



## Terms and Conditions of Service

### Definitions

1.1 'Carrier Pre-Selection' means the method of routing calls over the Network, by way of transferring calls at the local exchange.

1.2 'Customer Equipment' means any equipment, the property of the customer or rented by the customer from a third party, connected to the public telephone network and used by the customer in order to use the Service.

1.3 'Netcomm' or its subsidiaries means Telecomms GRP Limited, and Easiphone Ltd or any of them

1.4 'Network' means the chosen telephone Network of Netcomm, which provides the direct or indirect access telecommunication Service or any other method, which is used to route calls.

1.5 'Number' means the telephone line(s) in respect of the telephone number(s).

1.6 'Rate Schedule' means the schedule of charges applicable from time to time in respect of the Usage Charges.

1.7 'Service' means line rental, direct or indirect access telecommunication service and/or any other service provided by Netcomm or its nominated subsidiaries to the customer.

1.8 'Service Equipment' means any equipment, which is the property of Netcomm, including equipment, preprogrammed with any Netcomm access codes, handsets, routers and software the function of which is to route calls over the Netcomm provided Network.

1.9 'Start Date' means whichever is the later of either the date the supply of Services commenced or most recent date upon which additional Service Equipment or Services have been supplied to the customer.

1.10 'Supply Period' means the period during which Service is provided pursuant to this agreement, which shall commence on the day that Service is first provided.

1.11 'Termination Charges' means the administrative charges made by Netcomm and its nominated subsidiaries to the customer in connection with the termination of the Service in accordance with clause 8.

1.12 'Usage Charges' means the charges made by Netcomm and its nominated subsidiaries to the customer for the use of the Service. Service

2.1 Netcomm will procure that Service is provided to the customer subject to the terms of this Agreement. Netcomm or its principals may at any time without notice vary the Service for technical, operational or other reasons within its entire discretion. Netcomm will use reasonable endeavours to procure a continuous high quality Service in accordance with the terms and conditions set out herein.

2.2 Title to the Service Equipment shall remain with Netcomm whilst such equipment is on the customer's premises, and at all other times. Charges and Payment

3.1 Netcomm will make Usage Charges for the use of the Service in accordance with its Rate Schedule. The relevant discount tariff applied to the customer account may be varied, but subject to the customer's right to terminate referred to at clause 8.1(d).

3.2 Netcomm will make Termination Charges as set out in clauses 8.3 and 8.4.

3.3 Invoices are due for payment by Direct Debit 14 days after invoice date. If an invoice is not paid by Direct Debit 14 days after invoice, then the Usage Charges for Service to which that invoice relates, together with all other Usage Charges for Service to be invoiced for during the remainder of the Supply Period shall be charged at a deemed rate, equal to British Telecom Standard Rates, including but not limited to, British Telecom Standard call charges, minimum call charges, line rental charges and Network Feature charges.

3.4 Interest will be charged on unpaid invoices from the due date until payment at a rate of 1.5% per month or part thereof.

3.5 Value Added Tax, or any other levy or tax, at the rate prevailing will be added on to all sums due from the customer to Netcomm which are quoted as exclusive of Value Added Tax.

3.6 The customer shall not be entitled to delay or withhold payment or claim any set off against any payment due hereunder in respect of any claim or complaint, which the customer may have for any reason whatsoever. Any payments made by the customer to Netcomm may be applied by Netcomm as it deems fit.

3.7 Netcomm reserves the right to use information provided by the customer to make necessary credit status enquiries. Subject to credit status Netcomm may require a non- interest bearing deposit or pre-payment.

3.8 In the event of any action whatsoever taken by Netcomm in relation to the recovery of any charges due from the customer to Netcomm , the customer shall reimburse and indemnify Netcomm, with and in respect of all expenses relative thereto, including all legal charges and professional fess on a full indemnity basis.

3.9 Where the customer is a limited company any director or manager of the customer who issues the customer's purchase order relating to this Agreement, or issues the acceptance of any quotation provided to the customer by Netcomm agrees that in consideration of the provision of services to the customer by Netcomm, he or she will indemnify the Netcomm to the full extent of its loss should the customer fail to make any payment due to Netcomm by the due date.

3.10 The Usage Charges applicable to each customer shall be determined by the option agreed at the time this Agreement is entered into, subject to clause 3.1.

3.11 Usage Charges shall be invoiced monthly in arrears or Usage Charges shall be pre-paid by way of deposit. Usage Charges may relate back to months prior to the previous month. Obligations

4.1 Netcomm will provide the Service Equipment, arrange Carrier Pre-Selection, programme the Customer Equipment, or make other arrangements necessary to enable Service to be provided.

4.2 The customer undertakes:- (a) To use the Service and or the Service Equipment in accordance with the reasonable instructions of Netcomm or its principals; (b) To enable caller line identification on the customer's line; (c) Not to, in any way whatsoever, modify or disconnect the Service Equipment; (d) Not to, in any way whatsoever, cause calls to be made which are not routed over the Network, in respect of the Number, save in respect of calls to the exempt numbers, notified to the customer from time to time; (e) To protect the Service Equipment from any interference and to keep it safe; (f) Not to use the Service in any improper or unlawful manner or in any manner which may cause offence; (g) To allow Netcomm or its duly appointed agents access to the customer's premises for the purposes of installation, programming and maintenance, or for any other reason whatsoever; (h) Upon termination to remove the Service Equipment, and to return it in good condition to Netcomm; (i) To ensure that the Customer Equipment is in good working order and is maintained by a competent maintainer or service provider approved by Netcomm (j) To use only BABT approved telephone equipment, all equipment must comply with all relevant legislation relating to its use from time to time; (k) To pay for all Service provided by Netcomm within the time limits and in the manner set out herein and to be responsible for the usage of the Service,

whether the use of the Service has been authorised by the customer or not; (l) That in the event that the Service Equipment becomes damaged by the customer, or by any person on the customer's premises (save for employees and agents of Netcomm ), or becomes damaged due to the use of unapproved equipment, to pay Netcomm for any remedial work undertaken at such rate as is reasonable in all the circumstances; (m) To inform Netcomm immediately in writing of any changes in personal details of the customer including change of address; (n) To provide appropriate space and any necessary electricity supply for the power of the Service Equipment. The customer will not charge Netcomm for the space or the electricity consumed by the Service Equipment; (o) Not in any way whatsoever to modify the programming of the Customer Equipment, where Customer Equipment has been programmed with any Netcomm or other access codes; (p) Not in any way whatsoever to cause calls in respect of the Number to be made which are not routed over the Network, whether by the use of an autodialler programmed to route calls over a different network or by the use of a manual inputted code, or by any other method whatsoever (save in respect of calls to the exempt numbers, notified to the customer from time to time); (q) In the case of payment not being made by Direct Debit within 14 days of invoice date, to pay the increased charges in accordance with clause 3.2 above.

## **Faults**

5.1 Netcomm will use reasonable endeavours to repair and maintain the Service Equipment.

5.2 If a fault is caused by the customer's own equipment, by breach of this Agreement by the customer, or by the customer's negligence, Netcomm may recover all reasonable costs incurred from the customer.

## **Suspension of Service**

6.1 Netcomm shall be entitled to suspend Service in order to maintain or improve its Network or if obliged to do so by virtue of any direction or request from any Government Department, Emergency Service, Regulatory or Administrative Authority, or by its principals, or for any other reason whatsoever.

6.2 Netcomm will use reasonable endeavours to give the customer notice of such suspension as reasonably practicable.

6.3 Netcomm shall be entitled to suspend any part of or all of the Service without notice in the event that any payments are not made within 14 days of invoice date, or are not made by Direct Debit. Such suspension will not affect the customer's obligation to pay for the Service during the period of suspension or thereafter, and will not affect Netcomm's rights to charge a termination fee.

## **Liability**

7.1 Netcomm shall not be liable for any costs, or consequential losses or consequential costs relating to any telephone calls or any malicious acts resulting from such telephone calls made through the Number and /or the Service Equipment. For the avoidance of doubt, the security of the Customer's telephone system is the sole responsibility of the Customer notwithstanding any work carried out on the system by Netcomm employees or subcontractors.

7.2 Neither party's liability in respect of death or personal injury caused by or arising from that party's negligence is affected by anything in this Agreement.

7.3 Unless warranties, representations, agreements, terms or conditions, either express or implied, including as to merchantability and fitness for purpose, are expressly set out in this Agreement, then such warranties etc. are expressly excluded.

7.4 In particular, no Warranties, representations, agreements, terms or conditions, either express or implied, are given by Netcomm as to the quality of Service provided, which is determined by matters, within or outside the control of Netcomm.

## **Termination**

8.1 Unless otherwise agreed, this Agreement will remain in force: (a) for a minimum Supply Period of 36 months from the Start Date after which clause 8.4 applies (a) The agreement may be terminated, by the customer giving to Netcomm not less than three months notice, to expire on any anniversary of the Start Date (any such notice will be properly given if in writing and sent by special delivery letter post to the registered office of Netcomm. Notice will be effective 72 hours after posting), or (b) until the customer has committed a material breach of this Agreement (including but not limited to non payment of any of the invoices by Direct Debit within 14 days of the invoice being raised, and non compliance with this Agreement due to ceasing to be responsible for the Number and when closing, or moving premises of, the business) or (c) until the customer has a Receiver, Administrative Receiver, Liquidator or Supervisor of a Voluntary Arrangement appointed over it, or over any part of its undertaking or assets or a resolution is passed for its Winding Up, or if an Administration Order is made, or it enters into a Voluntary Arrangement with its Creditors, or it ceases or threatens to cease to carry on business, or (d) until in the event that the average of Usage Charges, appertaining to the relevant discount tariff referred to overleaf, is increased in any one calendar year by more than a cumulative total of 10% over the increase of the Retail Price Index, and the Customer has given notice to terminate within 14 days of the date of the notice of variation provided for at clause 3.1.

8.2 Netcomm may suspend Service where the customer has failed to pay any amount due or it reasonably believes that the customer will fail to pay any amount due or to become due and any such suspension will be without prejudice to the right of either party to terminate.

8.3 Where the customer terminates the Agreement (a) the customer shall pay to Netcomm a Termination and administration charge, these charges calculated as follows: (1) £100 per line (2) £100 per number where the customer requests that lines and numbers provided by Netcomm are ported to another provider or ceased; and (3) £100 per extension and (4) £100 per handset where the customer requests that handsets be removed from Netcomm's servers; and (5) £100 where the customer requests that Netcomm obtain a Mac code to allow the customer to change broadband providers or just wishes to cease Broadband supply as provided by Netcomm.

In addition to the above cessation charges they may be residual service and usage charges still due after suspension which will be invoiced once Netcomm has the final data and usage information from the Networks.

8.4 After the contract end date the customer may terminate the Agreement otherwise than in accordance with clause 8.1(a) by giving notice and any such notice will be properly given if in writing and sent by special delivery letter post to the shown to the registered office of Netcomm. Notice will be effective 72 hours after posting), After giving such notice and pursuant to clause 8.1(a) (b) or 8.1(c) above the customer shall pay Netcomm a Termination Charge which may be calculated either as: (a) An administration fee of £100 per line, plus the total amount that would have been payable in respect of line rental or other selected services for the remaining period of the Supply Period, had the Supply Period not been terminated early because of the customer's early termination or breach;

The customer agrees that the Termination Charges, as calculated herein, represent a fair and reasonable estimate of the losses, costs and expenses which Netcomm would suffer in the event of the Agreement being terminated pursuant to 8.1 (a) (b) (c) and to the notice provisions of this clause

## **Variation**

9.1. Netcomm may vary the Agreement (including the charges) at any time and will publish any such variation in accordance with clause 9.2.

9.2 Netcomm will publish any variations to the Agreement (including the charges) in its major offices and online at <http://www.netcommgroup.com>, as follows: (a) at least 14 days before any variation is to take effect for variations that are to be made to the significant detriment of the Customer; and (b) at least one day before the variation is to take effect for all other changes.

9.3 If the Customer wishes to object to any proposed variation in respect of clause 9.2 (a), the Customer must notify Netcomm within 14 days of publication on the Website or receipt of the notice of the proposed increase, otherwise the Customer will be deemed to have accepted the proposed variation.

9.4 The Customer may request variations to the Agreement. Such requests must be made in writing and submitted to Netcomm. Requests will be accepted by email to: [management@netcommgroup.com](mailto:management@netcommgroup.com)

9.5 If Netcomm agrees to the variations contained in the request an email from Netcomm will be sent to the Customer confirming the variations are agreed. The Agreement is to be considered to be amended with effect from the date and time that the letter/email confirming agreement to the variation is sent by Netcomm:

## **General**

10.1 The customer may not assign or transfer this Agreement or any rights hereunder to any third party, without the prior written consent of Netcomm. Netcomm may assign or transfer this Agreement or any rights hereunder at its absolute discretion.

10.2 Neither party shall be liable for breach of its obligations under this Agreement to the extent that such breach is caused by flood, fire, accident, explosion, strike, war, embargo, Government restriction, Act of God, inability to secure materials, industrial dispute or any other cause beyond the parties' reasonable control including in particular acts or omissions of other providers of telecommunication services.

10.3 The remaining parts of this Agreement shall remain in full force in the event that any part of this Agreement shall be invalid, illegal or unenforceable, as if the unenforceable part had been omitted from the original Agreement.

10.4 All the terms of this Agreement are set out herein. Neither party has relied upon any representations, assurances or other agreements unless set out herein.

10.5 No waiver by either party shall constitute any variation to this Agreement.

10.6 Singular words shall be construed as including words of the plural and vice versa.

10.7 Any notices given by the customer under this Agreement shall be made in writing and sent by registered post. In either event, the address for service shall be the address given above for each party, unless changed; in which case, notice of change shall be given in accordance with the terms of this clause.

10.8 This Agreement shall be governed by and interpreted in accordance with the Laws of England and Wales.

For service and receipt of documents please address to:

**Telecomms Group Ltd**  
**Unit 179**  
**Edgar Buildings**  
**George Street**  
**Bath**  
**BA1 2FJ**