

# General Fixed Services Terms and Conditions

## 1. DEFINITION and GENERAL APPLICATION

1.1. The following terms shall respectively have the following meanings:

- a) "Agreement" means the Fixed Services Contract Agreement or the Bundle Service Agreement (where the bundled services include inter alia the Service), as the case may be, that epic Communications has entered into with the Customer and which contains all the details necessary for the provision of the Fixed Services.
- b) "Commencement Date" means the date on which the Fixed Services will be activated by epic.
- c) "Customer" means the person or company/partnership named in the Fixed Services Contract Agreement.
- d) "Equipment" means any equipment that is supplied to the Customer for the installation of and access to the Fixed Services.
- e) "Initial Term" means the initial period of the Agreement, which is indicated therein and which starts to run from the Commencement Date.
- f) "Fixed Services Contract Agreement" means the contract that when signed by the Customer and epic Communications will bind the Customer and epic Communications to the stipulated terms and conditions.
- g) " epic " means epic Communications Limited and shall be construed accordingly.
- h) "Fixed Services" means the Internet and/or VoIP fixed telephony service.
- i) "Working Day" means any day from Monday to Friday, between 0900 and 1700 hours, and excluding public holidays.
- j) "Force Majeure" means situations further specified in term 16 below.

1.2. Customers subscribed to epic, will benefit from an Internet and/or VoIP fixed telephony connection, subject to the tariff subscribed to by the Customers.

1.3. All Customers are advised to visit epic website ([www.epic.com.mt](http://www.epic.com.mt)), call Customer Care on 247 or visit our retail stores or any other authorised dealers, to learn about the Access Fees and Charges applicable to the Fixed Services and for the latest information regarding tariffs for these Fixed Services.

1.4. epic Specific Terms relating to the various tariffs and promotional offers together with the Traffic Management Policy shall apply. Customers are advised to review the Specific Terms accordingly. Access to the Specific Terms is available by visiting epic ([www.epic.com.mt](http://www.epic.com.mt)) or epic retail stores.

1.5. Customers may subscribe to the Fixed Services by either visiting one of epic retail stores or authorised agents. Prior to visiting the aforementioned retail stores or epic representatives, the customer may call epic. Customer Service on 247 and check whether the epic Fixed Services are available within the customer's location.

## 2. ACCEPTANCE OF ORDER

2.1. Customers shall be subjected to credit vetting and shall have to be cleared in order to be allowed to subscribe to the Fixed Services.

2.2. Customers choosing the Fixed Services must enter into a written Agreement with epic and epic reserves the right to levy a deposit from Customers who subscribe to the Fixed Services.

**2.3.** epic will only be bound by the order shown on the Fixed Services Contract Agreement when it has been signed by the Customer. epic reserves the right to accept, or refuse, the Customer as its subscriber. epic reserves the right to accept orders in electronic format, through the provision of digital signatures, when the latter become legally acceptable.

**2.4.** The relationship between the Registered Subscriber ("Customer") and epic, for the provision of the Service at the premises, shall be regulated by the terms and conditions of the Fixed Services below ("Conditions").

**2.5.** These Conditions shall, together with the Specific Tariff's terms and conditions, form an integral part of the Agreement and shall have the force of law between the parties. Except to the extent:

a) that in the event of any conflict or inconsistency between any provision of the Specific terms and conditions and any provision of the General Fixed Services terms and conditions, the provisions of the General Fixed Services terms and conditions shall take precedence;

b) that all rights conferred on epic under the General Fixed Services Terms and Conditions with respect to any matter or event shall be additional to the rights conferred on epic under the Specific Terms and Conditions or any other agreement with the Customer with respect to that matter or event.

### **3. CONNECTION TO THE SYSTEM AND FIXED NUMBER PORTABILITY**

**3.1.** epic will provide the Customer with connectivity to the Fixed Services for a term equivalent to the subscription period agreed to by the Customer and until the expiry of that subscription period or until the Agreement is terminated in accordance with the terms hereof.

**3.2.** epic may change the Fixed Services including, but not limited to, access procedures, hours of operation, commands, documentation and services offered (including their description). Notification of any such changes will be provided to the Customer prior to the proposed change in accordance with the applicable law; provided that if any such change is of an urgent nature, notification shall be made to the Customer as soon as is reasonably practicable. Such notification shall be made, in epic 's discretion, either by electronic mail to the Customer's e-mail address or by post to the address provided by the Customer to epic. Notification can also be made via adverts in the media. By becoming a subscriber to the Fixed Services and/or accessing and/or using the Fixed Services, the Customer acknowledges he/she is to be aware of such changes and agrees to be bound by and adhere to them.

**3.3.** If the Customer is a new epic Fixed telephony subscriber, the Customer may choose his/her fixed telephony number, subject to the number availability, upon signing of the Agreement for the Fixed Services referred to above.

**3.4.** In the event that Fixed Number Portability of the Customer's current fixed telephony number is successful, the Customer's fixed telephony number shall be reserved and epic's tariff for fixed telephony shall be set accordingly.

**3.5.** In the event that Fixed Number Portability of the Customer's current fixed telephony number is unsuccessful, the Customer's shall be notified via electronic mail to the Customer's e-mail address or by post to the address provided by the Customer to epic.

**3.6.** The Customer shall not acquire any right or interest in any Fixed Telephone Number ('FTN') notwithstanding the duration for which such FTN may have been assigned or used by the Customer or any payment which may have been made by the Customer for it.

**3.7.** If the Customer wishes to use the same FTN in connection with any service to be provided by any operator other than epic, the Customer shall make the appropriate arrangement with such operator for that purpose before the Customer terminates the Service in relation to which the FTN has been assigned to the Customer. epic shall not be required to consent or permit any FTN to be used in connection with any service to be provided by any other operator otherwise than in accordance with and subject to the terms and conditions of any agreement between epic and such other operator or as required in terms of applicable laws, regulations and fixed number portability specifications.

#### **4. PROPER USE OF THE SERVICE**

**4.1.** The Customer shall not assign, transfer or encumber any or all of its rights, interests and obligations under any Customer Agreement with respect to any Fixed Services or epic Equipment without the customer's written authorisation.

**4.2.** The Customer shall:

- a) ensure that the Fixed Services are only used with the epic Equipment supplied. Furthermore all Equipment supplied, connected to or used in conjunction with the Fixed Services is connected or used in accordance with the law, with these terms and conditions and shall obtain the prior written approval of epic before connecting (or permitting any person to connect) any other equipment to any electronic communications system operated by epic , any other service provider or any epic Equipment, except where epic has dispensed with the requirement for such approval;
- b) promptly comply with all notices, instructions or directions given by epic in respect of the installation, use or operation of the Fixed Services, epic Software and all relevant equipment;
- c) install, use and keep all epic Equipment in good working condition (reasonable wear and tear excepted) in accordance with the specifications, guidelines and recommendations of the vendor thereof and of epic, and shall disconnect or cease to use any such epic Equipment at the request of epic;
- d) retain all epic Equipment at all times in the custody and control of the Customer at the premises occupied by the Customer or at such other premises as epic may have approved in writing for the purpose;
- e) provide at his own expense, when so required by epic, all facilities and resources whatsoever necessary for the proper installation, operation and maintenance of the Service and all epic Equipment, including, but not limited to, power points, electricity conduits, power fall back device, pipes and appropriate access or easement rights;
- f) ensure that in the event of installations by epic personnel or contracted outsourcer, the Customer shall be present in such case and shall sign the installation report upon completion of installation.

**4.3.** The Customer acknowledges that he/she may only use the Fixed Services for lawful purposes. Without prejudice to the generality of the foregoing, the Customer agrees that:

- a) he/she shall not use nor authorize or permit any other party to use the Fixed Services to receive, transmit or store material which is in violation of any law or regulation, which is obscene, pornographic, threatening, menacing, offensive, defamatory, in breach of confidence, in breach of any intellectual property rights (including copyright), or is otherwise unlawful;

- b) he/she shall not transmit any electronic material (including viruses) through the Fixed Services which shall cause or is likely to cause detriment or harm, in any degree, to computer systems owned by epic and/or other Internet users;
- c) as the registered user of the account he/she is responsible for his/her account and he/she will keep the password secure and not let it become public knowledge and will not be stored anywhere on a computer in plain text;
- d) if the password becomes known to any other unauthorized user he/she will either change the password by using the on-line facilities or inform epic immediately.

**4.4.** Any attempt on the part of the Customer to access or modify unauthorised computer system information or to interfere with normal system operations, whether on epic Equipment or of any computer system or network that is accessed via epic 's communication services, will result in the immediate termination of the Customer's Fixed Services. These unauthorised activities include, but are not limited to: guessing at or using passwords other than the user's own, sharing the Customer's own password(s) and account(s) with others not authorised by epic to use said password(s) and account(s), accessing or attempting to access information that does not have public access permissions, and accessing any computer system on which the Customer or the Public is not welcome.

**4.5.** Netiquette - The Customer acknowledges that there is etiquette ("netiquette") which he/she agrees to observe when using the Fixed Services. The Customer agrees to abide by the rules of netiquette including but not limited to the following rules:

- a) The Fixed Services shall not be used to send unsolicited bulk and/or commercial messages over the Internet (known as "spamming")
- b) The Fixed Services shall not be used for the distribution of Internet viruses, Worms, Trojan Horses or other destructive activities, including distribution of information regarding the creation and distribution about these destructive activities.
- c) The Fixed Services shall not be used to engage in activities that are illegal, including advertising, transmitting or otherwise making available pyramid schemes, fraudulently charging credit cards and pirating software.
- d) The Fixed Services shall not be used to engage in activities, whether lawful or unlawful that epic deems to be harmful to its customers, operations, reputation, goodwill or customer relations.

## **5. LIABILITY**

5.1. epic will use reasonable endeavours to provide a prompt and continuing Fixed Services as described in this Agreement but will not be liable for inter alia:

- a) loss of data;
- b) loss or damage of software or hardware;
- c) loss or liability resulting from access delays or access interruptions;
- d) loss or liability resulting from computer viruses;
- e) loss or liability resulting from data non-delivery or data misdelivery;
- f) loss or liability resulting from any errors, omissions, or misstatements in any and all information, goods, or services obtained on or through the Fixed Services;
- g) loss or liability resulting from the acts and/or omissions of epic or other epic users and

h) any error or omission of the Customer.

5.2. epic specifically excludes any warranty as to the accuracy, content or quality of information or software obtained through its Fixed Services.

5.3. Save as expressly set out herein, all conditions or warranties which may be implied or incorporated into this contract by law or otherwise, including but not limited to those of merchantability or fitness for a particular purpose, are hereby expressly excluded to the extent permitted by law. In no circumstances whatsoever will epic be liable for economic or consequential loss (direct or indirect).

5.4. Without prejudice to any other provision contained in this Agreement excluding or limiting epic 's responsibility, the liability of epic (if any) in contract, or tort or otherwise arising out of or in connection with supply of the Fixed Services shall be limited in respect of any one event or a series of two or more connected events to five hundred euro (€500).

5.5. epic is not responsible for the Customer's personal files, website or e-mail box residing on epic 's systems. The Customer is responsible for the independent backup of his/her data stored on epic 's systems.

5.6. Even when the Equipment is provided to the Customer free of charge, if upon termination of this Agreement the Equipment is returned damaged or faulty, resulting from but not limited to misuse, mishandling, wilful damage by liquids, connection to unsuitable supply, power surges, lightning, tampering or service by unauthorized persons, the Customer will be liable to pay to epic a charge as per the Specific terms and conditions.

## **6. CONNECTION TO OTHER NETWORKS**

6.1. The Fixed Services may be used by the Customer to link into other networks worldwide. The Customer agrees to comply with the Fixed Services Agreement and/or the acceptable use policies and/or terms and conditions of any network that the Customer connects to.

6.2. epic shall not be held responsible for customer accessing third party website.

## **7. DATA PROTECTION**

7.1. We hereby declare that the personal information that we may process shall only be used in connection to the purposes stated herein and in our Privacy Policy (which can be found in full on our website: [www.epic.com.mt/privacypolicy](http://www.epic.com.mt/privacypolicy) or in any epic store). For full details on how epic collects, uses and shares personal information including your data protection rights please see our Privacy Policy. In case of queries please get in touch by contacting us on [247@epic.com.mt](mailto:247@epic.com.mt) or by visiting any epic store

## **8. FEES, CHARGES, BILLS AND PAYMENTS**

8.1. The Customer shall only be charged Access Fees and Charges in respect of the Fixed Services that s/he has subscribed for.

8.2. All rates, charges, fees and penalties applicable to the Fixed Services, including but not limited to maintenance services, are listed in the Specific terms and conditions. The Specific terms and conditions may be varied and / or amended by epic from time to time in accordance with the applicable law and such variation or revision shall take effect as from the date determined by epic.

8.3. A surcharge as specified in the Specific terms and conditions applies if the Customer does not pay by Direct Debit.

8.4. E-Billing is the default method for billing purposes. Customers are required to supply epic with a valid email address where notifications will be sent inter alia informing the Customer that the bill has been issued and any other information. It is the Customer's responsibility to inform epic of any changes in his/her email address. If Customer opts for a printed bill sent by post to his/her billing address he/she will be charged a fee as specified in the Specific terms and conditions.

8.5. Bills are to be settled by the Customer by the due date of payment as indicated on the invoice in question, hereinafter "Due Date". epic reserves the right to charge the Customer a late payment fee as specified in the Specific terms and conditions. Also epic reserves the right to issue any back dated charges to the Customer for the Fixed Services provided to the Customer by epic. The Customer hereby undertakes to pay such charges for the Fixed Services even if they would have erroneously been omitted from any of his/her prior invoices. Any overpayment by the Customer with respect to any amount, item, entry or matter stated in the Bill shall be credited by epic (without interest) to the relevant Account after epic has completed its investigations and is satisfied as to the error or inaccuracy of that amount, item, entry or matter.

8.6. Prior to suspension and/or termination of the Fixed Service, epic shall endeavour to notify the Customer. This notwithstanding, in the event of persistent non-payment for the Fixed Services, epic reserves the right to disconnect the Fixed Services without notice. epic further reserves the right to levy a charge as specified in the Specific terms and conditions.

8.7. If any cheques, credit cards, direct debits or standing orders that are provided to epic are returned for insufficient funds or for any other reason, epic shall be entitled to impose a penalty on the Customer at the maximum rate allowed by the law.

8.8. epic also reserves the right to carry out a credit check on the Customer at any time. In default of payment of any amount due to epic shall be entitled to give the Customer's details to one or more credit reference agencies, their members and any third party to whom epic is obliged or authorized to transfer such credit-related data by or under any law. If at any time the Customer fails to meet epic 's credit conditions, epic may further enforce any credit limits on the Customer's Service account, restrict the Fixed Services, only allow certain specified methods of payment and / or suspend the Fixed Services (or other services of epic that epic currently provides to the Customer) when the Customer reaches the credit established until epic receives the full payment of any and all charges that are due by the Customer.

8.9. Should the Customer wish to query any amount invoiced to him/her by epic, the Customer must notify epic before the Due Date by contacting 247 or visiting one of epic retail stores. During the period when epic would be investigating such query, and provided that the Customer would have paid the portion of the invoiced amount that would not be in dispute, epic will not disconnect the Fixed Services or divulge any credit-related data concerning the Customer to any credit reference agency or other third party before epic notifies him/her of the conclusion of the said investigation and the Customer subsequently fails to pay any such amount due.

8.10. Annual price adjustment. Epic shall be entitled to adjust all charges (including the price of the Tariff Plan, charges for any additional services, roaming charges and any out of bundle charges) each year on 1 February by an amount equal to the annual Retail Price Index inflation rate ([https://nso.gov.mt/en/News\\_Releases/View\\_by\\_Unit/Unit\\_A5/Price\\_Statistics/Pages/Retail-Price-Index.aspx](https://nso.gov.mt/en/News_Releases/View_by_Unit/Unit_A5/Price_Statistics/Pages/Retail-Price-Index.aspx)) ("Inflation Rate") published by the National Statistics Office in Malta in the preceding January to post-paid consumers. Epic shall communicate any such adjustment to you. The adjustment will be calculated by multiplying the relevant charge individually by the Inflation Rate percentage and will be rounded up to the

nearest whole cent. The price adjustment will apply on February invoices each year, unless Epic in its sole discretion chooses not to apply the relevant adjustment. In the event that the Inflation Rate is negative, the Inflation Rate will be treated as being 0%. The adjustment to charges as a result of this clause is not a change pursuant to term 9.4 and, therefore, does not give rise to the notification procedure and termination rights set out in term 9.4, so early termination charges as per term 9 will become payable if you wish to terminate the Agreement for your Tariff Plan before the end of the Minimum Period. If the Inflation Rate ceases to be published by the National Statistics Office in Malta, the calculation will be made on the basis of the replacement index chosen by the Government of Malta or a similar index communicated to you by Epic.

## **9. CANCELLATION / INTERRUPTION / SUSPENSION / TERMINATION OF THE SERVICE AND CONSEQUENCES THEREOF**

9.1. The Agreement shall remain valid and in force for the whole duration of the Initial Term unless it is terminated in accordance with the provisions of this Agreement.

9.2. Should the Customer decide to terminate the Agreement prior to the expiry of the Initial Term, as applicable, he/she must complete a epic Disconnection Form. Should the Customer terminate the Agreement in this manner, he/she shall be bound to pay epic the balance of all the charges for the Fixed Services until the date on which the Customer returns to epic the Equipment provided. The Customer shall not be entitled to reimbursement of any charges whatsoever (including but not limited to any penalty charges and/or the connection fee). If the Customer terminates this Agreement before the Initial Term, he/she will suffer penalty charges as contemplated in the Specific Tariff's T&Cs.

9.3. Upon termination:

- a) The Customer must settle all outstanding charges listed on his/her account;
- b) The Customer must, return all epic provided Equipment to the Customer in order to enable him/her to use the Fixed Services. In default, or should this equipment be returned damaged or faulty resulting from, but not limited to, misuse, mishandling, wilful damage by liquids, connection to unsuitable supply power, surges, lightening, tampering or service by unauthorised personnel, the customer will be liable to pay epic the sum as stipulated in the specific Tariff's Terms and Conditions.
- c) epic shall stop providing the Fixed Services and shall deactivate all epic provided Equipment on the date on which it receives the Equipment;
- d) Charges for the Fixed Services shall only cease from the date on which, in accordance with this Condition 9, epic receives from the Customer:
  - i. the completed epic Disconnection form of the Fixed Services and
  - ii. the Equipment, provided that if the Customer returns the Equipment to epic in a damaged state, epic shall be entitled to charge a penalty to the Customer.

9.4. We reserve the right to suspend indefinitely or for a definite period, amend/alter/delete or terminate these terms and conditions at any time (collectively the 'Modifications') and for any valid commercial, technical or operational reason, by giving you a 30-day prior written notice with the proposed amendments/alterations or stating the reason for the Modifications thereof. Should you disagree with the proposed Modifications during the 30-day time-period, you shall have the right to opt-out from these Fixed Services without incurring any early termination penalties by informing us of your decision to this effect. You may incur penalties should you decide to opt-out after the expiration of the 30-day time-period.

9.5. The Customer is liable to pay all charges for the Fixed Services up to the date indicated in Condition 9.3(d). If epic disconnects these Fixed Service because of failure to pay any dues, epic shall be entitled to recover from the customer all costs and charges relating to collection, interest, legal fees and any then current disconnection fees. If epic discovers that the Customer received services from epic without its permission, epic will further charge for any usage charges relating to such services. If the Customer breaches the Agreement by committing fraud or illegal activity, the Customer shall be reported to the police, who will take the appropriate legal action.

9.6. epic may also interrupt, suspend or terminate the provision of the Fixed Services without any prior notification in any of the following circumstances:

- a) in fulfilment of any instructions requested by governmental or regulatory authorities;
- b) for the purposes of repair, maintenance, improvement of the network or other operational reasons;
- c) if any failure, interruption, disruption or congestion of or in any electronic communications network, system or services (whether of epic the Customer or any other person).
- d) for health and safety considerations; and
- e) for any other reason beyond its control.

9.7. Where reasonably possible epic shall provide adequate notice prior to the interruption, suspension or termination of the Fixed Services and where relevant it undertakes to restore the provision of the Fixed Services without unnecessary delay.

9.8. Without prejudice to any right arising hereunder or by virtue of any other law or practice, epic may at its discretion promptly terminate the provision of the Fixed Services to the Customer without the need of any prior notification in the event that the Customer:

- a) breaches any of the Conditions laid out herein;
- b) fails to pay any amounts that he/she is liable to pay hereunder;
- c) the Customer has exceeded his/her credit limit or has failed to pay the relevant Access Fees and Charges and any other sums due or payable to epic with respect to any of the Fixed Services;
- d) becomes insolvent or bankrupt, the Customer enters into any arrangement with creditors or legal action is taken or threatened against his/her property;
- e) or another person at the Customer's premises have committed or may be committing any fraud or any other illegal activity against epic or against any other person by using the Fixed Services or any related equipment;
- f) provides epic with false, inaccurate or misleading information at any time during the duration of the Agreement;
- g) the death or mental incapacity of the Customer.

9.9. Should the Customer decide to reactivate the Fixed Services following termination, the Customer shall be required to settle all outstanding dues that he/she may have with epic on his/her account as well as a reconnection charge as indicated in the Specific Tariff's T&Cs, subject to any regulatory obligations that may be applicable.

9.10. epic reserves the right to delete al personal files of the Customer after termination of this Agreement.

## 10. COMPLAINT HANDLING PROCEDURE



**10.1.** Should the Customer wish to lodge a complaint or a query to epic with regards to Fixed Services, the Customer can visit one of epic retail stores, call 247 or send us an e-mail to [247.mt@epic.mt](mailto:247.mt@epic.mt). The Customer will be subsequently contacted by epic representatives within ten (10) working days from lodging complaint.

**10.2.** The Customer can lodge a complaint up to 12 months from incurring the disputed amount. To lodge a complaint, the Customer must be in possession of an Itemised Bill for the disputed service. Such complaint will be settled within 15 working days from complaint submission.

**10.3.** The Customer can lodge a complaint with the Malta Communications Authority if not satisfied with the response and/or remedy offered by epic. Malta Communications Authority's can be contacted either through their website ( <http://www.mca.org.mt/consumer/forms/complaints>) or the Customer can call on 21336840.

## **11. INTELLECTUAL PROPERTY RIGHTS**

11.1. epic owns and retains all intellectual property rights including copyright in the Fixed Services. Except for public domain material, all material displayed on, or downloaded from the Fixed Services is protected by intellectual property and copyright legislation, and may not be redistributed, transmitted, re-transmitted, copied, or published without the permission of the intellectual property right or copyright owner. The placement of material in any public posting area, or software library of epic without the consent of the intellectual property or copyright owner is in violation of the law and this Agreement. The Customer specifically agrees not to upload, post or reproduce in any way any materials protected by intellectual property or copyright without the permission of the intellectual property or copyright owner.

## **12. NOTICES & LIMITATIONS**

12.1. Customers that are subscribed to epic Fixed Telephony Service and that wish to call the Emergency Services, can call the short code number as may be applicable from time to time. Currently the number is 112.

12.2. epic declares and the Customer acknowledges that epic Equipment is dependent on electricity for performance. Accordingly, in the event of power outages, the Fixed Services (including access to emergency services) will cease to function unless the Customer installs an adequate power back-up facility. Provided that where the Customer refuses to install a power back-up facility, the Customer shall be solely responsible for the non-functioning of the Fixed Services in the event of power failure within the premises.

12.3. epic reserves the right not to entertain migration requests by Customers from one tariff plan onto another tariff plan. Furthermore, epic reserves the right to request that the Customer terminates his/her present Customer Agreement and enter into a new Agreement.

## **13. ASSIGNMENT**

13.1. The Customer shall not assign or transfer the Agreement in whole or in part to any third party whomsoever without epic and the third party's written authorisation.

13.2. epic may, for business reasons, assign or transfer any of its rights and obligations under the Agreement at any time at its sole discretion.

## **14. WAIVER**

14.1. No failure or delay by epic in exercising or enforcing any of its rights under this Customer Agreement shall operate as a waiver of such rights. Furthermore, this shall not in any way prejudice or affect the right of epic to act strictly in accordance with the rights and powers granted to it under this Customer Agreement.

## **15. SEVERABILITY**

15.1. The validity or unenforceability for any reason of any part of the Agreement, these Conditions, and/or the Specific terms and conditions, shall not prejudice or affect the validity or enforceability of the remainder thereof vis-à-vis that party or in relation to the other parties.

## **16. FORCE MAJEURE**

16.1. Without prejudice to any other provision contained in this Agreement, excluding or limiting epic 's responsibility, epic shall not be liable to the Customer for any loss or damage which may be suffered by the user due to any breach of these terms and conditions or failure on epic 's part to perform any obligation as a result of technical problems relating to the Fixed Services, termination of any licence to operate or use the Fixed Services, act of God, inclement weather, flood, drought, lightning or fire, earthquakes and volcanic eruptions, failure or shortage of power supply, strikes, lockouts, labour disturbances and industrial disputes of any kind, Government control, restrictions or prohibitions or any other Government act or omission whether local or national, any act or omission of any road transport authority, or of the operators of other telecommunication services, or of any other agencies or authorities, acts or omissions of the public authorities, war, terrorist attacks, military operations and riots, difficulties, delays or interruptions in the production or supply of Equipment used in the Fixed Services, act or default of any supplier agent or sub-contractor, or any other similar or dissimilar cause beyond epic 's control.

## **17. INDEMNITY**

17.1. The Customer hereby agrees to fully indemnify and to hold epic harmless from and against any claim brought by any third party resulting from the use of the Fixed Services or the epic network by the user and in respect of all losses, costs, actions, proceedings, claims, damages, expenses (including reasonable legal costs and expenses), or liabilities, whatsoever suffered or incurred directly or indirectly by epic in consequence of the Customer's breach or non-observance of any of the terms and conditions of this Agreement.

17.2. The Customer shall defend and pay all costs, damages, awards, fees (including any reasonable legal fees) and judgments awarded against epic arising from the above claims and shall provide epic with notice of such claims, full authority to defend, compromise or settle such claims and reasonable assistance necessary to defend such claims, at his/her sole expense.

17.3. The Customer acknowledges that epic is unable to exercise control over the content of information passing over the epic network or via the Fixed Services, and epic hereby excludes all liability of any kind for the transmission or reception of infringing information of whatever nature.

## **18. JURISDICTION, APPLICABLE LAW, LANGUAGE**

18.1. The Agreement shall be governed and construed in accordance with the laws of Malta. The parties irrevocably submit to the jurisdiction of the courts of Malta or any other competent tribunal at law in case of any dispute. In the event of any conflict between the English and the Maltese versions of The Agreement, the English version thereof shall prevail.

## **19. QUALITY OF SERVICE & COMPENSATION**

19.1. The minimum annual Service availability on epic's Network, excluding Force Majeure cases and/or faults attributable to the Customer and/or other third parties, is 99%. In case of lack of full service performance of

a Customer's Fixed Services, a maximum repair time of two (2) Working Days shall apply from the date that the fault was reported and subject to the Customer accepting the first available appointment. This excludes any cases of force majeure, damage or disruptions caused by third parties or the Customer himself/herself. The Customer agrees to adhere to any reasonable instructions issued by epic in order to facilitate Service restoration. Where such instructions are not adhered to, the Customer acknowledges that epic may not be able to adhere to this timeline. Fault rectification is free of charge unless it is attributable to the Customer and shall be charged as per the fees mentioned in the Specific terms and conditions.

19.2. epic Communications Fixed Services are offered on a contention ratio basis and all facilities for traffic management, routing as well as the bandwidth itself are shared amongst a number of users. The quality of service may vary according to the number of users online at any one time and cannot be guaranteed.

19.3. epic Communications shall endeavour to provide the customer with a connection speed that reflects the Fixed Services which is being subscribed to. The connection speed is the speed at which data is transferred between the customer's computer and epic Communications core network. The connection speed will always be greater than the download speed, which is the speed at which data is transferred from the internet to the user's computer, since download speed is dependent on internet or network congestion, and the speed of websites that the user connects to on the internet, among others. The maximum connection speed that can be achieved on the connection will vary based on a variety of factors, including, but not limited to:

- a) distance from the base station;
- b) load on the base station providing the Fixed Services;
- c) radio coverage at the customer's premises;
- d) number and type of appliances utilising the customer's connection

19.4. Quality of service is also dependent on the users' traffic patterns and epic Communications performs bandwidth management at an application level to ensure that bandwidth is being shared fairly amongst users. This management also ensures fair weighting between various applications to ensure that heavy usage applications such as peer-to-peer downloads do not congest the system in a way that the system becomes unusable for other users. Broadband services continue to be offered as they have always been, on a best effort basis.

19.5. Network management procedures and tools that are consistent with industry practice are utilized to ensure that the integrity of the epic network is maintained. In cases when the epic Communications network is at risk of being congested, epic Communications reserves the right to take whatever action it sees fit in order to ensure that the quality of service is not impacted. These actions may result in customers experiencing varied service and performance levels.

19.6. epic Communications reviews individual subscriber upload and download usage and behaviour relative to average customer use of the network for each product. In the case of congestion caused by abusive use of the service or activities which impair other customers from accessing the network, epic Communications may intervene by notifying the customer of the abusive behaviour. Where traffic is repeatedly abusive epic Communications reserves the right to stop provision of the Fixed Services.

19.7. The technology used to provide the Fixed Services is in epic Communications sole discretion.

## 20. SERVICE PROMISE

20.1. epic shall do its utmost to provide continuous and good Fixed Services, however it acknowledges that problems may arise. In these cases, the Customer may report the matter to v for further investigation and may escalate the matter if not satisfied with the outcome. Should the Customer remain without the Fixed Services in the event of the epic Network fault, a pro-rata credit compensation shall apply to Customer's Account. This excludes lack of service attributable to (a) Force Majeure, (b) any circumstance which is attributable to the Customer and/or (d) when the Customer refuses access to his premises from the dates proposed by epic. The pro-rata compensation will be calculated on the monthly fee payable to epic in line with the applicable Specific terms and conditions from the day the fault was reported until it was resolved.

20.2. If the Customer believes that the Fixed Services provided deviates from the contracted typical speed range (TSR), the Customer may contact epic as per Condition 19.1. If after due investigation it results that epic cannot provide the Fixed Services, the Customer shall have the right to rescind the contract without incurring any penalty charges.

20.3 Although epic supplies the Customer with the Equipment of the highest standard and quality, it is not excluded that the Equipment or any component might get faulty. In such case, the Customer should visit epic Service Centre in Birkirkara, so the Equipment can be inspected and diagnosed. epic will fix or replace the Equipment free of charge immediately there and then. Provided that the Customer is not entitled to a free repair and/or replacement, if the diagnosis proves that the fault of the Equipment is attributable to misuse, mishandling, wilful damage by liquids, connection to unsuitable supply, power surges, lightning, tampering, service by unauthorized persons or any other use of the Equipment that is not in line with term 4.2. In such cases the Customer will be liable to pay to epic a repair and/or replacement charge depending on severity of the diagnosed fault.

## 21. CHARGES

21.1. All payments relating to the Fixed Services shall be in arrears, and an invoice shall be received from epic indicating the Access Fees and Charges applicable and accrued by the Customer in using the Fixed Services during a given timeframe.

21.2. Any additional equipment than that provided by epic for the Fixed Services, shall be at the customer's sole expense.

21.3. In the eventuality that the Customer requires the epic Equipment and the Fixed Services to be relocated from one place to another, epic shall reserve the right to charge the Customer a service transfer charge as specified in the Specific terms and conditions.

## 22. INSTALLATION

22.1. epic Fixed Services is a self-install device.

22.2. Should the Customer, require installation via epic installers, the following shall apply:

- a) an appointment for installation shall be set by epic at a convenient date and time for both the Customer and the installer;
- b) the Customer shall honour the appointment and be present during the installation;
- c) during the installation, the installer shall carry out tests to determine whether the location has suitable coverage and whether the Customer requires additional equipment;

d) the installer shall inform the Customer of any additional equipment required on location, and the Customer shall be deemed to accept the proposed solution by the Installer, subject to certain limitations which may arise;

e) the installer shall fill in the epic Order Form and the Customer shall sign the report as an acceptance of the works carried out.