
Terms and Conditions for the provision of SERVICES

1 **DEFINITIONS AND INTERPRETATION**

1.1 In these terms and conditions, unless the context requires otherwise, the following expressions have the following meanings:

"Access Details"	the single user name and password which AVALLE shall provide to the Customer to enable the Customer to access Uboss;
"Agreement"	the binding commitments between the parties consisting of AVALLE's quotation as defined in the Sales Order and the Customer's acceptance thereof as evidenced by its authorised representative's signature on the Sales Order and these Terms and Conditions for the provision of Services;
"Uboss"	AVALLE's provisioning and billing system known as Uboss;
"Authorised Users"	employees and/or independent contractors of the Customer who are required to access Uboss.
"Business Day"	any day which is not a Saturday, a Sunday or a bank or public holiday in England;
"Confidential Information"	information of either party that is proprietary or confidential and is either clearly labeled as such or otherwise identified as Confidential Information;
"Customer"	The legal entity, shown on the Sales Order, who requests the Services;
"Description"	the individual specification for each of the Services and Equipment, details of which can be found on the Uboss or in the event that an item of Service or Equipment is not included within Uboss, or, the Customer opts not to use Uboss, the individual specification included within the Sales Order;
"AVALLE"	AVALLE LLP, whose registered office is as 30 NEW ROAD, BRIGHTON, EAST SUSSEX BN1 1BN Registered No: OC340400
"Equipment"	the various Items of equipment available from AVALLE, which may be supplied by AVALLE to the Customer pursuant to the Agreement, as described in and subject to the additional terms and conditions in Schedule 1.
"Hosted Services"	the various application and connectivity services available from AVALLE, which may be provided by AVALLE to the Customer pursuant to the Agreement, as described in and subject to the additional terms and conditions as detailed in Schedule 1. Hosted Services consist of services provided by AVALLE and services provided by third parties.
"Intellectual Property Rights"	all patents, copyrights, design rights, trade marks, service marks, trade secrets, trade names, know-how, database rights and other rights in the nature of intellectual property rights (whether registered or unregistered) and all applications for the same.

“Professional Services”	the installation, training and other professional services available from AVALLE, which may be provided by AVALLE to the Customer pursuant to the Agreement, as described in and subject to the additional terms and conditions as detailed in Schedule 1;.
“Sales Order”	AVALLE’s formal offer to provide specific Services and which forms part of the Agreement;
“Services”	Hosted Services and Professional Services
"Service Credits"	the service credits described in Schedule 2;
"Service Levels"	the performance levels applicable to the Hosted Services as set out in Schedule 2;

- 1.2 Headings are for convenience only and shall be ignored in interpreting this Agreement.
- 1.3 References to the singular include the plural and vice versa and references to any gender shall include references to all other genders.
- 1.4 The words “include” and “including” shall be interpreted as meaning “including without limitation”.
- 1.5 A party’s obligation not to do something includes an obligation not to permit or authorise it.
- 1.6 Unless otherwise stated, references to any legislation mean that legislation as modified, consolidated or re-enacted from time to time) together with any orders or regulations made from time to time under or pursuant to it.

2 ORDER PROCESS AND AUTHORISED USERS

- 2.1 The Customer may order Services and Equipment via any of the ordering methods detailed in clause 2.2 below.
- 2.2 AVALLE shall contact the Customer and provide Access Details to the Customer to enable access by the Customer via a web portal, to the Uboss System. The Customer shall order Services and Equipment it requires to receive, via Uboss, or, by issuing an email request to support@avalle.co.uk, or by signing the Sales Order. Where the Customer uses the Uboss System, the Customer shall ensure that its use of Uboss is strictly in accordance with the provisions of clause 2.4 below.
- 2.3 AVALLE may issue an order acceptance to indicate their acceptance of an order. In the absence of issuing an order acceptance, AVALLE’s provisioning of the Services and Equipment will constitute their acceptance and the terms and conditions set out in this Agreement together with the Description shall apply to the provision of the Services and Equipment.
- 2.4 In respect of the Access Details the Customer shall ensure that:
 - 2.4.1 i Portal user Lists are maintained within Uboss, it is up to the customer to remove Portal User that should no longer have access or to request the Avalle support desk undertakes this task
 - 2.4.2 each Authorised User keeps the Access Details confidential;
 - 2.4.3 it promptly notifies AVALLE in the event of any unauthorised use of the Access Details such that AVALLE can disable the Access Details and issue the Customer with new access details

3 CHARGES AND PAYMENT

- 3.1 The Customer shall pay AVALLE the fees and charges as set out in, and in accordance with, the details on Uboss in respect of each item of Service and Equipment, or as otherwise detailed in clause 4.1 below.
- 3.2 The fees, charges and prices payable are exclusive of Value Added Tax and any other applicable taxes which shall be paid by the Customer at the rate and in the manner for the time being prescribed by law.

- 3.3 All payments shall be via Direct Debit except where agreed otherwise in writing between the parties. If a Direct Debit is not in place, AVALLE will levy an additional monthly charge of 3% of the total invoice value or £10.00, whichever is greater
- 3.4 Invoices for all Services (including call charges) and Equipment including set up and recurring charges will be issued by AVALLE on or after 1st of each month and payment shall be taken on or after the 15th day following the date of issue of the invoice. Each monthly invoice shall include:
- 3.4.1 Set up charges for Hosted Services and set up charges for any Equipment supplied on a rental basis;
 - 3.4.2 recurring charges for Hosted Services on a monthly in advance basis;
 - 3.4.3 call charges for Hosted Services on a monthly in arrears basis;
 - 3.4.4 charges for Professional Services on a monthly in arrears basis for Professional Services delivered during the previous month;
 - 3.4.5 charges for Equipment purchased during the previous month.
 - 3.4.6 recurring charges for Equipment covered by rental arrangement on a monthly in advance basis.
- 3.5 It is the customer's responsibility to check the monthly invoice for accuracy and notify AVALLE promptly of any errors. Any claims for a credit or refund will be limited to a maximum of six months from the date that the claim is first received by AVALLE.
- 3.6 If any sum payable is not paid by the end of the calendar month in which the invoice is due then without prejudice to AVALLE's other rights and remedies, AVALLE reserves the right to charge the Customer interest on such unpaid sum on a monthly basis at a rate of 5% of the sum due or £10, whichever is the greater, from the date the unpaid sum became due for payment until the date it is paid in full.
- 3.7 The Customer shall pay all amounts due in full without any deduction or withholding other than as required by law and shall not be entitled to assert any credit, set-off or counterclaim against AVALLE to justify withholding any payment of any such amount in whole or in part.

4 PRICES AND PRICE REVIEWS

- 4.1 AVALLE shall provide Services and Equipment to the Customer at the prices detailed on Uboss, or as otherwise notified by AVALLE to the Customer according to AVALLE's standard price list in force from time to time.
- 4.2 Except as detailed in clause 4.3 below in respect of prices reviews for Services (including call charges) and Equipment provided by third party suppliers to AVALLE, AVALLE may conduct a fee review in respect of Services and Equipment, every 12 months. AVALLE shall be entitled to increase the fees every 12 months by a maximum of 3% above the Retail Prices Index without the Customer's prior written consent and the Customer agrees to pay such increased fees. If AVALLE wishes to increase the fees by more than 3% above the Retail Prices Index, it shall agree such fee increase in advance in writing with the Customer.
- 4.3 AVALLE may vary the prices and charges in respect of Services (including call charges) and Equipment provided by third party suppliers to AVALLE at any time by providing the Customer with 30 days prior written notice.

5 DURATION AND TERMINATION

- 5.1 The Agreement will commence on the Effective Date, please refer to the "Sales Order" for the contract duration of the services subscribed to as contract length do vary. unless or until:
- 5.1.1 the Agreement is terminated in accordance with clause Schedule 1, section 2.9 or clause 13.3
 - 5.1.2 the Customer cancels all of the Services in accordance with the rights of cancellation which apply to the individual Services as detailed in the "Sales Order".
- 5.2 Either party may give notice in writing to the other party to terminate the Agreement with immediate effect if:
- 5.2.1 the other party commits a material breach of any term of the Agreement which cannot be remedied, or in the case of a breach capable of being remedied, has failed to remedy the breach within 30 Business Days of notice being given by the other party requiring it to be remedied; or

- 5.2.2 the other party becomes or is declared insolvent, or convenes a meeting of its creditors, or makes or proposes to make any arrangement or composition with them, or if a liquidator, receiver, administrative receiver administrator, manager or similar office holder is appointed over any of its assets or passes a resolution for winding up or a court makes an order to that effect, or becomes or is declared bankrupt.
- 5.3 Upon termination or expiration of the Agreement for any reason, all fees and charges and other sums payable under or in connection with the Agreement and any Services provided there under, whether invoiced or not, shall become due and payable immediately upon termination.
- 5.4 Upon termination or expiration any agreed rebates or credits paid in regard to Inbound Calls or recurring services credits will be cancelled.
- 5.5 The following clauses shall survive termination: 3, 5, 7, 8, 9, 14, 15, 16, 18, 19, Schedule 1 sections 2.9, 3.4.3.

6 ACCESS TO PREMISES

- 6.1 The Customer shall, on prior agreement with AVALLE, grant AVALLE, its agents, sub-contractors and employees, access to the Customer's premises and equipment, where AVALLE requires, to fulfill AVALLE's obligations under the Agreement.
- 6.2 AVALLE shall use all reasonable endeavors to procure that its employees, agents and sub-contractors follow the Customer's reasonable instructions in respect of health and safety concerns while on the Customer's premises.
- 6.3 The Customer shall provide a safe and suitable working environment for AVALLE's employees, agents and sub- contractors at the Customer's premises.

7 WARRANTIES

- 7.1 AVALLE warrants that:
- 7.1.1 It shall provide the Services with reasonable skill and care;
- 7.1.2 The Equipment shall conform in all material respects to its Description. If any item of Equipment is found to be defective within 12 months of delivery (or such lesser period as may be shown in respect of an item of Equipment on the U b o s s System), owing to faulty design, materials or workmanship, AVALLE shall (at its sole discretion) either repair or replace it free of charge, or refund the price paid for it, provided it has not been modified or repaired and has been operated, stored and maintained in accordance with any recommendations for its use as detailed in the Description or accompanying user or operating documentation and that it is returned to AVALLE in accordance with AVALLE's warranty return procedure as notified by AVALLE from time to time.
- 7.1.3 It has the necessary consents and licenses to provide the Hosted Services in accordance with the Agreement.
- 7.2 The warranties detailed in clause 7.1 above, are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law.
- 7.3 International Direct Dial Numbers – AVALLE cannot guarantee to supply a pre allocated international phone on an ongoing basis due to changes in circumstance that may mean these numbers are no longer available. In this event AVALLE has no liability for any costs.

8 LIABILITY

- 8.1 Subject to clause 8.2, 8.3 and 8.4, AVALLE's total aggregate liability for the Services and Equipment provided pursuant to the Agreement, shall not exceed an amount equal to the total fees and charges received by AVALLE under the Agreement, in the 12 (twelve) month period preceding the claim.
- 8.2 AVALLE does not exclude or limit its liability in any way for death or personal injury caused by negligence, or for fraud.
- 8.3 AVALLE shall not be liable for:

- 8.3.1 any loss of revenue, profit, anticipated savings, goodwill or reputation (whether direct or indirect);
- 8.3.2 any indirect or consequential loss;
- 8.3.3 in respect of the Hosted Services:
 - (i) any loss or corruption of data or loss or suspension of the operation of any data networks, (whether indirect or direct);
 - (ii) deletion or loss of files, defects or delays in transmission or any failure of any servers or the internet, or
 - (iii) the transmission or receipt of infringing information of whatever nature transmitted via the Hosted Services, or
 - (iv) loss, destruction or damage to data stored, transmitted or used through the Hosted Services or on the network through which the Hosted Services are made available to the Customer, or
 - (v) loss or damage suffered by the Customer (whether direct or indirect) where the loss has been suffered as a result of any virus or other hostile computer program being introduced through the use of the Hosted Services
- 8.4 The Customer acknowledges that AVALLE is unable to exercise control over the information transmitted through the Hosted Services, the connection or the network and AVALLE excludes all liability of all kinds for the transmission or reception of infringing information of whatever nature.
- 8.5 The Customer shall indemnify AVALLE in full against any liabilities incurred by AVALLE as a result of the Customer breaching the Agreement or any law from time to time in force.

9 **CONFIDENTIALITY**

- 9.1 Each party may have access to Confidential Information of the other party under the Agreement. A party's Confidential Information shall not include information that:
 - 9.1.1 is or becomes publicly known through no act or omission of the receiving party; or
 - 9.1.2 was in the other party's lawful possession prior to the disclosure; or
 - 9.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
 - 9.1.4 is independently developed by the receiving party, which independent development can be shown by written evidence; or
 - 9.1.5 is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body
- 9.2 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party or use the other's Confidential Information for any purpose other than as required by either party to fulfil its obligations under the Agreement. To the extent necessary (but not further or otherwise), AVALLE may disclose Confidential Information to any of its employees provided that before any such disclosure AVALLE shall make those persons aware of its obligations of confidentiality under the Agreement and shall obtain a binding undertaking as to confidentiality from all such persons.
- 9.3 The Customer shall return all documents and other records (in whatever form) containing Confidential Information supplied to or acquired by the Customer from AVALLE to AVALLE on termination of the Agreement, and the Customer shall keep no copies of the Confidential Information.
- 9.4 AVALLE shall maintain the confidentiality of the Customer's recorded conversations and protect recordings of the data, any recording files or any such information created by the Customer in using the Hosted Services ("the Data"). AVALLE undertakes that the Data created in using the Hosted Services under the Agreement shall be kept confidential and AVALLE shall not be permitted to make any use of the Data or process such Data or information for any purpose except to serve the requirements of the Customer to have back up storage of the Data. Any copies or backups of the Data will only be made for the Customer's use, and AVALLE agrees not to make use in any manner or form of the Data recordings without the written approval of the Customer.

9.5 AVALLE shall protect the Data of the Customer against unauthorised disclosure by maintaining adequate security measures to ensure that no third party can access the Data by gaining physical access to any server or data storage or by any remote means by way of virus, Trojan horse or any other malicious software.

9.6 This clause 9 shall survive the termination of the Agreement for any reason.

10 **COMPLIANCE WITH LAWS**

10.1 Both parties agree to comply with their mutual obligations owed to third parties by virtue of the Data Protection Act 1998, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 and any such statutory requirements that may be in force from time to time.

10.2 AVALLE shall obtain all necessary consents, licences, approvals and permits required by any applicable governmental or regulatory body for AVALLE to provide the Services and/or Equipment to the Customer. AVALLE is regulated by the Office of Communications (Ofcom), the regulator for the UK communications industries, with responsibilities across television, radio, telecommunications and wireless communications services or their replacement from time to time.

10.3 The Customer shall obtain all necessary consents, licenses, approvals and permits required by any applicable governmental or regulatory body for the Customer to use the Services and Equipment and ensure that the use of the Services and Equipment by the Customer shall not lead to any breach of any telecommunications licence held by AVALLE or its third party suppliers.

10.4 The Customer must not use the Services or Equipment for any improper or unlawful purposes, nor allow a third party to do so.

11 **DATA PROTECTION**

11.1 The Customer and AVALLE acknowledge that for the purposes of the Data Protection Act 1998, the Customer is the data controller and AVALLE is the data processor in respect of any personal data.

11.2 AVALLE shall process the personal data only in accordance with the Customer's instructions from time to time and shall not process the personal data for any purpose other than those expressly authorised by the Customer.

11.3 AVALLE shall take reasonable steps to ensure the reliability of all its employees who have access to the personal data.

11.4 Each party warrants to the other that it will process the personal data in compliance with all applicable laws, enactments, regulations, orders, standards and other similar instruments.

11.5 AVALLE warrants, that, having regard to the state of technological development and the cost of implementing any measures, it will

11.5.1 take appropriate technical and organisational measures against the unauthorised or unlawful processing of personal data and against the accidental loss or destruction of, or damage to, personal data to ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and the nature of the data to be protected;

11.5.2 take reasonable steps to ensure compliance with those measures

11.6 AVALLE may authorise a third party (sub-contractor) to process the personal data provided that the sub-contractor's contract

11.6.1 Is on terms which are substantially the same as those set out in the Agreement; and

11.6.2 Terminates automatically on termination of the Agreement for any reason.

12 **PUBLICITY**

12.1 The Customer agrees that AVALLE may:

- 12.1.1 disclose to third parties that AVALLE is providing Services and Equipment to the Customer; and
- 12.1.2 use the Customer's name, trademarks, logo and testimonial (if a testimonial is provided) in promotional material and communications including, but not limited to, proposals, press releases, trade magazines, presentations, website and corporate brochure, provided that AVALLE obtains the Customer's prior written approval, such approval not to be unreasonably withheld or delayed.

13 **FORCE MAJEURE**

- 13.1 Except in respect of the Customer's obligation to make payments properly due, neither party shall be in breach of the Agreement, or liable to the other in any way whatsoever, for any failure to perform, or delay in performing, its obligations under the Agreement, to the extent that such failure or delay is the result of a cause beyond that party's reasonable control.
- 13.2 Clause 13.1 shall not apply in respect of any failure or delay unless the party affected by such a cause gives notice to the other of that failure or delay and the cause within ten Business Days of becoming aware of the cause and its impact on that party.
- 13.3 If a party is prevented from performing any obligations it has under the Agreement for more than eight weeks, the other party is entitled to terminate the Agreement by giving written notice to the other party, such notice to have immediate effect.

14 **NOTICES**

- 14.1 Any notice required to be given pursuant to the Agreement shall be in writing or by E Mail as to support@avalle.co.uk, in the case of writing shall be given by delivering the notice by hand at, or by sending the same by prepaid first class post (airmail if to an address outside the country of posting) to, the address of the relevant party set out in the Agreement, or such other address as either party notifies to the other from time to time. Any notice given according to the above procedure shall be deemed to have been given at the time of delivery if delivered by hand or if sent by post, two clear Business Days after the notice is posted.

15 **ASSIGNMENT**

- 15.1 The Customer shall not without the prior written consent of AVALLE, consent to be not unreasonable withheld, assign, transfer, charge or deal in any other manner with the Agreement or its rights under it or part of it, or purport to do any of the same.
- 15.2 AVALLE may assign, transfer, charge or deal in any other manner with the Agreement or its rights under it or part of it provided that no such assignment, transfer or charge shall relieve AVALLE of its obligations under the Agreement.

16 **AMENDMENTS**

- 16.1 Save as expressly provided in the Agreement, no amendment or variation of the Agreement shall be effective unless in writing and signed by a duly authorised representative of each of the parties to it.

17 **WAIVER**

- 17.1 The failure or delay of a party to exercise or enforce any right under the Agreement shall not be deemed to be a waiver of that right, nor operate to bar the exercise or enforcement of it at any time or times thereafter.

18 **SEVERABILITY**

- 18.1 Notwithstanding that this whole, or any part of provision of this, Agreement may prove to be illegal or unenforceable the other provisions of the Agreement and the remainder of the provision in question shall remain in full force and effect.

19 **LEGAL CONSTRUCTION OF THE AGREEMENT**

- 19.1 Notwithstanding the Contract (Rights of Third Parties) Act 1999, the Agreement does not confer on any third party any right to enforce any term of the Agreement and the parties are entitled to exercise their rights (if any) to rescind, terminate or vary the Agreement without the consent of any third party and without informing any third party.

- 19.2 The Agreement shall be governed by and construed in accordance with English law and each party hereby irrevocably submits to the exclusive jurisdiction of the English Courts, provided always that AVALLE shall be entitled to take action in any other jurisdiction to protect its Intellectual Property Rights, or those of its third party suppliers, or its Confidential Information.
- 19.3 The Agreement constitutes the entire understanding between the parties with respect to the subject matter of the Agreement and supersedes all prior agreements, negotiations, representations and discussions between the parties relating to it. Each party acknowledges and agrees that in entering into the Agreement it has not relied on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether or not in writing) other than those expressly set out in the Agreement. This does not affect either party's liabilities or remedies for fraud

SCHEDULE 1

DESCRIPTION OF THE SERVICES AND EQUIPMENT AND ADDITIONAL TERMS AND CONDITIONS

1. DESCRIPTION OF SERVICES AND EQUIPMENT

Details of the individual Services and Equipment, together with their description, pricing, minimum term and other terms and conditions applicable, can be found on Uboss and/or by accessing the website at www.avalle.co.uk/

2. PROVISION OF HOSTED SERVICES

THE FOLLOWING TERMS AND CONDITIONS AS DETAILED IN THIS SCHEDULE 1, SECTION 2 APPLY SPECIFICALLY TO THE SUPPLY OF HOSTED SERVICES

- 2.1 The Customer may order Hosted Services as may be available and detailed on Uboss.
- 2.2 AVALLE shall provide the Customer with the Hosted Services from the commencement date as notified to the Customer via the AMOS System. Where Service Levels apply, AVALLE shall use reasonable endeavours to the Hosted Services in accordance with the Service Levels.
- 2.3 If the Hosted Services fail to meet the Service Levels, AVALLE shall pay the Customer the Service Credits as detailed in and according to the provisions of this Schedule 1, Section 2.3 and Schedule 2, provided that the Customer makes its claim in writing to AVALLE for the Service Credits within 30 days of first date on which the Hosted Service failed the Service Levels. The parties agree that the provision of Service Credits shall be the Customer's only remedy for AVALLE's failure to meet the Service Levels.
- 2.4 The Customer must:
- 2.4.1 comply with any reasonable instructions issued by AVALLE which concern the use of the Hosted Services;
 - 2.4.2 comply promptly with any reasonable request issued by AVALLE if the Customer's assistance is required to enable AVALLE to comply with its obligations under this Agreement;
 - 2.4.3 not use the Hosted Services to transmit any material which is defamatory, offensive or of an abusive or obscene or menacing nature or which is otherwise unlawful;
 - 2.4.4 not cause annoyance, inconvenience or needless anxiety or make any improper use of the Hosted Services; or
 - 2.4.5 not use the Hosted Services in a way that constitutes a violation or infringement of the rights of any person or which is unlawful.
- 2.5 The Customer may lease or purchase the equipment to support the Hosted Services from any source as long as the equipment is on AVALLE's third party suppliers' approved list of equipment items.
- 2.6 AVALLE shall use reasonable endeavours to provide the Fault Reporting and Support Services to the Customer as detailed in and according to provisions of Schedule 2
- 2.7 If any maintenance work has to be carried out which may affect the Hosted Services, AVALLE shall use reasonable endeavours to give the Customer at least two days' prior written notice. In the event of an emergency or a fault affecting the Hosted Services, AVALLE reserves the right to give less than 24 hours' notice, and the Customer shall if required provide AVALLE with such access to the Customer's premises or equipment as AVALLE requires.
- 2.8 Certain Hosted Services as detailed on Uboss, require the purchase of user licences on the basis of a rental or pre purchase scheme throughout the period of the provision of the Hosted Services to support the required Hosted Services. Where user licences are purchased on a pre purchase scheme, such user licences shall automatically revert to a rental basis for so long as the Hosted Services are provided, at the end of the initial and any subsequent pre purchase period, unless a further pre purchase period is purchased to run continuously from the end of the original or any subsequent pre purchase period.

- 2.9 AVALLE may suspend or alter the Hosted Services, or any part of them, at any time without liability to the Customer if:
- 2.9.1 AVALLE has to do so to comply with an order, instruction or request of a court, government, agency, emergency organisation or other competent administrative or regulatory authority; or
 - 2.9.2 the Customer's use of the Hosted Services may damage or disrupt the proper functioning of AVALLE's, or a third party's network
 - 2.9.3 AVALLE has reasonable grounds to believe that the Customer is using the Hosted Services for improper or unlawful purposes;
 - 2.9.4 the Customer has not paid any fees due in respect of Hosted Services due by the end of the calendar month in which payment is due;
 - 2.9.5 the Customer is in material breach of any of the terms and conditions of this Agreement in relation to Hosted Services;
 - 2.9.6 The Business or an individual user exceeds agreed credit limits

3. PROVISION OF EQUIPMENT

THE FOLLOWING TERMS AND CONDITIONS AS DETAILED IN THIS SCHEDULE 1, SECTION 3 APPLY SPECIFICALLY TO THE SUPPLY OF EQUIPMENT

- 3.1 The Customer may order Equipment as may be available and detailed on Uboss.
- 3.2 AVALLE shall use reasonable endeavours to deliver the Equipment on any stated agreed date.
- 3.3 Where the Customer purchases the Equipment, AVALLE retains title to the Equipment until it has received payment in full. The Customer shall bear the risk of loss of or damage to the Equipment from the point of delivery and the Customer is advised to insure the Equipment accordingly.
- 3.4 Where the Customer rents the Equipment, the following additional terms and conditions shall apply to the provision of such Equipment
- 3.4.1 The Equipment shall be rented to the Customer for the period of no less than the minimum period as detailed for the item of Equipment as detailed on Uboss;
 - 3.4.2 The Customer shall ensure that from delivery until delivery up of the Equipment under the rental, comprehensive insurance of the Equipment to its full replacement value is maintained under a standard form of all risks policy;
 - 3.4.3 Upon termination of the rental period for whatever reason the Customer shall no longer have any right to the Equipment the subject of rental and shall immediately deliver up all such Equipment and AVALLE or AVALLE's agent may, at the Customer's expense, enter any premises to recover or remove such Equipment;
 - 3.4.4 In the event that any Equipment on termination is found to be not in good working order, fair wear and tear only excepted, the Customer shall pay for any remedial work required to be performed to put such Equipment into good working order or for the replacement of such Equipment as may be required, at AVALLE's reasonable discretion;
- 3.5 The Customer undertakes that, at the Customer's expense, throughout rental period, the Customer shall not use the Equipment nor permit the Equipment to be used for any purpose for it is not designed or in contravention of any applicable law or regulation;
- 3.6 Where the Equipment is a mobile handset which is supplied as part of a service contract; the Customer shall be required to enter into an associated service contract for a minimum period, unless otherwise detailed in the Uboss System for a particular item of Equipment, of 12 (twelve) or 24 (twenty four) months ("the Service Contract Period"). The Customer may terminate the associated service contract during the Service Contract Period, on payment in full of all charges that would have become due during the Service Contract Period.

4. PROVISION OF PROFESSIONAL SERVICES

THE FOLLOWING TERMS AND CONDITIONS AS DETAILED IN THIS SCHEDULE 1, SECTION 4, APPLY SPECIFICALLY TO THE PROVISION OF PROFESSIONAL SERVICES

- 4.1 The Customer may order Professional Services as may be available and detailed on Uboss.
- 4.2 AVALLE's normal working hours are 08:00 to 18:00 Monday to Friday excluding public holidays in England.
- 4.3 Professional Services shall, unless otherwise agreed in writing between the parties, be deemed to be accepted by the Customer upon completion

SCHEDULE 2

SERVICE LEVELS, SERVICE CREDITS AND FAULT REPORTING AND SUPPORT

This Schedule 2 applies to Hosted Services only

1 Additional Definitions

1.1 The following additional definitions apply to this Schedule:

"AVALLE Demarcation Point"	Unless otherwise agreed in writing, means the edge of the AVALLE IP network that signifies the physical boundary between the AVALLE owned and operated IP network and the Customer owned equipment, not including the provision of any Third Party Local Access connections, where the physical boundary is a Fast Ethernet (100 Mbps) port on electrical or optical media or a Gigabit Ethernet (1000 Mbps) port on optical media which is usually presented within a customer rack if the Customer has purchased co-location services from AVALLE;
"Monthly Review Period"	means a period of a calendar month commencing on the 1st of each month during the term of the Agreement, over which Service Availability is calculated, except that the first such period shall commence on the Service Commencement Date;
"Monthly Charge"	the service charges for the Services including any charges for call traffic that are charged at the agreed rate and the charges for any Equipment purchased during the calendar month.
"MOSS Score"	A measure used by service providers to grade the quality of a telephone call. The MOSS Scale is from 1 to 5 with 5 being the highest score. An average telephone call on the existing public network will score 4.1
"Planned Outage"	means any routine maintenance or upgrade work, which may affect the availability of Services;
"Service Availability"	the service availability described in this Schedule 2;
"Service Commencement Date"	the date from which the Services shall be provided to the Customer by AVALLE;
"Third Party Local Access"	means short haul physical connections (including any DSL local access connections), that are provided between the Customer's premises and the nearest feasible AVALLE point of presence, which are under the direct control and ownership of a third party;

2 The following additional provisions apply to the provision of Hosted Services

- 2.1 If the WAN (wide area network) connections fails to a site for any reason including a fault on the circuit or a power cut then the ability to make and receive calls from the IP phones utilising that WAN circuit will be restricted, these failures may be caused for reasons outside AVALLE's control. Other services will be fully maintained including voice mail and the ability to divert calls to other numbers including mobiles. If another working WAN circuit is available at that site then this can be used to fully restore service to all phones.

- 2.2 The AVALLE service allows for calls to 999 and 112, however these services will be affected if there is a power cut or your WAN circuit fails
- 2.3 With regard 999 services no location information is passed to the emergency services operator this will mean that the Customer will have to state the address that they require the emergency service to attend.
- 2.4 AVALLE does not offer a paper based telephone directory service
- 2.5 The Customer can request from AVALLE, a PDF that allows the Customer to print off stickers to attach to the phone device explaining sections 2.1, 2.2, 2.3 and 2.4 above.
- 2.6 If any Customer requests to port any AVALLE allocated number to another carrier, AVALLE shall action such request providing AVALLE has a porting agreement in place with the relevant carrier

3 Resilience

- 3.1 The Hosted Service is duplicated with the hardware and software being located over two independent data centres. Both data centres have independent power supplies and operate a high level of security and access.
- 3.2 In the event of a failure of a hardware item the system is designed to switch between the faulty hardware and the redundant hardware automatically, in some instances due to the type of fault it may be necessary for a manual switch to be undertaken. The Class 5 softswitch interconnects to the UK public network via multiple interconnects and IP Transit links to ensure a high degree of redundancy. All data switches, servers and routers are automatically monitored on a 24/7 basis and faults are automatically reported to the CSG service centre and on call engineer. AVALLE maintains an "on call" facility during out of hours for the purposes of dealing with any Priority 1 type faults only, unless otherwise agreed.
- 3.3 The system is designed to give 99.999% reliability and carrier grade serviceability.
- 3.4 AVALLE undertakes that 90% of all telephone calls will have a Moss Score Of 3.9 or more.

4 Telephone number allocation

- 4.1 AVALLE shall allocate geographic and non geographic numbers to the Customer, if requested.
- 4.2 Numbers can be ported onto the AVALLE network as long as AVALLE or its agents have a porting agreement in place with the relevant carrier.

5 Service Levels

5.1 Hosted Service Installation

- 5.1.1 If AVALLE fails to meet the agreed delivery date for the Hosted Services, AVALLE shall pay the Customer the Service Credits.
- 5.1.2 If only part of a Hosted Service is not delivered by the agreed delivery date, AVALLE shall pay Service Credits only in respect of those parts that have not been delivered by the agreed delivery date.

5.2 Hosted Service Availability

- 5.2.1 Target service availability is 99.999%. This is calculated over a rolling 3 month period and includes any servicing affecting faults that effects at least 50% of all users on the system. Types of faults would include no inbound or outbound service, badly distorted call quality and total failure.
- 5.2.2 In calculating target service availability, the parties agree that Planned Outage on the AVALLE hosted network shall not be taken into account.
- 5.2.3 The Hosted Service is defined as "available" when 80% of users have access to all services that they subscribe to.
- 5.2.4 Where the Hosted Service is unavailable during any Monthly Review Period, the Customer shall be entitled to receive Service Credits from AVALLE.
- 5.2.5 AVALLE cannot be held responsible for failures in WAN connectivity using either xDSL, LES or any other form of connectivity whether supplied directly or indirectly.

6 Service Credits

6.1 AVALLE shall provide the Customer with Service Credits if it fails to meet the following targets:

- 6.1.1 Hosted Service Installation; or
- 6.1.2 Hosted Service Availability,

provided that the Customer has made a claim in writing to AVALLE for the Service Credits within 30 days from the first date on which the Service failed the Service Levels.

6.2 Service Installation

The service credits for failure to meet the Service Levels for Hosted Service installation shall be calculated as follows:

Number of full Business Days by which AVALLE fails to meet the agreed delivery date for Service	Service credits as % of Monthly Charge incurred over the first full month of the Service
1 to 5 days	10%
> 6 days	25%

6.3 Service Availability

The service credits for unavailability of Hosted Service will be calculated as follows:

Cumulative Unavailability Duration in any month.	Service credits as % of Monthly Charge
Greater than 30 minutes up to 1 hours	5%
Greater than 1 hours up to 4 hours	10%
Greater than 4 hours up to 8 hours	15%
Greater than 8 hours	25%

7 Calculation of Service Credits

- 7.1 In the first and last Monthly Review Period, the service credit shall where appropriate be calculated on the basis of a pro-rated Monthly Charge.
- 7.2 In any other Monthly Review Period, the service credits will be calculated on the basis of the total Monthly Charge for that Monthly Review Period.
- 7.3 Service credits will be calculated monthly, aggregated and credited to the Customer on a monthly basis.

8 Exclusions to payment of Service Credits and liability

- 8.1 Service credits shall not be payable by AVALLE to the Customer, and AVALLE shall in any event have no liability in respect of the Services, for faults, delay or disruptions to the Service caused by any of the following:
 - 8.1.1 The fault (whether an act or omission) or negligence of the Customer, its employees, agents or contractors;
 - 8.1.2 The Customer failing to comply with the relevant terms and conditions of this Agreement;
 - 8.1.3 A relevant fault in, or any other problem associated with, equipment or software connected on the Customer's side of the AVALLE Demarcation Point;

- 8.1.4 The performance of third party networks including (without limitation) Third Party Local Access circuits; traffic exchange points including networks, transit and peering connections provided and controlled by other companies;
 - 8.1.5 Faults or other problems affecting the Internet and networks comprising it;
 - 8.1.6 Any event described in Clause 13 of this Agreement (Force Majeure);
 - 8.1.7 Any outages or degradation to existing Service that may be the result of Customer requested Service changes or upgrades;
 - 8.1.8 A failure by the Customer to give AVALLE access to any equipment after being requested to do so by AVALLE during any Planned Outage.
- 8.2 Service credits are not payable in respect of any Planned Outage events.
- 8.3 Service credits are not applicable for more than one breach of any of the Service Levels outlined in this Agreement arising from the same occurrence. In respect of any Monthly Review Period the total amount of any service credit payable in relation to breach of the Service Levels shall not exceed 50% of the Monthly Charge for the affected part of the Services.

9 Service Cancellation

- 9.1 If all or part of the Services are cancelled or significantly modified by the Customer prior to the Service Commencement Date, the Customer shall pay AVALLE a one-off charge calculated as a percentage of the Service Installation Charge, according to the following table:

Number of Working Days Before Service Commencement Date	Customer liability as % of Monthly Charge which would have been incurred over the first full month of service
0 to 1 days	100%
2 to 5 days	90%
6 to 10 days	70%
11 to 20 days	50%
21 to 30 days	25%

- 9.2 Installation service credits shall not apply where access circuits needed for the Services are provided and maintained by a third party as the Service Commencement Date will be reliant on the access circuit delivery lead-times specified by the third party which AVALLE cannot control.

10 Fault Reporting and Support Services

10.1 Remote Access Facility

If there is a problem with the Hosted Service, the Customer shall (where applicable), at no cost, provide AVALLE with timely and adequate access to the equipment via public or private internet access to allow AVALLE to provide the support services. Any delays beyond AVALLE's control may impact AVALLE's ability to respond within the resolution targets outlined below.

10.2 Facilities for On-Site Support

If the Customer requires on-site services, the Customer shall provide reasonable facilities including, but not limited to, secure storage space, designated work space with adequate temperature control and light, and use of all equipment and communication facilities, including access to a telephone line and/or a broadband connection, all at no charge to AVALLE.

10.3 Fault duration

All faults recorded by AVALLE shall be reconciled against the corresponding fault ticket raised by AVALLE or the Customer. The exact fault duration shall be calculated as the elapsed time between the fault being reported to AVALLE and the time when Services are restored.

10.4 **Planned Outages**

Planned Outages may be required for scheduled network maintenance and upgrade activities. AVALLE shall use reasonable endeavours to effect such outages between the hours of 00:00 GMT and 04:00 GMT on any day.

All planned outages will be notified to customers via E Mail and Uboss portal notifications

10.5 **Fault procedure**

The Customer's helpdesk shall in the first instance deal with first level support calls and go through its internal fault process to try and identify and rectify the problem.

If a fault is not resolved by the Customer's first level support staff, then the problem shall be escalated directly to AVALLE.

10.6 **Support**

The CSG is the single point of contact for all Customers, providing support. The service is fully manned on Monday to Friday between 08:00 and 18:00 outside of these hours only critical faults will be dealt with (unless otherwise agreed) by the way of the customer following the instruction message and leaving a message to which the on call engineers will respond within 4 hours.

CSG Phone Numbers	From your IP Phone 0844 824-3074 during normal working hours
Email	support@avalle.co.uk
Postal Address	AVALLE LLP, 30 New Road, Brighton, East Sussex, BN1 1BN

10.7 **Placing Fault Calls**

When the Customer calls the CSC to log a fault, the Customer must check its own equipment first and have the following information ready:

- Service IDs;
- The date and time at which the problem occurred;
- Any Customer test results;
- Impact of problem on live operations based on the classifications set out below;
- A detailed description of the issue, including:
- The components involved (Ethernet phones, gateways, web screens, etc.);
- The extension and phone numbers involved in the issue;
- Type of calls, actions, or user services impacted;
- Frequency of the issue;
- Any available logs and traps.

10.8 **Fault classification**

AVALLE shall classify faults according to their severity as either a Service Affecting Fault or Non-Service Affecting Fault. In the case of a Service Affecting Fault, AVALLE undertakes to use all reasonable endeavours to dedicate resources at all times to address the problem. Any incident, which has no adverse effect on the Client's operations, will be treated as "planned work" and repairs will be carried out by AVALLE during AVALLE's normal working hours address the problem.

Service Affecting	A Service Affecting Fault means any fault, repair or condition affecting the
-------------------	--

	Customer's service(s) as registered by Customer.
Non-Service Affecting	Non-Service Affecting Fault means any fault, repair or condition that is not a Service Affecting Fault. NSA faults raised outside normal working hours can be deferred until the following day for resolution if both parties agree.

10.9 **Fault priority**

AVALLE shall manage handling response and resolution according to the priority of the fault; the priority will be based on the impact on the Customer's business. The following table shows a definition of the priorities.

Priority 1	High	Loss of service or problems severely affecting the Services.
Priority 2	Medium	Intermittent and degraded performance which is Service Affecting.
Priority 3	Low	Faults with a minor impact but Non-Service Affecting.

The Customer Service Executive ("CSE"), receiving the call or Ticket, will set the priority in consultation with the Customer. The level of priority allocated to the fault will determine subsequent updates.

10.10 **Customer updates and target resolution times**

The provision of Customer updates by AVALLE shall depend on the priority level of the fault. These response times start when a fault has been registered in the fault management system. AVALLE shall update the Customer with the status of the fault regularly according to the table below or as agreed with the Customer at the time of logging the fault.

AVALLE shall attempt to provide a temporary solution to minimise the impact on the Hosted Services or the system while a permanent solution is developed.

Consequently, Priority 1 issues may be downgraded to Priority 2, and Priority 2 issues may be downgraded to Priority 3, following application of a temporary solution.

	First update	Further Updates	Target resolution time
Priority 1	Within 1 Hour	Update every 2 hours	Within 4 hours
Priority 2	Within 4 Hours	Update every 8 hours	Within 2 days
Priority 3	Within 2 Days	Update every 72 hours	Within 7 days

The target resolution times set out above are subject to the Customer providing AVALLE with prompt access to the Customer's premises or equipment, or remote access to the Customer's system, if required.

Where the fault arises from any Third Party Local Access, AVALLE shall endeavor to manage the resolution of the fault by the Third Party Local Access provider as soon as reasonably practicable, but AVALLE shall not be liable for the Third Party Local Access provider's delay in resolving, or failure to resolve, the fault.

If AVALLE requires third parties to assist in resolving any fault or problem in respect of the Hosted Services, AVALLE shall not be liable for that third party's delay in resolving, or failure to resolve, the fault or problem.

The CSE will monitor the progress of all faults internally, and will escalate the problem as required

10.11 **Fault Ticket Numbers**

The Customer will have E Mail confirmation of their ticket number . The Customer must refer to this number in any subsequent telephone conversations or correspondence relating to the fault.

Each fault ticket will have a fault notification time and a fault resolution time, the time to fix will be a measurement between these two times. The fix time will be noted when the Customer accepts the fault resolution or a temporary fix has been implemented.

If required the Customer may provide the CSE with its Incident Report Number which will be entered on the Service Management System for cross reference in future correspondence.

10.12 **Closing Tickets**

Once Tickets are set to pending clourse they will automaticall be closed within set time periods, a ticket can be re-opened if required. AVALLE reserves the right to decline any direct action to rectify any fault unless the Customer has adhered to the fault reporting and escalation process.

10.13 **Escalation Procedure**

The parties shall use the escalation procedure when events justify the escalation of issues above the level of personnel or management involved at any particular time.

The escalation procedure begins automatically when a reported fault passes a set time and it is likely that the fault will exceed its contracted time to resolve.

An escalation can start prior to the period stated below, should the Customer require more immediate action or feels an escalation is justified. The Customer shall advise the CSE of its intent and the next manager in the escalation table below will be contacted.

10.14 **Escalation Stages**

The Customer may escalate any reported problems if it is not satisfied with the progress of the conclusion of the fault, or if response and resolution times have not been achieved. The 2 escalation levels and the corresponding contacts can be requested from support@avalle.co.uk.