other charge payable by the Customer to *Magnet Plus* hereunder. *Magnet Plus* current prices and tariffs (including subscription fees, installation services and delivery charges etc.), are set out at: <https://www.magnetplus.ie/business/magnet-more/>;
- **“Content”** means data, information, video, graphics, sound, music, pictures, text, code, scripts, photographs, software and any other material (in whatever form) which may be made available as part of the Facility;
- **“Contract Summary”** means a standardised and easily readable ‘summary’ document provided by *Magnet Plus*, to the Customer which summarises the key details of the Facility and the key terms the Customer will be bound by when the Customer authorises *Magnet Plus* to provide its services at the Customer's Premises, prior to the conclusion of the contract. The Contract Summary is intended to be a summary of the key Pre-Contractual Information.
- **“Customer”** shall mean the party named in the Customer Order/and or Contract Summary Form with whom *Magnet Plus* enters into this Agreement and may be an individual, partnership, firm, trust, body corporate or incorporate, government or government body, licensor or agency (to include that party's successors and assigns). It shall be the responsibility of the Customer, where it is not an individual, to ensure that its correct legal entity name is entered into the Customer Order Form;
- **“Customer Order Form”** means the document used by a Customer to complete the order for purchase of goods or services from *Magnet Plus*, detailing the specifics of the order.
- **“Customer Personal Data”** means Personal Data received from or on behalf of the Customer or otherwise obtained in connection with the performance of *Magnet Plus*'s obligations under the Agreement including but not limited to name, email address, telephone number, certain financial information and account data;
- **“Customer Premises Equipment”** means equipment comprising of, inter alia, hardware and software;
- **“Controller”, “Processor”, “Data Subject” and “Personal Data”** shall have the meaning given to them in **“Data Protection Laws”** and the expression **“process”** or **“processes”** in this context shall be construed accordingly;
- **“Data Protection Laws”** means any Applicable Laws relating to the processing, privacy, and / or use of Personal Data, including, but not limited to, the *General Data Protection Regulation EU 2016/679*, national implementing legislation and applicable legislation in respect of e-Privacy as applicable to the Customer, *Magnet Plus* and / or the Facility;
- **“Disputes Resolution Procedure”** means the formal document outlining the process for resolving conflicts and disputes within *Magnet Plus* operations, which can be found here: <https://www.magnetplus.ie/code-of-practice-complaints/>;

- **"Fair Acceptable Usage Policy"** means the *Magnet Plus* fair and acceptable use policy, available at <https://www.magnetplus.ie/fair-acceptable-usage-policy>, as updated from time-to-time;
- **"Facility"** means the services described in the Contract Summary;
- **"Force Majeure"** means any event or circumstance beyond the reasonable control of *Magnet Plus*, which prevents or delays the performance of its obligations under the Terms and Conditions, and which could not have been reasonably foreseen or avoided by *Magnet Plus* through the exercise of reasonable care, as applicable, and shall include (but shall not be limited to) acts of God, lightning, electric voltages and currents impressed on the telecommunications line by lightning or otherwise, fires, floods, storms or other catastrophes; widespread disease or pandemic; or government control, restrictions or prohibitions; or any other act or omission of any public authority (including Government) whether local, national or international; or associated with any telecommunications systems other than that of *Magnet Plus*; or the wilful or negligent act or default of the Customer or of any supplier, agent of the Customer; or failure of the Customer to comply with any of the provisions of this Agreement; or fault in or other problem; or any other cause whatsoever which is beyond the reasonable control of *Magnet Plus*.
- **"Full-Install"** means the installation of the Facility at the Premises by a *Magnet Plus* technician;
- **"Initial Period of Service"** means the contract term as described in the Contract Summary and which will commence on the Ready for Service ("**RFS**") date;
- **"Magnet Plus"** means *Magnet Networks Limited trading as Magnet Plus with a registered address at IDA Business and Technology Park, Clonshaugh, Dublin 17, Ireland*;
- **"Non-Recurring Fee(s)"** means a one-time fee payable by the Customer for the provision of the initial services to set up the Facility, which shall include, but is not limited to, the following:
 - Customised Solution Design.
 - Integration to the Customer's Network.
 - Service Delivery, Commissioning and Testing.
 - CPE (if applicable).
- **"Operator"** means *Magnet Plus* under these Terms and Conditions. Under the *European Communities (Electronic Communications Network and Services) (Authorisation) Regulations 2003* as amended, operator means a person authorised to provide an electronic communications network or electronic communications service;
- **"Own Customer"** means a customer of the Customer;

- **"PBX"** means private branch exchange which is a telephone exchange private and individual to each company;
- **"Porting"** means the porting of numbers between networks providing services at a fixed location.;
- **"Pre-Contractual Information"** means the information provided by *Magnet Plus* before the Customer's order was placed which provides an overview of the Facility, information about *Magnet Plus* and key terms and conditions the Customer will be bound by when the Customer authorises *Magnet Plus* to provide its services at the Customer's Premises pursuant to the Facility;
- **"Premises"** means the location where the Facility is provided;
- **"Ready for Service Date"** (otherwise **"RFS date"**) means the date on which *Magnet Plus* establishes the Facility for the Customer;
- **"Recurring Charge"** is the recurring charge payable by the Customer to *Magnet Plus* in respect of the Facility as set out in the Contract Summary;
- **"Self-Install"** means the provision of Customer Premises Equipment by *Magnet Plus* to the Customer to enable the Customer to carry-out the Facility installation themselves;
- **"Switching"** means the switching of providers of electronic communications networks or services by end-users;
- **"VOIP"** refers to Voice over IP (Internet Protocol) the protocol on which voice calls are carried on an IP network, including the Internet.

The Agreement supersedes and replaces all prior communications (oral or written), drafts, contracts, representations, warranties, undertakings and agreements of whatever nature whether oral or written, between the parties to this Agreement relating to its subject matter. This Agreement shall be governed by and construed in accordance with Irish law. The headings in this Agreement are for convenience only and shall not affect its interpretation. The parties agree that the fact that this Agreement may be stored or exchanged in electronic form shall not affect its validity.

TERMS & CONDITIONS

1 FACILITY

1.1 The Customer hereby agrees to avail of the Facility subject to the provisions of the Applicable Laws.

2 INSTALLATION

2.1 The Facility shall be provided either by way of Full-Install or Self-Install, at the discretion of *Magnet Plus*.

3 BUNDLE OFFERS

3.1 The Facility may be comprised as a bundle of individual services ("**Bundle**"). Where this is the case, each Bundle has a particular level of content and consists of multiple products, services, or features. Bundles are governed by the [Magnet Plus Fair Acceptable Usage Policy](#) and the Customer agrees to be bound by it.

3.2 For further information on the elements (e.g., services and / or terminal equipment) which are included in the Bundle, please see <https://www.magnetplus.ie/> or contact a member of the customer service team.

3.3 The Customer shall select the Bundle they wish to avail of and shall inform *Magnet* of their selection. By purchasing the Bundle, the customer acknowledges and agrees that its components are contractually linked, meaning that these Terms and Conditions govern both *Magnet* and the customer's rights and obligations relating to each service within the Bundle.

3.4 The Customer acknowledges and agrees that termination of any individual bundle component in the Bundle will result in the termination of the entire bundle contract, subject to any rights or remedies provided by Applicable Law or expressly specified in this Agreement.

3.5 In the event the Customer intends to terminate a specific Bundle component, the standard rules regarding termination as set out herein shall apply.

3.6 In the event that Customer usage represents excessive use of the Facility (to include any particular element of a Bundle), *Magnet* may, without prejudice, restrict usage or, request the Customer to select a bundle level more appropriate to its usage. In the event of the Customer refusing or neglecting to select an alternative bundle level of the Facility, *Magnet* may act in accordance with its termination rights as set out herein.

4 UPGRADE/DOWNGRADE

4.1 The Customer may upgrade during the Initial Period of Service or any subsequent contract periods subject to the terms of this clause.

4.2 The Charges for the upgrade will be charged at the difference between current contract price and upgrade pricing applicable at the relevant time, as determined by *Magnet Plus*. A Customer may only upgrade / downgrade the Facility once the first **six (6) months** of their Initial Period of Service has expired. The Charges for a downgrade shall be agreed by the Parties at the time of the proposed downgrade.

4.3 The Customer shall be entitled to one upgrade / downgrade in any three month period and *Magnet Plus* requires **thirty (30) days'** notice of such upgrade / downgrade.

5 **EMERGENCY CALLS**

5.1 Emergency calls to 112, 911 and 999 will be directed to the emergency services, but no guarantee can be made about the reliability of these calls.

5.2 Customers should especially be aware that power outages are likely to render computer equipment and internet connectivity non-functional and therefore preclude use of the service for emergency calls.

6 **ANCILLARY SERVICES**

6.1 The Customer must inform *Magnet Plus* that the Customer has ancillary services. *Magnet Plus* cannot guarantee that these services will continue to work if *Magnet Plus* has not been informed that the Customer is utilising these ancillary services at ordering.

7 **CONTRACT PERIOD**

7.1 This Agreement shall take effect on the date of execution. The Initial Period of Service shall commence on the Ready for Service date.

7.2 This Agreement shall continue for the Initial Period of Service and thereafter shall be automatically renewed for successive periods of **thirty (30) days** (each a "**Renewal Period**") unless otherwise terminated by either party in accordance with the terms of this Agreement.

7.3 Once the Facility is activated, irrespective of whether the Customer has implemented internal structures to utilise the Facility, the Customer shall be invoiced within **thirty (30) days** of the Ready for Service Date. Notwithstanding the other provisions contained in this clause 7, in the event that the Facility is being provided at more than one Premises, the Customer shall be invoiced separately for each part of the Facility being provided within **thirty (30) days** of the Ready for Service Date of each individual Premises.

7.4 If *Magnet Plus* fails to begin invoicing as outlined in **Clause 7.3**, nothing precludes *Magnet Plus* from back invoicing from the Ready for Service date.

7.5 When additional services are purchased, the Customer agrees that the renewal of such services will also renew all existing terms and conditions governing the Agreement with *Magnet Plus*, including, but not limited to, any applicable service-level agreements, pricing, billing terms, and any other relevant terms, as outlined in the Agreement.

8 FAULTS

8.1 *Magnet Plus* does not warrant that the Facility will meet the Customer's own requirements or that the operation of the Facility will be uninterrupted or error-free.

8.2 If a fault, impairment or degradation of the service occurs *Magnet Plus* must be contacted immediately by email at support@magnetplus.ie and/or by phone at 1800 789 789. *Magnet Plus* shall endeavour to attend as soon as practicable during normal business hours to the fault, whether remotely or at the Premises or at whichever location *Magnet Plus* considers the reported fault to be located. The Customer shall comply with its obligations regarding access as set out in **Clause 12.5** of this Agreement for this purpose.

In the event that an engineer is dispatched to address a reported service fault at the Premises, and it is determined that no fault exists with the service provided by the Company, the Customer will be liable for the following call-out fees:

- €250 per call-out during standard working hours (Monday to Friday, 9:00 AM to 5:00 PM).
- €500 per call-out outside of standard working hours, including evenings, weekends, and public/bank holidays.
- A larger call-out fee may apply in circumstances where the call-out requires a team of engineers and equipment and there is no fault is found. The fee applicable will be advised by the Company prior to dispatch.

All fees are exclusive of VAT and will be added to the Customer's invoice.

8.3 A credit shall not be given until *Magnet Plus* is satisfied a credit is warranted for, e.g. where it accepts that there is / was a fault on the *Magnet Plus* network. In such circumstances a credit will only be given from the date the fault is logged until the date that it is resolved. All credits are outlined in the *Magnet Plus* Service Level Agreement.

9 ORDERING

9.1 The Customer agrees to provide *Magnet Plus* and its agents with all such information and cooperation including, inter alia, suitable Premises, equipment and services as *Magnet Plus* may reasonably require from time-to-time to enable it to provide the Facility.

9.2 *Magnet Plus* may, at its sole discretion, refuse to provide the Facility where such information or cooperation is not furnished by the Customer.

9.3 On the placing of the order for the Facility, the Customer shall be provided with:

- A **Contract Summary**;
- **Pre-Contractual Information**;
- An estimated **Ready for Service Date** by *Magnet Plus*;
- The **use of an ADSL Line or other modem**, where applicable, for the duration of this Agreement to facilitate connection to the Facility (where required and agreed to by *Magnet Plus*);
- **Customer Premises Equipment** to enable the Customer to carry-out the installation itself (where the Facility is being provided by way of Self-Install).

10 **USAGE POLICY**

10.1 The Customer agrees that they have read and understand the [Fair Acceptable Usage Policy](#) and understand and accept that this may be revised from time-to-time. The Facility may only be used by Customers in accordance with [Fair Acceptable Usage Policy](#).

11 **CHARGES**

11.1 In addition to the Charges, the Customer shall be liable to pay *Magnet Plus* Non-Recurring Fees which shall accrue on the date of execution of this Agreement and which shall be billed prior to the Ready for Service date. These Non-Recurring Fees are non-refundable except in circumstances where *Magnet Plus* accepts that it was unable to complete the installation of the Facility due to technical reasons.

11.2 If the Customer cancels or terminates this Agreement:

- Before the Ready for Service date, the Customer shall be liable to pay *Magnet Plus* the Non-Recurring Fees, plus 50% of the Customer's Charges for the first year of the Facility, plus any fees incurred by *Magnet Plus* by third party services providers up to and including the date of cancellation.
- the Customer will be liable to pay any Charges and fees which would have been payable by the Customer for the balance of the Initial Period of Service and / or which have otherwise accrued up to the date of termination.

11.3 Termination or expiry of this Agreement in accordance with its terms shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or

expiry, including but not limited to *Magnet Plus's* right to be paid all outstanding Charges and fees accrued and outstanding in respect of the Facility.

- 11.4 Should the Customer disagree with any Charges or fees shown on their bill, the Customer must get in contact with *Magnet Plus* (via email at billing@magnetplus.ie), or by written letter to ***Magnet Plus, IDA Business and Technology Park, Clonshaugh, Dublin 17***, before the date that payment is due, highlighting the Charges or fees that the Customer is querying. All other Charges / fees will remain due at the payment date specified in the bill. *Magnet Plus* will not credit a customer who does not notify *Magnet Plus* of their issue in accordance with the terms of this clause.
- 11.5 If the amount that the Customer has highlighted is in fact incorrect then *Magnet Plus* will apply a credit to the Customer account in respect of any incorrect Charges / fees. Unless a credit is issued, the full amount remains due.
- 11.6 *Magnet Plus* reserves the right to assign all payments received or credits against the oldest invoice on the Customer account if a remittance is not sent in on the date the payment has been made.
- 11.7 *Magnet Plus* will invoice all monthly recurring Charges monthly in advance and all usage based Charges monthly in arrears. Payment terms are 21 days from the date of invoice.
- 11.8 *Magnet Plus* will send all bills and notices for the Facility to the Customer's billing email address and the Customer should send any notice to *Magnet Plus* to the email address indicated on the invoice. The obligation rests with the Customer to inform *Magnet Plus* about any change in the billing email address in advance of their next billing date.
- 11.9 *Magnet Plus* reserves the right to increase or decrease fixed charges and / or introduce new fixed charges from time to time.
- 11.10 If this Agreement enters a Renewal Period, *Magnet Plus* reserves the right to increase the Recurring Charge, from the first month of the Renewal Period, to the standard price for the Facility published on www.magnetplus.ie on the date of the increase.
- 11.11 If the Customer cancels any scheduled porting, switching or engineer visits at any time during the Agreement, the Customer shall be obliged to pay the cost incurred by *Magnet Plus* for such a visit.

12 **TERMINATION / SUSPENSION**

12.1 Without affecting any other right or remedy available to it, *Magnet Plus* may terminate this Agreement at its discretion if:

- the Customer **fails to pay any amount due** under the Contract on the due date for payment;
- there is a **change of control** of the Customer;

- the Customer becomes **insolvent** or is **unable to pay their debts as they fall due**;
- the Customer **refuses or neglects to select a more appropriate Bundle** in accordance with clause 3.6 of these Terms and Conditions;
- there has been a **breach** by the Customer of the terms of this Agreement;
- if the Customer allows to be done anything which in the reasonable opinion of *Magnet Plus* may have the effect of jeopardising the operation of the Facility;
- if the Customer uses the Facility for any **unlawful purpose**; or
- *Magnet Plus* decides, at its discretion, to discontinue a particular product or service.

12.2 This Agreement may be terminated by the Customer after the Initial Period of Service, by giving *Magnet Plus* not less than **sixty (60) days'** notice by contacting *Magnet Plus* (via telephone at **1800 789 789**, by written letter to **Magnet Plus, IDA Business and Technology Park, Clonshaugh, Dublin 17** or via email at cancellations@magnetplus.ie).

12.3 If a Customer wishes to end this Agreement before the end of the Initial Period of Service, the Customer must give *Magnet Plus* **sixty (60) days'** notice of its desired termination date. Cancellations during the Initial Period of Service shall be subject to the payment terms set out in **Clause 11.3** of this Agreement.

12.4 On termination of this Agreement (for whatever reason), the Customer shall return to *Magnet Plus* within **ten (10) days** of such termination any loan equipment or Customer Premises Equipment, the use of which may have been supplied to them by *Magnet Plus* as part of the Facility. In the event of a failure by the Customer to return any or all of the Customer Premises Equipment, the Customer shall become liable to pay to *Magnet Plus* the total cost of the Customer Premises Equipment or equipment which the Customer has failed to return; and the Customer shall return all of the *Magnet Plus* materials and any deliverables which have not been fully paid for.

12.5 The Customer must allow anyone authorised by *Magnet Plus*, following production of official documentation of identity, reasonable access to the Premises at reasonable times to facilitate the termination of the Facility where applicable, or for any purpose relating to the Facility. The Customer will ensure that they have all requisite permissions to grant such access. Until they have been returned, the Customer shall be solely responsible for the safe keeping of the Customer Premises Equipment and will not use any of it for any purpose not connected with this Agreement.

12.6 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim

damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.

12.7 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Agreement shall remain in full force and effect.

12.8 Without affecting any other right or remedy available to it, *Magnet Plus* may suspend the supply of the Facility if:

- The Customer becomes subject to any of the events listed in **Clause 12.1**, or *Magnet Plus* reasonably believes that the Customer is about to become subject to any of them.
- During any technical failure, modification or maintenance of the telecommunications systems affecting the Facility.
- During an emergency or upon instruction by emergency services or any government or appropriate authority.
- For the Customer's own security.

13 PORTING OR SWITCHING

13.1 If a Porting or Switching request is received from another Operator, this will be treated as the only valid terminating clearly identified event and in certain circumstances the Customer may be liable to pay *Magnet Plus* termination charges and fees as set out under this Agreement, depending on whether the porting request was received during the Initial Period of Service or outside the Initial Period of Service.

13.2 If another authorised Operator requests a port out for a *Magnet Plus* customer, *Magnet Plus* has no liability if the numbers ported fail or do not work once ported out of the *Magnet Plus* network.

14 NETWORK MAINTENANCE

14.1 The Customer agrees that from time to time it may be necessary for *Magnet Plus* to temporarily suspend the Facility during periods of repair, essential maintenance or alteration or improvement to *Magnet Plus's* telecommunications network or otherwise in accordance with the law.

14.2 Where possible, *Magnet Plus* will give the Customer notice prior to such suspension of the Facility and *Magnet Plus* shall restore the Facility as soon as possible after such suspension.

15 **BROADBAND SPEEDS**

15.1 The advertised download speeds for *Magnet Plus* are set out below. Broadband products are as follows:

Product	Download (Mbps)	Upload (Mbps)	Minimum	Normally Available
Business Broadband 100	100	20	10%	80%
Business Broadband 1000	1000	100	10%	80%
Business Broadband+ 1000	1000	100	10%	80%
Business Broadband+ 150	150	30	10%	80%
Business Broadband+ 300	300	30	10%	80%
Business Broadband+ 500	500	50	10%	80%
Business Fibre 1000	1000	100	10%	80%
Business Fibre 300	300	30	10%	80%
Business Fibre 350	350	30	10%	80%
DIA Fibre*	100 - 10000+	100- 10000+	100%	100%
DIA Wireless *	100 - 10000+	500*	80%	80%
DIA1000	1000	1000	100%	100%
Magnet Choice 100	100	20	10%	80%
Magnet Choice 1000	1000	100	10%	80%
Magnet Fibre Broadband 100	100	20	10%	80%
Magnet Fibre Broadband 1000	1000	100	10%	80%
NBI 500/50	500	50	10%	80%
Up to 100Mbps/ Up to 24Mbps	Specific speeds for these services will be confirmed once your service is activated. Product and Speeds can be viewed on www.magnetplus.ie/fag/internet-broadband * Speeds for bespoke services will be confirmed as per your contract and advised on a hand over document.			

15.2 Broadband speed is subject to availability and line quality. Delays and jitters in the transmission of data or packet loss can result in the Customer's broadband running slowly or issues with services like VOIP. If there is packet loss or delay in broadband data transfer, certain applications may be impacted from momentary interruptions of video or audio or alternatively the time to complete downloading content can become longer. The Customer accepts that *Magnet Plus* does not guarantee that the Facility will be free from latency or jitter in the transmission of data or packet loss.

15.3 If the Customer's line cannot support the download speed requested, *Magnet Plus* will offer the Customer the best available speed that the line supports and downgrade the contract to reflect the speed the Customer is able to achieve. *Magnet Plus* will not actively monitor lines and the Customer must inform *Magnet Plus* of the degradation of the speed once noticed. Once the degradation is reported and confirmed by *Magnet Plus*, the Customer's speed will be amended to the best available speed that the line supports from the date the degradation was reported.

15.4 If the Customer experiences any continuous discrepancies between the actual performance of their broadband regarding speed, or other quality of service parameters and the performance indicated above, then they should contact *Magnet Plus* at support@magnetplus.ie at the earliest opportunity. Where the Customer's account has had several or re-occurring unresolved technical issues for poor or intermittent connections or continuous slow Broadband speeds, and this is verified by a monitoring mechanism certified to *Magnet Plus's* satisfaction, then the Customer shall be entitled to terminate their contract without penalty.

16 LIABILITY

16.1 Subject to **Clause 16.3**, *Magnet Plus* warrants that the Facility will be provided with due care, skill and diligence and any materials used will be sound and reasonably fit for the purpose for which they are required.

16.2 *Magnet Plus* does not however warrant that the Facility will meet the Customer's own requirements or that the operation of the Facility will be uninterrupted or error-free.

16.3 If *Magnet Plus* is in breach of any express or implied legal obligation its liability shall be strictly limited to:

- correcting the relevant fault, at its own expense; or
- at the option of *Magnet Plus*, reimbursement of the price of the Facility in question, (which is subject to a **twelve (12) month** fee cap).

16.4 *Magnet Plus* shall have no further liability to the Customer in contract, tort or otherwise including any liability for negligence or breach of duty whether occasioned by the negligence of *Magnet Plus*, its employees, agents or otherwise, in respect of the following:

- any loss of revenue, business, contracts, Anticipated Savings, or profits; or
- any loss or corruption of data or software configuration; or
- any indirect, consequential, special, incidental or punitive loss, including loss of profit or cost of provision of substitute facility howsoever arising.

16.5 In so far as the same is permissible by the Applicable Laws, *Magnet Plus* shall not be liable in contract, tort or otherwise for any loss, injury or damage, arising directly or indirectly from:

- any act, omission, error, default, failure or delay in respect of the provision, installation, operation, maintenance or termination of the Facility;

- any failure of the Facility;
- any failure of, or defect in, anything provided as a part of or in association with the Facility, including but not limited to any Customer Premises Equipment.

16.6 Nothing in the Agreement of service shall exclude or limit the liability of *Magnet Plus* for death or personal injury resulting from the negligence of *Magnet Plus* or any of its employees or agents, nor shall they operate to exclude or limit any statutory rights which cannot be legally excluded or limited.

16.7 In no event shall *Magnet Plus* be liable to the Customer for damage suffered by the Customer as a consequence of the acts or omissions of third parties. The Customer acknowledges that they access the Internet at their own risk and that *Magnet Plus* has no responsibility for any goods, services, information, software or other materials accessed by the Customer whilst using the Facility.

17 INDEMNITY

17.1 The Customer shall indemnify *Magnet Plus* against any and all claims made against *Magnet Plus*, for loss, damage or injury to any person or property, whether direct or indirect, occasioned by or arising from the use of the Facility by the Customer or a breach of this Agreement by the Customer.

18 SECURITY

18.1 We may provide the Customer with PIN numbers, passwords or other security measures in connection with the Customer's Facility. These must be changed immediately on receipt to ensure security of the Facility. These passwords should be changed regularly to ensure continued security of the Facility.

18.2 *Magnet Plus* is not responsible or liable for the Customer's PBX and it is the Customer's responsibility to ensure that it is secure. *Magnet Plus* are providing connectivity services only.

18.3 If the Customer suspects that any of their PIN numbers, passwords or other security measures have become known to an unauthorised person, the Customer must inform *Magnet Plus* immediately.

18.4 The Customer must not use the Facility to breach network security or tamper with data, systems, or networks without proper authorisation. Probing, monitoring, or interfering with any system or network, is strictly prohibited in line with the *Magnet Plus* [Fair Acceptable Usage Policy](#).

18.5 A security breach refers to the unauthorized use of *Magnet Plus* services for activities such as hacking, spamming, or initiating denial of service attacks. Additionally, any unauthorized access or infiltration into *Magnet Plus* network infrastructure constitutes a security breach. *Magnet Plus* employs proactive measures to prevent and respond to security threats and vulnerabilities, which includes safeguarding its network, IT systems, and other components. As part of its commitment to security, *Magnet Plus* regularly reviews and updates its internal network management policy.

19 **FORCE MAJEURE**

- 19.1 *Magnet Plus* reserves the right to charge the Customer reasonable costs and expenses incurred by *Magnet Plus* in providing maintenance services where the need for maintenance services results from any one of or a combination of the defined "**Force Majeure**" events.
- 19.2 No party shall be deemed to be in breach of its obligations under this Agreement in the event of a Force Majeure event (ensuring notification of such an event, cooperation during same and prompt re-commencement following such an event).
- 19.3 The Customer agrees that its obligation to pay *Magnet Plus* shall not be suspended as a result of a Force Majeure event.

20 **MISCELLANEOUS**

- 20.1 *Magnet Plus* reserves the right to alter the Terms and Conditions with notice being given to the Customer.
- 20.2 The Customer may not transfer or try to transfer the Facility or any of their rights and responsibilities under this Agreement. The Facility is provided solely for the Customer's own use and the Customer shall not resell the Facility (or any part of the Facility) to any third party. *Magnet Plus* may transfer its rights and obligations under this Agreement without the Customer's permission, except where this would result in a poorer service to the Customer.
- 20.3 Calls to and from *Magnet Plus* customer services may be recorded or monitored for training and other purposes. For further information, please see *Magnet Plus* Privacy Statement, which can be found here: <https://www.magnetplus.ie/privacy-statement/>.
- 20.4 Each of *Magnet Plus*'s rights, remedies and powers under this Agreement are cumulative and will not exclude *Magnet Plus*'s from any other right, remedy or power at any time.
- 20.5 If a clause or condition of this Agreement is deemed to be unenforceable or not legally effective, the remainder of the Agreement shall be enforceable / effective. *Magnet Plus* can replace any condition that is not legally effective with a condition of similar meaning that is.
- 20.6 *Magnet Plus* may use credit reference agencies to help *Magnet Plus* make credit decisions or for fraud protection. The Customer agrees that *Magnet Plus* may register information about the Customer and the conduct of the Customer's account with any credit reference agency and that any such credit reference agency may make decisions solely by automated means. For the purpose of fraud prevention, debt collection and credit management, information about the Customer and the conduct

of their account may be disclosed to debt collection agencies, security agencies, financial institutions, external advisors, insurers or other phone companies.

- 20.7 Please see the *Magnet Plus* [Fair Acceptable Usage Policy](#) for details about information governing any access to any content or to any internet service. The *Magnet Plus* [Fair Acceptable Usage Policy](#) does not form part of your Contract.
- 20.8 Unless expressly provided in the Agreement, no condition is enforceable by any person who is not the Customer.
- 20.9 The Agreement represents the entire agreement between the parties in relation to the Facility. Neither party has entered into the Agreement in reliance upon and, to the extent permissible under the Applicable Laws, *Magnet Plus* do not have any liability in relation to, any representations, terms or conditions not expressly set out in the Agreement.
- 20.10 Any dispute arising between the parties shall be referred by the Customer initially to the relevant *Magnet Plus* customer relations manager, in order that any such dispute may be resolved in good faith and any such dispute shall be conducted in accordance with the *Magnet Plus* [Dispute Resolution Procedure](#). For the avoidance of doubt and in the event of such a dispute, *Magnet Plus* shall continue to provide the Facility in accordance with this Agreement unless otherwise requested by the Customer.
- 20.11 The Applicable Laws will apply to the Agreement and any disputes will be settled exclusively in the courts of Ireland.
- 20.12 All intellectual property rights and other ownership rights in any of *Magnet Plus's* property or other materials shall be retained by and vest in *Magnet Plus*. No such rights shall pass to the Customer by virtue of this Agreement.
- 20.13 For more information on *Magnet Plus* features for end-users with disabilities please see: <https://www.magnetplus.ie/accessibility/>.
- 20.14 Nothing in this Agreement shall be deemed as creating a joint venture between the parties.

21 PERSONAL DATA

- 21.1 Where a party receives Personal Data from the other party in the course of this Agreement, that party shall:
- comply with Data Protection Laws; and

- only process such Personal Data for the purposes of and / or as provided for in the Agreement, to provide the other party with information about its products and services (where permitted) and / or to comply with, or as otherwise permitted by, Applicable Laws.
- 21.2 Prior to placing an order for the Facility, *Magnet Plus* will ask the Customer whether it wishes to exclude its Personal Data from the National Directory Database, pursuant to Regulation 12 of the S.I. No. 336/2011 - *European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011* (as amended by S.I. No. 444 of 2022 *European Union (Electronic Communications Code) Regulations 2022*).
- 21.3 For more information about how *Magnet Plus* may use the Customer's Personal Data, please see the *Magnet Plus* [Privacy Policy](#).
- 21.4 The parties agree that where the Customer is a business, trade or profession it shall be the Controller of Customer Personal Data and any Own Customer Personal Data and *Magnet Plus* shall be the Processor. Where Personal Data shared by the Customer relates to referral data provided to *Magnet Plus* for its on-boarding purposes, or where the Customer is a Data Subject, *Magnet Plus* will be the Controller. Each party shall comply with their respective obligations under applicable Data Protection Laws in this regard.
- 21.5 Without prejudice to, or limiting the Customer's obligations under **Clause 21.6**, to the extent *Magnet Plus* acts as a processor for the Customer Personal Data in performing or delivering the services to the Customer, *Magnet Plus* shall:
- save as permitted by Applicable Laws, process the Customer Personal Data only on and in accordance with the Customer's documented instructions and inform the Customer of any legal requirement under Applicable Law that would require *Magnet Plus* to process the Customer Personal Data other than in accordance with the Customer's instructions;
 - ensure that any persons authorised to process Customer Personal Data within *Magnet Plus* have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
 - implement appropriate technical and organisational measures (as defined in the Data Protection Laws) to protect against a Personal Data Breach, having regard to the state of technological development and the cost of implementing any measures;
 - not engage a sub-processor to perform processing activities in respect of the Customer Personal Data without the Customer's prior specific or general written consent. If the Customer gives its consent the supplier shall appoint the sub-processor under a binding written contract which

imposes the same data protection obligations as are contained in this Agreement on the sub-processor and in particular under this **Clause 21**;

- taking into account the nature of processing and insofar as possible, implement and maintain appropriate technical and organisational measures so as to assist the Customer in responding to Data Subject Rights requests as set out in Data Protection Laws;
- not transfer any Customer Personal Data to any country outside of the European Economic Area without the prior written consent of the Customer and if the Customer consents to the transfer of the Customer Personal Data to an international recipient the supplier shall ensure that such transfer (and any onward transfer) complies with the written instructions of the Customer and this **Clause 21**;
- taking into account the nature of processing and the information available to it, assist the Customer, at their cost, in responding to any valid request from a Data Subject under Data Protection Laws and in ensuring compliance with the Customer's obligations under Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- at the Customer's written direction, delete or return the Customer Personal Data and copies thereof to the Customer on termination of the Services unless storage of any data is required by Applicable Law, and
- make available to the Customer all information necessary to demonstrate compliance with this **Clause 21** and allow the Customer or their designated auditor, at the Customer's cost and on reasonable prior notice, audit *Magnet Plus's* records to the extent necessary to verify *Magnet Plus's* compliance.

21.6 Nothing in this **Clause 21** shall relieve, remove or replace the Customer's obligations under Data Protection Laws as Controller. The Customer is responsible for ensuring that they have all the necessary consents and notices in place, or another valid lawful basis (within the meaning of Data Protection Laws), before they use the services to collect, process, use and transfer Customer Personal Data or Own Customer Personal Data to *Magnet Plus* for use in accordance with the Agreement and for the duration and purposes of the Agreement.

All information included in the Terms and Conditions is correct at time of going to print March 2024