

## Terms and Conditions For the provision of telecommunications services

Please read the 08UK Ltd Terms & Conditions carefully.

### 1. Definitions

- 1.1** "the Client" means the person, partnership, or company in contract, or prospective contract with 08UK Ltd or anyone with a personal number supplied by 08UK Ltd.
- 1.2** "Contract or Agreement" means the agreement entered into by and between 08UK Ltd and the Client and is subject to the terms and conditions set out herein.
- 1.3** "the Company" means 08UK Ltd.
- 1.4** "the Services" means the telecommunications services to be supplied by 08UK Ltd pursuant to the client.
- 1.5** "the Act" means the Telecommunications Act 1984 and any amendments, modifications, re-enactments or replacements of the Act that may be made from time to time.
- 1.6** "the Carrier" or "Suppliers" means the end service provider that provides the Service to the Client.
- 1.7** "the System" means the electronic communications network and information technology system which the Company's carriers operate or provide so as to offer electronic communications services.
- 1.8** "Numbers" means any telephone number(s) provided by 08UK to the Client under this Contract
- 1.9** "Broadband RFS Date" means the date on which the Company notifies the Client that an individual Broadband Circuit is ready for use by the Client
- 1.10** Words in the singular shall include the plural and vice versa.
- 1.11** The headings in these conditions are intended for reference only and shall not affect their construction.

### 2. Quotation/Proposal

- 2.1** Quotations/proposals by the Company unless otherwise stated in them shall be open for acceptance within 30 days of the date of quotation/proposal.

### 3. The Contract

- 3.1** No Contract shall come into existence until the Client has returned the Company Contract, signed by the Client.
- 3.2** No variations or amendments of the Contract shall be binding on the Company unless accepted and confirmed by the Company in writing.
- 3.3** Any concession made or latitude allowed by the Company shall not affect our strict rights under the Contract.
- 3.4** If, in any particular case, any of these conditions shall be or be held to be invalid or shall not apply to the Contract the other conditions shall continue in force and effect.
- 3.5** All of the terms and conditions contained herein are subject to alteration at any time. It is the Client's responsibility to ensure they are fully conversant with the terms and conditions by which they are bound.
- 3.6** Without prejudice to their rights under the Agreement expressed, or implied, the Company may terminate the Agreement in the event that a liquidator, trustee in bankruptcy, receiver, or administrator is appointed in respect of the assets and/or business of the Client, or if the Client is deemed insolvent according to the Insolvency Act 1986, or if any licence under which the Client operates its business is revoked, amended, or ceases to be valid.
- 3.7** The Contract is between the Company and the Client as principals and shall not be assignable by the Client without the express written consent of the Company.
- 3.8** The Company may at its discretion suspend or terminate the supply of any goods or services if the Client fails to make any payment when and as due or otherwise defaults in any of its obligations under the Contract or any other agreement with the Company.
- 3.9** The complete Contract comprises of the completed and signed Telecoms Rates Agreement CPS and/or Telecom Rates Agreement WLR and/or Broadband Agreement (which include Schedule 1 and/or Schedule 2 and/or Schedule 3) and these Terms and Conditions. It supersedes all understandings or prior agreements whether oral or written, and all representations or other communication between the Client and the Company.
- 3.10** A person who is not party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 or otherwise to enforce any term of this Agreement.

### 4. General

- 4.1** The client shall not in any way imply that he/she is an officer, owner, director, or partner of the Company.
- 4.2** The sub-contracting of Numbers/Services provisioned by the Company is not permitted.
- 4.3** All times, dates and periods given for performance and/or connection times are given in good faith but without any responsibility on the part of the Company.
- 4.4** The Contract and its subject matter are confidential and shall not be disclosed or used for any unauthorised purpose.
- 4.5** The name of the Company, its logo, or style, may not be used on, or in any publication without the approval of the Company.
- 4.6** The Client undertakes to use the Service in accordance with the conditions set out herein and any such variations will be notified in writing to the Client by the Company and in accordance with the Act or any other regulations relating to the Service.
- 4.7** The Agreement represents the entire understanding between the parties in relation to the subject matter hereof and supersedes all prior agreements, representations or understandings by either party whether oral or written.
- 4.8** No statement, description, information, warranty, condition or recommendation contained in any catalogue, price list, advertisement or communication or made verbally by any of our agents or employees shall be construed to enlarge, vary or override in any way of these conditions.
- 4.9** Failure by either party to exercise or enforce any right conferred by the Agreement shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof or of any other right on any later occasion.
- 4.10** Any notice, invoice or other document which may be given by either the Client or the Company under these conditions shall be deemed to have been duly given if left at or sent by post to the nominated address, invoices or other documents may be sent, or the others usual or last known place of abode or business and such notice shall be deemed to be served immediately if left at the above address for notice or 72 hours after posting if posted as aforesaid.
- 4.11** Any number allocated by 08UK Ltd to the Client is provided for the duration of the Contract with the Client or for the duration of the provision by 08UK Ltd of the 08UK Ltd Service to the Client whichever is the shorter period. The number may not be sold. The number may not be transferred unless 08UK Ltd has given prior written permission.
- 4.12** The Client is required to indemnify the Company of any costs or legal fees incurred by the Company as a result of the Client's breach of the Contract.
- 4.13** The Agreement shall be governed by and construed and interpreted in accordance with English Law and the parties hereby submit to the jurisdiction of the English Courts.

### 5. Service

- 5.1** The Company may sub-contract the performance of the Contract or Service in whole or part to any person, firm or company without the written consent of the Client.
- 5.2** The Client undertakes not to contravene the Act of any other relevant regulations or licences regarding the provision and use of the telecommunications services.
- 5.3** The Client undertakes to use the Services in accordance with the Act, and any licence granted thereunder. The Client further undertakes not to use the Services:
- as a means of communications for a purpose other than that for which the services are provided; or
  - for the transmission of any material which is defamatory, offensive or of an abusive or obscene or menacing character or is of a nature which if transmitted would constitute a criminal offence or which infringes the rights of any third party including but not limited to contractual rights and intellectual property rights;
  - in a way that does not comply with the terms of any legislation or any codes of practice, regulations or any licence or authorisation applicable to the Company or Client or that is in any way unlawful or fraudulent or to the knowledge of the Client has any unlawful or fraudulent purpose or effect;
  - in connection with the carrying out of fraud or a criminal offence against any public telecommunications operator;
  - in any way that constitutes artificial inflation of traffic;
  - to make nuisance calls or spam;
  - to threaten, harass, stalk, abuse, disrupt or otherwise violate or infringe the rights (including but not limited to copyright, rights of privacy and publicity) of others;
  - to obtain access, through whatever means, to notified restricted areas of the underlying network;
  - to send and receive data in such a way or in such amount so as to adversely affect the network (or any part of it) which underpins any 08UK service or to adversely affect other customers of the Company and its Suppliers;
  - to engage in conduct which amounts to improper or persistent misuse of a public telecommunications network or service within the meaning of sections 127 to 128 of the Act;
  - in a way which (in the reasonable opinion of 08UK) brings the name of the 08UK into disrepute, or which places the Company in breach of the Act; or
  - for any purpose which we may notify you from time to time by reason of any relevant legislation which comes into force.
- 5.4** The Client shall agree to indemnify the Company from all losses, fines, damages, claims, costs and expenses suffered or incurred by the Company arising from or in connection with the Client's use of the Services in contravention of the provisions of condition 5.2, 5.3, 5.10 & 14.3.2. This condition will survive any termination of the Contract.
- 5.5** The Company does not warrant that the 08UK service will be fault free or free of interruptions however the Company will endeavour to resolve any problems as soon as possible.
- 5.6** In the event that the Company receives, as internet service provider, a copyright infringement report, a request to provide a copyright infringement list, an order to impose a technical obligation or any other notice, request, report or order made under the Communications Act 2003 (as amended by the Digital Economy Act 2010), the Client will do everything reasonable required by the Company to ensure that the Company will be in full compliance with both the letter and spirit of all its obligations under the Communications Act 2003, including with regard to the provision of information and cessation of service and compliance with any code adopted by Ofcom in respect of the relevant provisions.
- 5.7** The Company is entitled to move the Client's Service to another Carrier without the prior permission of the Client.
- 5.9** If the Client reports a fault on a line this will be dealt with in accordance to the care level confirmed on the Telecoms Rates Agreement WLR or Broadband Agreement.
- 5.10** The Client shall comply with all applicable laws and all codes of conduct, decisions, directions or recommendations issued by OFCOM and/or PhonepayPlus and/or any other competent regulatory body.

### 6. Equipment/apparatus

- 6.1** All apparatus which is attached (directly or indirectly) to the 08UK Service must conform to the relevant standard or approval for the time being designated under the Act or the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 and any requirements or standards set out in the relevant handbooks.

### 7. Liability

**7.1** In the event that the Services fail and calls are diverted to another Carrier, the Company shall not be obliged to pay any charges incurred with that Carrier. The Company shall only be entitled to charge usage charges for calls which are made through the Company pursuant to the Contract (if applicable).

**7.2** Nothing in these conditions shall impose any liability upon the Company in respect of any non-performance or Services which are not performed in accordance with the Contract arising out of the Clients own acts, omissions, negligence or default.

**7.3** The Company cannot be held responsible or will not be held liable for any loss or non-connection of Service for whatever reason. This includes but is not restricted to loss of revenue, business time, costs, opportunity, data, anticipated savings or profits or for any indirect or consequential loss howsoever arising.

**7.5** The Client shall indemnify and hold harmless the Company against all liabilities, claims, losses (including loss of profit), damages or expenses arising directly or indirectly or in any way associated with any use of the Service by the Client or provision of the Service by the Company.

#### **9. Charges**

**9.2** If charges are bought into effect by any act of legislation the Company reserves the right to apply any such additional charges for chargeable services giving 30 days written notice to the Client.

**9.3** If relevant and unless otherwise agreed, the Client agrees to pay for the Services by direct debit, BACS or company cheque, within fourteen days of the date of the Company's invoice, such invoices to be rendered once in each calendar month during the continuance of the contract.

**9.4** Where applicable the Client shall pay the price for the Services as set out in the Telecoms Rates Agreement CPS and/or Telecoms Rates Agreement and/or Broadband Agreement (which include Schedule 1 and/or Schedule 2 and/or Schedule 3). The Company shall be entitled to decrease its prices at any time, any changes will be reflected in the next invoice after the date of the decrease. The Company shall be entitled to increase its charges at any time and shall give the Client 30 day's notice of any such increase; such increase will take effect after the expiry of such notice. Upon notification of any such an increase, unless otherwise stated or committed to a contract length, the Client shall be entitled to cancel the Contract by giving the Company notice in writing 30 days after the date of notice of the increase in the charges.

**9.5** Without prejudice to any other rights it may have, the Company is entitled (before and after any judgement) to charge daily interest on amounts outstanding 14 days after the date of our invoice until payment is received in full at a rate of 5% per annum above the National Westminster Bank lending rate. Interest shall continue to accrue notwithstanding termination of the Contract. In addition if payment is not received 14 days after the invoice date the client is liable for a late payment charge of £25.

**9.6** If payment is not received within 14 days of the date of invoice the Company has the right to terminate the contract and suspend or revoke any Services received by the Client. The Company reserves the right to make a charge for any reconnection and apply different payment terms and charges as a condition of reconnection.

**9.7** All sums referred to in the contract are stated exclusive of VAT and any other taxes of a similar nature which may from time to time be introduced which shall (if applicable be charged to the Client by the Company and are payable by the Client in the same manner as the actual usage charges).

**9.8** The price for the Services shall be due in full to the Company in accordance with the terms of the contract and the Client shall not be entitled to exercise any set off, lien or any other similar right or claim.

**9.9** The Company may in a separate invoice make backdated claims for amounts outstanding from a previous billing period which were not previously invoiced for technical or other reasons.

**9.10** Any chargeable service agreed between the Company and the Client will incur a minimum monthly charge of £15.00.

**9.11** If a deposit is required by the Company and paid by the Client the Company can apply all or any amount of the deposit against any unpaid charges or any other liability incurred by the Client.

**9.12** Usage charges shall be calculated by reference to data recorded or logged by the Company and may not be argued or referenced to any dated recorded or logged by the Client.

**9.13** Charges for Rental of Broadband, Line Rental and Contract Pro/Path or Point are invoiced monthly in advance.

**9.14** A site survey/ or engineering visit will be necessary under certain conditions. Where an appointment is agreed with 08UK Ltd for BT to work at a Clients site and BT is unable to carry out the work at, or gain access to , the Clients site or the appointment is broken (unless due to BT's error), 08UK Ltd with charge the Client for an abortive visit charge.

#### **10. Suspension of Services**

**10.1** The Company may (without prejudice to its other rights) suspend the provision of the Service and the performance of its obligations under this Contract in whole or in part with immediate effect (and the Client will remain liable for all charges accrued during such period of suspension) if:-

**10.1.1** The Company is obliged to do so in order to comply with an order, instruction or request of Government, an emergency services organisation, a court of law, tribunal or other competent administrative or regulatory body, including OFCOM and Phonepay Plus;

**10.1.2** The Company needs to carry out work relating to the upgrading or maintenance of the System (provided that the Company has give the Client the maximum period of notice reasonable practicable in the circumstances);

**10.1.3** the Client does not pay any sum due and owing to the Company

**10.1.4** The Company reason to believe an 08UK service is being used in a manner which breaches or may breach the provisions of clauses 5.1, 5.2 or 5.3

**10.1.5** the Client is in breach of any of the material terms of this Agreement

**10.1.6** for operational reasons or in case of emergency; or

**10.2** In the event of suspension of the Services under the provisions of clauses 10.1.3, 10.1.4 or 10.1.5 all sums invoiced by the Company shall become immediately payable also the Client shall reimburse the Company for all costs incurred by the implementation of such suspension and/or the recommencement of the provision of the Services as appropriate.

**10.3** If the Company exercises it's right to suspend the Services, this shall not restrict the right to terminate the Contract.

#### **11. Termination of the Contract**

**11.1** If a line or provision of a Line Rental Service to any Site or any other service with a minimum time commitment is cancelled by the Client less than twelve (12) months from its commencement date then the balance of the rental which would have been paid for the remaining period up to twelve (12) months from the commencement date becomes immediately payable. Where the Company terminates this Contract pursuant to clauses 11.3.1, 11.3.2 or 11.3.3 such termination shall for the purposes of this clause 11.1 be treated as cancellation by the Client of the Line Rental Service to all sites.

**11.2** If the Client cancels an order that has been approved for a line or for the provision of a line rental service to a site before its commencement date then the Client shall pay the Company a cancellation charge calculated according to the method shown in the Telecoms Rates Agreement WLR and/or Broadband (which include Schedule 1 and/or Schedule 2 and/or Schedule 3).

**11.3** Both the Company or the Client (without prejudice to its other rights) may also terminate the Contract with immediate effect by giving notice in writing to the other, in the event that:

**11.3.1** the other is on breach of any provision of the Contract and (where such breach is remediable) fails to remedy that breach within 14 days of a written notice from the non-defaulting party specifying the breach.

**11.3.2** the other is subject to bankruptcy or insolvency proceedings which shall mean bankruptcy proceedings, becoming insolvent, making any composition of arrangement with creditors or an assignment for their benefit, any execution distress or seizure.

**11.3.3** if the Company ceases to be authorised to provide Services under the Act or is obliged to terminate this Contract in order to comply with an order, instruction or request of Government, an emergency services organisation, a court of law, tribunal or other competent administrative or regulatory body.

**11.4** Notwithstanding any other provision express or implied in these conditions, the Company (without prejudice to our other rights) may terminate the Contract with immediate effect in the event that the Client fails to make any payment when it becomes overdue to the Company.

**11.5** If applicable, on termination of the Contract for any reason the Client must pay any outstanding charges for Services up to and including the date of termination.

#### **12. Force Majeure**

**12.1** Neither party shall be held to be in breach of its obligations under the Agreement, save for obligations to make payments under the Agreement, to the other party for any loss or damage which may be suffered by the other party due to any cause beyond the reasonable control of the first party including but not limited to any act of God, inclement weather failure or shortage of power supplies, flood, drought, lightning or fire, strike, lock-out, trade dispute or labour disturbance, act or omission of Government authorities, other telecommunications providers, war, military operations or riot.

#### **13. Confidentiality**

**13.1** Neither the Company nor the Client shall, whilst the Contract is in force or thereafter, disclose any of the other's confidential information nor any details of the others commercial or technical activities or policy except insofar as is strictly necessary for fulfilling its obligations hereunder and except for any disclosure required by statute or law and save for information which is or subsequently enters the public domain.

**14 Service Specific Conditions** – all service specific conditions below are in addition to all other conditions in this Contract above.

#### **14.1 CPS**

**14.1.1** Without prejudice to any other rights or remedies that the Company may have, the Company may terminate the provision of the CPS Service on not less than 1 month's notice in writing to the Client in which case the Client shall pay to the Company all arrears of charges in respect of the CPS Service up to the date of its termination.

#### **14.2 Line Rental**

**14.2.1** Without prejudice to any other rights or remedies that the Company may have, the Company may terminate the provision of the Line Rental Service (unless otherwise agreed) on not less than 1 month's notice in writing to the Client in which case the Client shall pay to the Company all arrears of charges in respect of the Line Rental Service up to the date of its termination.

**14.2.2** Orders for Line Rental Services are subject to a minimum rental period of one month save for ISDN30 lines where the minimum rental period is 12 months. After expiry of the minimum rental period Line Rental Services may be terminated on 30 days written notice.

#### **14.3 Broadband Service**

**14.3.1** The Company accepts no responsibility or liability for the setting up, programming or maintaining of any Broadband Customer Equipment.

**14.3.2** The Client must not use a Broadband Service:

- to knowingly make available or upload files that contain software or other material, data or information not owned by or licensed to the Client; or
- to knowingly make available or upload files that contain a virus or corrupt data; or
- to falsify the true ownership of software or other material or information contained in a file that the Client makes available via the Broadband service; or
- to publish, post, distribute, disseminate, send, knowingly receive, upload, download, use or re-use material which is abusive, indecent, defamatory, offensive, obscene or menacing, or in breach of copyright, privacy or any other rights; or
- to deliberately abuse any part of the 08UK Service; or
- to post or send the same or similar messages in multiple use net or news groups; or
- to post or send off-topic items to a use net or news group; or
- to send or provide unsolicited commercial messages or communications in any form; or
- to falsify user information; or
- to act in such a way which threatens the integrity of security of any computer system; or
- with a view to avoiding incurring or paying charges for such usage; or
- with a view to degrading the use of services by third parties; or
- to violate general standards of internet conduct and usage such as denial of service attacks, web-page defacement, and port and network scanning; or
- to disclose passwords; or
- to violate any restrictions on the size of e-mails; or
- to forge addresses; or
- to share network connections in a manner enabling third parties to access and use such connections; or
- other than in accordance with the acceptable use policies of any connected networks.

**14.3.3** If, in the Company's opinion, any Broadband Customers Equipment fails to comply, at any time, with the requirements or is causing disruption to any 08UK Service or to other end users then 08UK Ltd may in it's absolute discretion disconnect the broadband circuit relating to that broadband customer equipment or take other steps as it judges appropriate to resolve the disruption.

**14.3.4** The Company may implement traffic management measures, which may include without limitation restrictions on heavy users of contended services, so as to maintain the quality of service across the wider group of users of that service.  
**14.3.5** The Company shall not be liable for any losses incurred by the Client for any third party connected with spam, viruses, worms or the use of spam or virus filters, however caused.  
**14.3.6** Use of the internet (which is separate from the Broadband Service) is at the Clients own risk and subject to any applicable laws. The Company will not be liable for any goods, services, information, software, or other materials that the Client may obtain when using the internet or newsgroups, nor for any consequences resulting from viewing, downloading or any interaction whatsoever with the internet or with newsgroups.  
**14.3.7** Without prejudice to any other rights or remedies that the Company may have, the Company may terminate the provision of the Broadband Service (ADSL or SDSL) on not less than 1 month's notice in writing to the Client in which case the Client shall pay to the Company all arrears of charges in respect of the Broadband Service up to the date of its termination.  
**14.3.8** Rental for Line Rental, Broadband and ancillary related services will be invoiced monthly in advance.  
**14.3.9** The Client will be responsible for charges and expenses levied on the Company by its suppliers where the Client has requested an engineer to visit any site to carry out remedial works which in the event are substantially attributable to the act or omission of the Client or the failure of, or fault with, any Broadband Client Equipment.  
**14.3.10** If after acceptance of an order the Client cancels or amends any order prior to the Broadband RFS Date the Company will be entitled to pass on to the Client any charges for the installation or provisioning of that order levied on the Company by it's suppliers.  
**14.3.11** 08UK accepts no responsibility or liability for the setting-up or programming of any broadband customer equipment. 08UK Ltd will not provide any advice, technical support or fault-finding support relating to the operation or configuration of broadband customer equipment.  
**14.3.12** The Company reserves the right to revoke its acceptance of any order where a Broadband circuit cannot be reasonably connected to the site in question having due regard to any geographic, practical or technical issue arising, including but not limited to where the site is an unusually long distance from the local BT exchange or where there is a poor quality copper connection between the site and the local BT exchange.

I have read and understood all pages of this terms and conditions document

Signed..... Name .....

On behalf of .....(company)

Date.....