

Network Business Call Terms & Conditions

1. Definitions

1.1 In this agreement the following terms shall have the following meanings:

“Agreement” means the Order Form and these terms and conditions;

“Customer” means the person or entity whose details are set out on the Order Form;

“Customer Equipment” means any telecommunications apparatus or system owned or controlled by the Customer;

“NBC” means Network Business Call Limited

“Order Form” means the request for services attached;

“Minimum Term” is for the agreed period set out on the Network Services Agreement;

“Service” means the ISDN, SIP Trunks, Leased lines, MPLS networks, Analogue Trunk Line, ADSL and FTTC service the Customer has requested from NBC on the Order Form; “Service Equipment” means the electronic communications equipment NBC may from time to time install at the Customer’s premises for the purposes of providing the Service;

2. Acceptance

2.1 This Order Form shall be binding on NBC only after it indicates its acceptance by sending out a welcome letter to the Customer or commences provision of the Service whichever is the earlier. Prior to acceptance the Customer agrees that NBC may carryout such credit checks as it deems necessary pursuant to paragraph 7.3.

3. Service Levels - refer to www.netcomms.co.uk

3.1 NBC agrees to provide the Service to the Customer and the Customer agrees to use the Service on the terms set out in this Agreement.

3.2 NBC shall provide the Service with the reasonable skill and care of a competent telecommunications/data service provider.

3.3 NBC shall use reasonable endeavours to ensure that the Service is available for use by the Customer but owing to the nature of data networks it is impossible to guarantee a fault free service and the quality of the Service depends on both the quality and availability of other communications networks across which calls or data are transmitted.

3.4 Any faults in the Service must be reported to NBC on the telephone number shown on the Order Form. NBC shall aim to comply with the quality of service levels set out in paragraph 3.5 below.

3.5 **Bronze Service Level**—clear by end of next working day +1 Monday to Friday excluding Public & Bank Holidays i.e. fault reported at any time between 00.01—23.59 on Tuesday would have a commitment of 23.59 on Thursday.

Silver Service Level—clear by end of next working day Monday to Saturday excluding Public & Bank Holidays i.e. fault reported any time between 00.01—23.59 on Tuesday would have a commitment time of 23.59 on Wednesday.

Gold Service Level—Reported by 12.59—clear by 23.59 same day or the day of the appointment where later (Monday—Sunday including Public & Public Holidays) i.e. reported after 13.00—clear by 12.59 next day.

Platinum Service Level—6 hour fix round the clock, 365 days of the year.

3.6 Should the customer choose to opt out of any of the above Service Level charges, NBC shall charge a fee of £45.00 + vat per line fault for the administration required to restore service outside of any Service Levels.

Line Guard

Line Guard is a service that will be added monthly to every Analogue & ISDN Line. The service protects the customer against ad-hoc charges that may be incurred when BT is required to visit the Customer site to diagnose a fault or disruption to the service being supplied via NBC. Line Guard covers the eventuality where no fault is found or the fault is not related to BT equipment. For details and current charges visit www.netcomms.co.uk

The Customer may elect to “Opt Out” of the Line Guard service at any time by downloading and completing the “Line Guard Opt Out Form” which can be found at www.netcomms.co.uk. The completed and authorised form must be emailed to support@netcomms.co.uk. Upon receipt of the Opt Out form previous charges will not be refunded.

NetSafe & SIPSafe Fraud Protection

NetSafe/SIPSafe is a service that will be added monthly to each line (SIP, Analogue and ISDN); the service limits the Customer’s liability to £500 of call traffic in the event of any fraudulent activity. For details and current charges visit www.netcomms.co.uk

The Customer may elect to “Opt Out” of the NetSafe/

SIPSafe service by downloading and completing the “Fraud Protection Opt Out Form” which can be found at www.netcomms.co.uk. The completed and authorised form must be emailed to support@netcomms.co.uk. Upon receipt of the Opt Out form previous charges will not be refunded.

Replacement Router Scheme

This service provides the Customer with 24 hour real-time alert monitoring of the router and a next day replacement router if remote diagnostics show it to be necessary. NBC will also supply a free Test Pack to the Customer to be retained on the business site in order to assist NBC in the remote diagnosing of the fault and or disruption to the broadband services. For full details and current charges visit www.netcomms.co.uk.

The Customer can “Opt Out” at any time by downloading the form at www.netcomms.co.uk and emailing it to support@netcomms.co.uk.

Upon receipt of the Opt Out form previous charges will not be refunded.

3.7 NBC may change the Service for operational reasons including a change to the code or telephone number used by the Customer or to change any technical specification of the Service provided any change to the technical specification does not materially affect the performance of the Service.

NBC may make alterations to the Service, including without limitation, conversions, shifts re-configurations and renumbers. Such alterations may result in disruption to the Service.

4. Access and Installation

4.1 The Customer shall at its own expense in advance of any installation work:

4.1.1 obtain all necessary licences or consents, including consents for any alterations to buildings to allow the installation of the Service Equipment. If consent is not obtained and the order is cancelled prior to installation, the Customer will be liable for all costs incurred.

4.1.2 Provide sufficient approved electricity connection points for the Service Equipment in close proximity to the Service Equipment.

4.1.3 Provide an appropriate environment for installation of the Service Equipment in accordance with the requirements notified to it by NBC and carryout afterwards any making good or decorator’s work required.

4.2 NBC or its appointed sub-contractors shall deliver and install any Service Equipment required for provision of the Service at the Customer’s premises. NBC shall use its reasonable endeavours to deliver and install the Service Equipment by such date as is advised, however, any delivery date specified shall be an estimate only. NBC accepts no liability for failure to meet the delivery date.

4.3 The Service Equipment, when supplied by NBC shall at all times remain the property of NBC or its sub-contractors.

4.4 The Customer must not add to, modify or in any way interfere with the Service Equipment, nor allow anyone else other than someone authorised by NBC to do so. The Customer shall be liable for any loss or damage to the Service Equipment except where such damage is due to fair wear and tear or is caused by NBC or anyone acting on NBC’s behalf.

4.5 The Customer must grant NBC and its sub-contractors access to its premises at any agreed time during 08.00 to 18.00 Monday to Saturday (excluding public holidays) (“Working Hours”) and NBC may, on reasonable notice or if the Customer has selected the Platinum Care level of service, require access to the Customer’s premises outside Working Hours. Any work carried out by NBC outside the Working Hours other than under the Platinum Care fault repair service shall be subject to additional charges. The Customer may be required to designate a named individual to be available if NBC or its sub-contractors require access to the premises. If no such person is available or is not present at the premises then NBC shall have no liability to the Customer for non-performance of its obligations under this Agreement.

4.6 The Customer shall provide a suitable and safe working environment for NBC and its sub-contractors, NBC and its sub-contractors shall comply with the Customer’s reasonable site regulations previously notified to NBC in writing. NBC shall not be liable for any breach of this Agreement which arises as a result of conflict between any such site regulations and this Agreement.

4.7 In some cases there may be technical limitations within the electronic communications network which make it unfeasible to supply the Service to a Customer. These limitations may not be apparent for some time

following installation. In such cases the Service will be withdrawn and any charges that have been paid in advance will be refunded.

4.8 The Customer will be responsible and liable for the cost of disposing of redundant equipment. NBC may be requested to undertake the disposal of any such equipment and will charge the Customer accordingly.

5. Use of the Service

5.1 The Service is for the supply of both a Digital Access Line, inbound and outbound voice and data traffic over that Access Line. The Customer shall not request Carrier Pre-Selection or use any other Indirect Access routing method for the purpose of routing Call Traffic through another Service Provider over the Access Line. We reserve the right to charge for revenue on lost call traffic based on historic call data.

5.2 The Customer shall ensure that the Customer Equipment is in proper working order and complies with all applicable standards and approvals for network connection. Customer Equipment must be used in accordance with any published instructions, safety and security procedures applicable to the use of that equipment.

5.3 The Customer shall ensure that the Service is not used either by the Customer or any third party for any fraudulent, criminal, defamatory, offensive, obscene, indecent or abusive purpose (including menacing, nuisance or hoax calls) or so as to constitute a violation or infringement of the rights (including intellectual property rights) of NBC or any third party. The Customer hereby undertakes to comply with all applicable laws, regulations, conditions of entitlement and guidelines and all reasonable instructions of NBC in relation to its use of the Service and the Service Equipment. The Customer shall not use the Service in a manner in which, in NBC’s reasonable opinion could materially affect the quality of any electronic communications service over a public electronic communications network, including the Service.

5.4 NBC shall have the right to recover all reasonable costs incurred in investigating or remedying any fault with the Service where it is caused by the Customer’s negligence or default by the Customer Equipment or where the fault does not lie with NBC or any Service Equipment.

5.5 The Customer acknowledges that it does not own the telephone number or IP addresses and that it may not transfer the telephone number(s) without the permission of NBC.

5.6 The Customer shall indemnify NBC against any claims or legal proceedings which are brought against NBC or its sub-contractors because the Service is used in breach of the restrictions set out in paragraph 5.

5.7 The Customer may request changes to features of the Service by emailing support@netcomms.co.uk which is subject to an administration fee. If the Customer wishes to change the type of Service supplied it will be required to separately order such service and to enter into a new agreement for the supply of that different service.

5.8 In the event that NBC or its sub-contractors supply software to the Customer for use in conjunction with the Service, NBC grants the Customer a non-exclusive, non-transferrable licence for the use of such software for the duration of this Agreement. Except as permitted by law, the Customer is not permitted to copy, decompile or modify the software, nor copy the manuals or documentation supplied with such software.

5.9 Calls to Premium & International numbers are barred by default and restrictions will only be lifted on written request by the relevant authority. Such written request will be accepted by NBC as a disclaimer for any fraudulent activity or misuse of the service by the customer or any of its agents or representatives.

5.10 Calls to and from all lines, including ISDN2, ISDN30, Analogue, SIP, Hosted Cloud Telephony, Premium and International & Mobile numbers will only be barred on written request by the relevant authority. The customer will be liable for all costs associated with any fraudulent activity or misuse of the service by the customer or any of its agents or representatives.

6. Payment

6.1 The Customer shall pay the charges of the Service from the date the Service is first made available and as set out in the Order Form or as otherwise set out in the NBC tariff current from time to time (a copy of which is available on request).

All prices are exclusive of value added tax and all prices are subject to change upon NBC giving not less than 30 days prior written notice to the Customer.

6.2 All sums due to NBC under this Agreement shall be paid in full by the Customer without any set off

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6.3 The Customer shall be invoiced monthly in advance for access circuit charges and in arrears for call charges by NBC for charges under this Agreement plus value added tax. Payment is due within 10 working days of the invoice date. The time of payment of all sums due to NBC under this Agreement shall be of the essence. If payment in full is not received by NBC upon the due date, NBC shall be entitled to levy an interest charge on any unpaid overdue balance at a rate of 8% above the base rate for the time being of the Bank of England. Interest will be charged on a daily basis. Invoices paid by means other than direct debit shall be subject to an additional £10.00 monthly charge.

6.4 All charges payable under this Agreement shall be calculated by reference to data recorded or logged by NBC or its sub-contractors and not by reference to data recorded or logged by the Customer.

6.5 Subsequent to carrying out a credit check pursuant to paragraph 7.3, NBC may require a cash deposit or bank guarantee to cover charges which NBC might reasonably expect the Customer to incur under the Agreement or may place a limit on the Customer's account for charges that can be accumulated by the Customer before payment is received by NBC in respect of provision of the Service.

6.6 Where the Customer fails to comply with paragraph 4.1 or NBC is not able to access the Customer's premises to carryout installation work or fault repair work then NBC may charge the Customer for an aborted visit at the rate of up to £500 (plus VAT) per day or part day as such rate may be varied by the NBC tariff from time to time.

7. Provision of Information and General Data Protection Regulation

7.1 The Customer undertakes promptly to provide NBC free of charge, with all information and co-operation as NBC may reasonably require to enable it to proceed without interruption with the performance of its obligations under this Agreement.

7.2 NBC undertakes to keep any personal data it obtains in the performance of its obligations under this Agreement in accordance with relevant data protection legislation and not to use or disclose such information for any unlawful purpose. NBC may from time to time disclose personal data of the Customer and (if relevant) the Customer's employees to its subcontractors and service providers in order to supply the Service.

7.3 NBC reserves the right to carryout a credit check against the Customer and may register information about the Customer and the Customer's account with credit reference agencies. NBC and other parties may use this information to make credit decisions. This information may also be used to prevent fraud and to trace debtors.

8. Liability

8.1 Nothing in this Agreement shall exclude or restrict NBC's liability for death or personal injury resulting from the negligence of NBC or its employees while acting in the course of their employment or for fraudulent misrepresentation or for any other liability that cannot by law be excluded.

8.2 Subject to paragraph 8.1, NBC's total aggregate liability to the Customer in respect of all causes of action arising in each calendar year in contract, tort (including negligence) or otherwise in connection with this Agreement shall be limited to 125% of the total charges paid or payable by the Customer for the Service in such calendar year or to £5,000, whichever is the smaller.

8.3 Subject to paragraph 8.1, NBC shall not be liable to the Customer in contract, tort, breach of statutory duty or otherwise, including any liability in negligence for any of the following;

(a) loss of revenue (including anticipated revenue); (b) loss of business; (c) loss of data; (d) loss of profit (including anticipated profit); (e) loss of any anticipated savings; (f) loss of time; (g) wasted expenditure; (h) loss of opportunity or (i) any indirect or consequential loss.

8.4 NBC shall not be liable for failure to perform any of its obligations under this Agreement if it is prevented from doing so by any circumstances beyond its reasonable control, including, but not limited to, lightning, flood, exceptionally severe weather, fire, explosion, war, civil disorder, industrial disputes (including industrial disputes involving NBC or its sub-contractors own employees where that industrial dispute is beyond the reasonable control of that party), act of God, act of terrorism, subsidence, national or local emergency, statutory obligation, or acts or omissions of local or central government or other competent authorities or persons for whom NBC is not responsible for events beyond the reasonable control of NBC's suppliers including the acts or omissions of third party telecommunications/data network operators.

8.5 In the event of any failure in the Service, NBC shall

not be liable to the Customer for any charges incurred by the Customer should the Customer divert its call/data traffic to another service provider unless specifically requested to do so by NBC.

8.6 Each of the above provisions excluding or limiting liability shall operate separately.

9. Suspension of Service

9.1 NBC may at its sole discretion elect to immediately suspend the provision of the Service until further notice without liability to the Customer on notifying the Customer either orally (confirming the same in writing) or in writing in the event that:

9.1.1 The Customer is in breach of any term of this Agreement;

9.1.2 The Customer prevents or delays any prearranged maintenance or fault repair work from being carried out;

9.1.3 The Customer is suspected, in NBC's reasonable opinion, of involvement with fraud or attempted fraud in connection with the use of the Service;

9.1.4 NBC is obliged to do so in order to comply with an order, instruction or request of any government, emergency service organisation or other competent authority;

9.1.5 Operational reasons (such as maintenance or service upgrades) require such suspension or because of an emergency (in which case no written notice shall be required);

9.1.6 In the event that any of the events set out in paragraph 10.3 occurs; or

9.1.7 The Customer charges have reached the limit set under paragraph 6.5

9.2 The Customer must continue to pay the charges for the Service during any suspension up to the date of termination.

10. Term and Termination

10.1 The initial minimum/contract term of this Agreement shall commence on the date that NBC makes ALL services available to the customer and shall remain in effect for the Minimum Term and thereafter for further periods of one year unless and until terminated in accordance with this paragraph 10. On termination of the Agreement for whatever reason the telephone/data service may be disconnected unless the Customer makes alternative arrangements with another provider of telephone or data services. The Customer acknowledges and accepts that it is liable for all cancellation or termination payments and charges (including without limitation any early termination charges) levied by a previous supplier for the transfer of the provision of services and lines to NBC unless it is stated on the Agreement that NBC will be responsible for the payment of such charges. The customer accepts and acknowledges that NBC will prior to the connection date have spent a significant amount of time and incurred expense in preparation for the provision of the Data Services to the Customer. In the event that the customer terminates the Agreement prior to the connection date it shall pay to NBC (a) £500 + VAT in respect of the time spent by NBC in preparation for the provision of the Data Services to the Customer and (b) an amount equal to the direct expenses + VAT incurred by NBC to its supplier(s) in the preparation of Data Services to the Customer limited to £3000.

10.2 Each party may terminate this Agreement on not less than 90 days' notice in writing to expire at the end of the Minimum Term or on each anniversary thereof.

10.3 Without prejudice to its other rights under this Agreement, NBC may terminate this agreement immediately if:

10.3.1 The Customer has committed a material breach of this Agreement which is incapable of remedy or in the case of a remediable breach, the Customer fails to remedy within a reasonable time of having been requested to do so by NBC;

10.3.2 The Customer is repeatedly in breach of this Agreement;

10.3.3 Any contract upon which NBC relies for the provision of the Services is terminated (for whatever reason);

10.3.4 The site at which the Service is provided is demolished; or

10.3.5 The Customer is the subject of a bankruptcy order, or becomes insolvent, or makes an arrangement or composition with or assignment for the benefit of its creditors, or goes into voluntary (otherwise than for reconstruction or amalgamation), or compulsory liquidation or a receiver or administrator is appointed over all or any of its assets or ceases to carry on business.

10.4 Without prejudice to its other rights, NBC shall have the right immediately to terminate this Agreement by notice in writing where the Customer fails to make any

payment when it becomes due to NBC.

10.5 On termination of this Agreement, the Customer shall ensure that NBC is supplied with prompt access to remove any Service Equipment supplied. Where this Agreement is terminated prior to the end of the Minimum Term, other than for breach by NBC, the Customer shall pay NBC;

10.5.1 Any outstanding charges due from the date of termination up to the end of the contracted period described in paragraph 10.1;

10.5.2 At point of termination, prior to the end of the minimum term of the Agreement or before any subsequent annual renewal dates, NBC will apply appropriate Administration Fees and or other related Administration charges, including the cost for the de-installation of the Service Equipment and any 3rd party/supplier termination fees.

10.6 The sum equal to 20% of the average monthly call spend for the period up to the date of termination multiplied by the number of months remaining in the contracted period described in paragraph 10.1

10.7 On termination, any consequential reprogramming of the Customer Equipment shall be the Customer's responsibility and at the Customer's cost. NBC is not responsible for any redecorating work at the Customer's premises.

10.8 On termination the provisions of paragraphs 1, 4.3 to 4.6, 6, 8, 9, 10.5, 10.6, 11.4, 11.5 and this paragraph 10.7 shall continue to apply

11 General

11.1 The Customer may not assign or transfer this Agreement or any of its rights under it without NBC's prior written consent. NBC may assign any or all of its rights and obligations under this Agreement by giving not less than 30 days' notice in writing to the Customer.

11.2 Any notice, invoice or other document which may be given by either party under this Agreement shall be deemed to have been given if left at, or sent by post or fax transmission (confirming the same by post) to an address notified by the other party in writing as an address to which notices or other documents are to be sent. NBC's address for service of any notice shall be such address as appears on the last invoice sent to the Customer or such other address as may be notified in writing by NBC for that purpose. Unless otherwise notified by the Customer, the Customer's address for service shall be the address set out on the Order form and notices sent to that address shall be deemed duly served.

11.3 NBC may change this Agreement at any time by giving 30 days' notice in writing provided that any change shall not materially affect the Service or the performance of the Service except insofar as it is reasonable to do so. NBC reserve the right to amend the cost of services due to any inflationary increase out of our control.

11.4 If any provision of this Agreement is found to be invalid, unlawful or unenforceable in any respect, the remaining provisions shall continue to apply to the fullest extent permitted by law.

11.5 Failure by either party to exercise or enforce any right under this Agreement shall not be treated as a waiver of that right and shall not prevent that right or any other right being exercised or enforced on a later occasion.

11.6 This Agreement and any documents referred to in it, including, but not limited to, the NBC tariff, together represent the entire agreement and understanding of the parties with respect to their subject matter and supersede all prior understandings and representations (other than fraudulent misrepresentations), whether written or oral and this Agreement may only be modified if such modification is in writing and signed by NBC and the Customer.

11.7 The parties do not intend that any term of this Agreement should be enforceable under the Contracts (Rights of Third Parties) Act 1999 by anyone else.

11.8 This Agreement shall be governed by English law and the parties agree to submit any dispute to the exclusive jurisdiction of the English courts.

Network Business Call (NBC) is part of the

Network Communications Group Ltd

Nicholas House, River Front, Enfield EN1 3TF

Tel: 0800 092 8161 | Fax: 020 8366 6844

www.netcomms.co.uk