



08452 334455

Push to Talk Ltd  
Torlundy House  
Wood Road  
Hindhead  
Surrey GU26 6PT

## TERMS AND CONDITIONS

### 1. DEFINITIONS

In these Terms and Conditions the following words and phrases shall have the meanings set out next to them:

"Acceptance" means the written notification (which includes email) from Push To Talk Ltd to the Customer confirming that Push To Talk Ltd accepts the GMR Order Form (to which these Terms and Conditions are attached) from the Customer and agrees to provide the Service to the Customer and also provides the Customer with the URL for the online provisioning service and its unique password to enable the Customer to provision the Service for its End Users.

"Charges" means the sums payable by the Customer to Push To Talk Ltd for the Service.

"Contract" means the contract for the provision of the Service to the Customer by Push To Talk Ltd which will commence on Acceptance and which incorporates these Terms and Conditions and the terms set out in the GMR Order Form.

"End User" means those of the Customer's employees and other persons who the Customer authorises to use the Service by provisioning their mobile phone or PC (including laptops) to use the Service.

"Service" means the Push To Talk Ltd Global Mobile Radio managed service for business users in the United Kingdom as described in more detail for the time being in the Global Mobile Radio service description displayed on Push To Talk Ltd's website ([www.pttuk.com](http://www.pttuk.com)) for the time being and as detailed in relation to the Customer on the GMR Order Form.

Words and phrases defined or otherwise explained on the GMR Order Form shall have the same meanings in these Terms and Conditions.

### 2. SERVICE

Push To Talk Ltd will provide the Service to the Customer and the Customer agrees to use and pay for the Service on the terms set out in the Contract. For technical, operational and other reasons Push To Talk Ltd shall be entitled to vary the technical specification (including, without limitation, any software) for the Service. The Customer will replace at Push To Talk Ltd's prices current for the time being, any equipment provided by Push To Talk Ltd in the provision of the Service which is lost, destroyed or broken whilst in the position of the Customer or its End Users.

### 3. DURATION

The Contract shall continue for the Contract Term, if specified. If no Contract Term is specified or the Contract Term has ended, the Contract will be terminable by either party giving to the other not less than one calendar month's written notice, in the case of there being a Contract Term, such notice to expire at any time on or after the end of the Contract Term.

### 4. PAYMENT

4.1 The Charges for the Service shall be as stated in the GMR Order Form or as varied by any new Service tariff subsequently notified by Push To Talk Ltd to the Customer from time to time. Push To Talk Ltd will give the Customer not less than one calendar month's written notice of any increase in the Charges for the Service. All prices specified are exclusive of VAT which will be paid in addition to the prices at the prevailing rate. The monthly Charge for each End User will be calculated on the number of End Users who have been provisioned to use the Service for any part of the relevant calendar month. Where the GMR Order Form specifies a minimum number of PC or mobile End Users, the Charges shall be calculated on the basis that the minimum number of End Users have been provisioned during each calendar month during the term of the Contract notwithstanding that this is higher than the actual number provisioned during any calendar month.

4.2 All sums due to Push To Talk Ltd under the Contract shall be paid in full by the Customer without any set-off or deduction on any ground whatsoever.

4.3 The Customer shall be invoiced monthly or for such other period, if any, as specified in the GMR Order Form by Push To Talk Ltd for all Charges under the Contract incurred in the preceding calendar month (or other charging period) and will pay the Charges by the end of the month in which the invoice is dated. Invoices will be sent to the Customer by no later than the 14<sup>th</sup> day following the end of the relevant calendar month. Invoices may be sent by email. Push To Talk Ltd shall be entitled by written notice to the Customer to require payment to be made by Direct Debit. The time of payment of all sums due to Push To Talk Ltd shall be the essence of the Contract.

4.4 Push To Talk Ltd reserves the right to charge interest on all outstanding amounts owed to Push To Talk Ltd at an annual rate of 3% above the Lloyds Bank PLC's base rate for the time being from the date the payment was due down to the date of payment in full and after as well as before any judgment for the same. Interest shall accrue notwithstanding termination of the Contract for whatever reason and the Customer will remain liable for all accrued Charges. The Customer shall also pay all legal fees and other costs of collection of overdue accounts.

4.5 All Charges payable under the Contract shall be calculated by reference to data recorded or logged by Push To Talk Ltd and not by reference to data recorder or logged by the Customer.

### 5. USE OF SERVICE

5.1 The Customer undertakes to use the Service in accordance with the reasonable directions notified in writing to the Customer by Push To Talk Ltd from time to time and the directions of any authority or body with whose directions Push To Talk Ltd must comply and with the terms of any licence required by Push To Talk Ltd to provide the Service, so far as they are applicable to and notified by Push To Talk Ltd in writing to the Customer, and otherwise as may be required by law.

5.2. Push To Talk Ltd reserves the right to set a limit on the number of End Users who may be provisioned by the Customer.

5.3 The Customer undertakes not to use the Service in a manner which constitutes a violation or infringement of the rights of any other party or in any manner which is unlawful.

5.4 The Customer shall indemnify Push To Talk Ltd against all liabilities, claims, damages, losses and expenses arising from or in any way connected with any such use as is prohibited under this clause 5.

### 6. PROVISION OF INFORMATION

The Customer undertakes promptly to provide Push To Talk Ltd with all information which Push To Talk Ltd may reasonably require in connection with the Customer's use of the Service and its End User. The Customer will obtain the consent of its End Users to the collection and storage of data relating to the End User's use of the Service by Push To Talk Ltd.

### 7. LIABILITY

7.1 Nothing in the Contract shall exclude or restrict Push To Talk Ltd's or the Customer's liability for death or personal injury resulting from the negligence of Push To Talk Ltd or the Customer (as the case may be) or their employees, agent or sub-contractors.

7.2 Subject to clauses 7.1, 7.3 and 7.4, Push To Talk Ltd's total liability to the Customer for any and all claims arising out of or connected with the Service or the Contract, whether in contract, tort, breach of duty or otherwise, shall not exceed six times the Charges for the calendar month preceding the notification of the relevant Claim.

7.3 Push To Talk Ltd shall not be liable to the Customer in contract, tort, breach of duty or otherwise, for any corruption, destruction or loss of data (whether temporary or not), loss of revenue, business, anticipated savings, profit, goodwill or for any financial loss whatsoever or for any indirect or consequential loss howsoever arising.

7.4 In the event that Push To Talk Ltd fails, for any reason, to provide the Service, Push To Talk Ltd shall not be liable to the Customer on any account whatsoever.

7.5 The provisions of this clause 7 shall continue to apply notwithstanding termination of the Contract.

### 8. AVAILABILITY

Push To Talk Ltd will use all reasonable endeavours to ensure that the Service is available for use by the Customer in accordance with the standards for the time being relating to the Service set out by Push To Talk Ltd on its website. However, Push To Talk Ltd shall not be liable to the Customer on any account whatsoever for a failure to meet any such standard.

### 9. TERMINATION

9.1 Without prejudice to their other rights under the Contract, Push To Talk Ltd and the Customer shall have the right to terminate the Contract forthwith by written notice to the other in the event that:

9.1.1 The other party is in default of its obligations under the Contract and in the case of a remediable breach, fails to remedy the breach within a reasonable time specified by the non-defaulting party in its written notice to do so; or

9.1.2 If a bankruptcy order is made against the other party or an administration order is made, or a receiver, administrative receiver or administrator is appointed of any of the other party's assets or undertaking or a winding-up order is made (otherwise than for the purposes of reconstruction or amalgamation) against the other party.

9.2 Without prejudice to its other rights, Push To Talk Ltd shall have the right forthwith to terminate the Contract by notice in writing to the Customer in the event that:

9.2.1 The Customer fails to make any payment when it becomes due; or

9.2 Push To Talk Ltd is prevented by law from providing the Service.

9.3 Within 7 days after the termination of the Contract, howsoever caused, the Customer will at its cost return all equipment provided by Push To Talk Ltd in the provision of the Service.

### 10. SUSPENSION OF SERVICE

10.1 Push To Talk Ltd may at its sole discretion elect to suspend forthwith the provision of the Service until further notice without liability to the Customer on notifying the Customer either orally (confirming the same in writing) or in writing in the event that:

10.1.1 The Customer is in breach of any term of the Contract;

10.1.2 Push To Talk Ltd is obliged to comply with an order instruction or request of government, an emergency service or other competent authority; or

10.1.3 The Customer is suspected, in Push To Talk Ltd's reasonable opinion of involvement with fraud or attempted fraud or acts which are of a defamatory, offensive, abusive, obscene or menacing character in connection with use of Service.

10.2 Notwithstanding the exercise by Push To Talk Ltd of its right of suspension under this clause 10, either party shall be entitled to give notice of termination in accordance with clause 3.

### 11. THIRD PARTIES

No person other than Push To Talk Ltd and the Customer shall be entitled to enforce any term of the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999 nor shall the consent of any other party be required in respect of any amendment to be made to the Contract.

### 12. ASSIGNMENT

The Contract may not be assigned in whole or in part by the Customer without the prior written consent of Push To Talk Ltd.

### 13. FORCE MAJEURE

Neither party shall be liable to the other for any loss or damage arising out of a breach of the Contract due to any cause beyond the reasonable control of the party in breach including, but not limited to, any act of God, inclement weather, failure or shortage of power supplies, flood, drought, lightning, fire, strike, lock-out, trade dispute or labour disturbance, the act or omission of government, highway authorities, war, military operation, riot or difficulty or delay or failure in manufacture, production or supply by third parties of equipment. This clause 13 shall not apply to relieve a party of any liability for a failure to pay any sum which is due.

### 14. ENTIRE AGREEMENT

The Contract represents the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior understandings and representations, whether written or oral, except for any fraudulent misrepresentations. The Contract may only be modified if such modification is in writing and signed by or on behalf of Push To Talk Ltd and the Customer.

### 15. WAIVER

The failure by either party to exercise or enforce any right conferred by the Contract shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof, or of any other right, on any later occasion.

### 16. NOTICES

15.1 Any notice, invoice or other document which may be given by either party under the Contract shall be deemed to have been given if left at or sent by first class post or facsimile transmission or email transmission to:

15.1.1 In the case of the Customer, the address stated in the GMR Order Form or such other address as may be prescribed by the Customer for that purpose; and

15.1.2 In the case of Push To Talk Ltd, such address as appears on the last invoice rendered to the Customer or such other address as may be prescribed by Push To Talk Ltd for that purpose.

15.2 Any notice, invoice or other document served in accordance with clause 15.1 shall be deemed to have been received by the addressee;

15.2.1 In the case of personal delivery, at the time of delivery;

15.2.2 In the case of delivery by post, 2 days after being placed in the post; or

15.2.3 In the case of facsimile or email transmission, at the time of transmission so long as a failed delivery report has not been received by the sender.

### 16. GOVERNING LAW

The Contract is governed by and shall be construed in accordance with English law and the parties hereby submit to the jurisdiction of the English Courts.