



1st Callcom Ltd Network Services Agreement

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NS

Customer: _____ Ref: _____

Customer Details	Billing Details if different
Contact: _____	Contact: _____
Tel: _____	Tel: _____
Address: _____	Address: _____
_____	_____
Postcode: _____	Postcode: _____
Email: _____	Email: _____

Line(s) to be Routed														
Number										Line Name (e.g. Fax Line)	Line Type	No. of Lines	CPS	WLR

Minimum Contract Period:	_____
Current Call Router:	_____
Current Monthly Spend:	_____
Phone Book Entry Required:	_____

Rates (pence per minute): Line Rental: _____ Local Calls: _____ National Calls: _____ Mobile Calls: _____	Other Requirements, Comments: _____ _____ _____
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Signature _____ Position _____

Print Name _____ Date _____

Terms & Conditions

1. DEFINITIONS AND INTERPRETATIONS

1.1 In this Agreement the following terms shall have the following meanings:
"Act" means the Telecommunications Act 1984 and amendments to the Act that may be made from time to time. "Agreement" means the agreement between the Service Provider and the Subscriber for the provision of Network Services incorporating these terms and conditions and the Order Form. "Connection Date" means the date when the network carrier having received the Subscriber Details from the Service Provider is in a position to and has agreed to commence provision of the Network Service to the Subscriber. "Number Translation Service" means any telecommunications service provided by 1st CALLCOM NETWORK SERVICES which commences with a non-geographic code requiring translations by the 1st CALLCOM NETWORK SERVICES switch for onward routing to the Subscriber and including services such as 0800 free phone, local rate, national rate and premium rate telephone call facilities. "Network Services" means the provision of indirect access network capacity as is required to complete voice telephone calls and data transmission domestically and internationally via the public switched telephone network more particularly detailed on the Order Form and described in the Service Provider's service literature and as modified or substituted from time to time to be provided here under by the Service Provider to the Subscriber. "Order Form" means the Subscriber Order Form overleaf which sets out details of the Service Provider the Subscriber and other particulars relating to the provision of the Network Services. "Service Provider" means 1st CALLCOM NETWORK SERVICES specified on the Order Form by whom this Agreement is made and the expression "Service Provider" includes the Service Provider's permitted assigned employees and agents. "Subscriber" means the person, firm or company specified on the Order Form and any other person reasonably appearing to act within that person's firm's or company's authority and includes where relevant the Subscriber's permitted assigned employees and agents". "Subscriber Details" means the service numbers of lines to be connected to the Network Services. "Broadband" means ADSL or SDSL internet access services.

2. SUPPLY OF NETWORK SERVICES

2.1 Service can only be provided by the Service Provider if the Service Provider has a signed Service Agreement with the full and correct Subscriber's details on it and a method of payment has been agreed. A surety deposit may be required to provide service initially or at any time subsequently. Failure to pay a deposit upon request may result in the Service Provider suspending service without notice.
2.2 For the avoidance of doubt, the Service Provider has no obligation whatsoever to provide service if it has reasonable cause to believe that the Subscriber's details on a Service Agreement are incorrect, have changed, or are invalid, fraudulent or not available.
2.3 The Service Provider undertakes to use all reasonable endeavors to supply the Network Services to the Subscriber as and from the Connection Date subject to and on the terms of this Agreement. This is at all times dependent upon the ultimate wholesale national network provider who the service provider uses as a subcontractor in all cases. The service provider accepts no responsibility or liability whatsoever for the actions or inactions of these subcontractors.

3. DURATION

This Agreement shall come into full force and effect from the date hereof and subject to earlier termination in accordance with its terms shall continue thereafter until the same is terminated by either party by the service upon the other of no less than 1 calendar month's written notice except where new lines or services have been ordered, which carry a minimum term of 1 calendar year from date of provision.

4. CONDITIONS OF USE OF NETWORK SERVICES

4.1 The Subscriber agrees and undertakes:
4.1.1 to use the Network Services in accordance with such conditions as may be notified to it in writing by the Service Provider from time to time.
4.1.2 not to cause any attachments other than those approved for connections under the Act to be connected to the Network Services and the Service Provider shall not be under any obligation to connect or keep connected any Subscriber apparatus if it does not so conform or if in the reasonable opinion of the Service Provider it is liable to cause death, personal injury, damage or impair the quality of the Network Services.
4.1.3 not to contravene the Act or any other relevant regulations or licences granted there under.
4.1.4 not to use the Network Services as a means of communication for a purpose other than that for which the Network Services are provided and as may be set out from time to time in the Service Provider's service literature.
4.1.5 not to use the Network Services to communicate any material which is intended to be a hoax call to emergency services or is of a defamatory, offensive, abusive, obscene or menacing character.
4.1.6 not to use the Network Services in a manner which constitutes a violation or infringement of the rights of any other party.
4.1.7 to maintain its telecommunications apparatus at all times during the period of this Agreement in good working order and in conformation with the relevant standard or approval for the item being designated under section 22 of the Act.
4.1.8 to provide the Service Provider with all such information as it reasonably requests relating to the Subscriber's telecommunication apparatus.
4.2 If the Service Provider is installing auto-dialling equipment the Subscriber shall provide at the Service Provider's request and at the Subscriber's expense, a suitable mains electricity supply (if necessary), with connection where the Service Provider requires to enable the Service Provider to provide the Network Services.
4.3 If any equipment is installed or provided by or on behalf of the Service Provider for the purposes of providing the Network Services (including without limitation any auto-dialler) the Subscriber undertakes not to alter or move such equipment or any part thereof without the Service Provider's prior written consent. The Subscriber agrees that any equipment installed or provided by or on behalf of the Service Provider shall at all times remain the property of the Service Provider and shall be returned to the Service Provider forthwith upon request.
4.4 The Subscriber shall indemnify the Service Provider against all liabilities, claims, damages, losses and expenses arising from the use by the Subscriber of the Network Services in breach of this Agreement.
4.5 this clause 4.5 shall apply to the Number Translation Service:
4.5.1 The Subscriber hereby acknowledges that the telephone numbers allocated as part of the Number Translation Service do not belong to the Subscriber and the Subscriber accepts that it shall not acquire any rights whatsoever in any such telephone numbers and the Subscriber shall make no attempt to apply for registration of the same as a trade or service mark whether on its own or in conjunction with some other words or trading style.
4.5.2 The Service Provider shall be entitled for operational or technical reasons or in order to comply with any numbering scheme or other obligation imposed on the Service Provider by the Licences or by any other competent authority to withdraw or change any telephone or code (or group thereof) allocated to the Subscriber as part on the Number Translation Services PROVIDED THAT the Service Provider gives the Subscriber the maximum period of notice in writing thereof practicable in the circumstances.
4.5.3 The Subscriber acknowledges and agrees that any Number Translation Service including any telephone numbers provided as part of that service shall only be provided by the Service Provider and available for use by the Subscriber for the duration of this Agreement.

5. ACCESS TO PREMISES AND PROVISION OF INFORMATION

5.1 To enable the Service Provider to exercise its obligations under this Agreement:
5.1.1 The Subscriber shall permit or procure permission for the Service Provider and any other person(s) authorised by the Service Provider to have reasonable access to its premises and its telephone system and other equipment and shall provide such reasonable assistance as the Service Provider requests.
5.1.2 The Service Provider will normally carry out work, by appointment and during normal working hours but may request the Subscriber to provide access at other times but such requests shall not oblige the Subscriber to provide such access.
5.2 At the Subscriber's request the Service Provider may agree to work outside normal working hours and the Subscriber shall pay the Service Provider's reasonable charges for complying with such a request.
5.3 If the Subscriber requests maintenance or repair work which is found to be unnecessary, the Subscriber may be charged for the work and the costs incurred. The Service Provider will give notice that work is considered unnecessary prior to completion and raising charges.

6. SUSPENSION OF SERVICE

6.1 The Services Provider may at its sole discretion elect to suspend forthwith provision of the Network Services until further notice without compensation having given Subscribers as much notice as is reasonable under the circumstances either orally (confirming such notification in writing) or in writing in the event that:
6.1.1 The Subscriber is in breach of a material term of this Agreement including for the purposes of this agreement its failure to pay any charges (including any type of installation or service invoice) owed to the Service Provider on the due date.

6.1.2 The Service Provider is obliged to comply with an order, instruction or request of the Government, an emergency services organisation or other competent administrative authorities.

6.1.3 The Service Provider suspects that the Network Services are being used fraudulently.

6.1.4 The Service Provider is entitled to suspend provision of any other telecommunications service under the terms of any other agreement with the Subscriber.

6.2 The Subscriber shall reimburse the Service Provider for all reasonable costs and expenses incurred by the implementation of such suspension and/or the commencement of the provision of the Network Services as appropriate, but only where the suspension is implemented as a consequence of breach, fault or omission of the Subscriber.

6.3 The Service Provider will suspend service without notice if it has reasonable cause to believe that the company or persons named on the Service Agreement are no longer able or responsible for fulfilling their obligations under the Network Services Agreement.

7. LIABILITY

7.1 Nothing in this Agreement shall exclude or restrict the Service Provider's liability for death or personal injury resulting from the negligence of the Service Provider or of its employees while acting in the course of their employment with the Service Provider.

7.2 Neither party shall be liable to the other in contract, tort or otherwise for any loss of business, contracts, anticipated savings or profits or for any other indirect or consequential loss whatsoever.

7.3 The Service Provider shall not be liable to the Subscriber for any breach of any provision of this Agreement caused by any reason outside the control or responsibility of the Service Provider including without limitation the failure of any third party public telecommunications operator or network carrier to provide network capacity (or any element thereof) to the Service Provider on which it was reliant for the purposes of this Agreement (whether in breach of contract or otherwise), 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, any act or omission of Government, highways authorities, or other competent authorities.

7.4 The Service Provider shall not in any event be liable to the Subscriber for any indirect, consequential or incidental loss or special damages howsoever arising or for any loss of revenue, business, anticipated savings or profits and the Subscriber shall indemnify and keep the Service Provider indemnified against any claims and expenses arising out of the foregoing.

7.5 For the avoidance of doubt, the Service Provider shall not in any event be liable to the Subscriber or any third party for any claims, liabilities, damages, costs or losses, whether direct or indirect, or for any loss of revenue, business, anticipated savings or profit arising in connection with the failure of the Subscriber to comply with any or all of its obligations under this Agreement.

8. CHARGES AND PAYMENTS

8.1 The Subscriber shall be invoiced monthly by the Service Provider and agrees to pay charges within 10 days of receipt of invoice.

8.2 Usage charges will be as detailed in the Service Provider's price list or written on an individual subscriber contract and may be varied from time to time.

8.3 The Service Provider shall have the right to alter the charges in the Service Provider's price list from time to time.

8.4 Usage charges payable shall be calculated by reference to data recorded or logged by or on behalf of the Service Provider and by reference to any data recorded or logged by the Subscriber.

8.5 The Service Provider reserves the right to charge daily interest on amounts outstanding 14 days after invoice until payment in full is received at a rate equal to 4% per annum above the Barclays Bank Base Lending Rate as current from time to time, whether before or after judgement. Interest shall continue to accrue notwithstanding termination of this Agreement.

8.6 All sums referred to in this Agreement are exclusive of Value Added Tax and any taxes of a similar nature which may from time to time be introduced.

8.7 Payment of all sums due to the Service Provider shall be made without any set-off whatsoever.

8.8 Invoices from the Service Provider will not be limited to network services only. Where appropriate, invoices may include amounts in relation to calls, network, services, installations, labour charges, maintenance etc.

9. TERMINATION

9.1 This Agreement may be terminated forthwith by the Service Provider either orally (confirming such notification in writing) or in writing if there is a material or persistent breach by the Subscriber of any of the Subscriber's obligations under this Agreement (including without limitation nonpayment of charges due) and in the case of breaches which are capable of remedy the Subscriber fails to remedy the same within 7 days of such notice.

9.2 Notwithstanding anything to the contrary expressed or implied in this Agreement either party (without the prejudice to its own rights) may terminate this Agreement forthwith in the event that a liquidator (other than for the purpose of amalgamation or reconstruction) trustee in bankruptcy, administrator, receiver and manager is appointed in respect of the whole or part of the assets and/or undertaking of the Subscriber or the Subscriber enters into an arrangement or composition with its creditors, or other circumstances arise which entitle a court or creditor to appoint a receiver or administrator or to make a winding up order.

9.3 Notwithstanding anything to the contrary expressed or implied in the Agreement the Service Provider (without prejudice to their own rights) may terminate this Agreement forthwith in the event that any licence under which the Subscriber has the right to run its telecommunication system and connect it to the Network Services is revoked, amended or otherwise ceases to be valid.

9.4 If the Subscriber wishes to cancel this Agreement in whole or in part prior to the Connection Date the Service Provider will agree to accept such cancellation upon written notice on the basis that the Subscriber shall reimburse to the Service Provider any outstanding charges.

9.5 Termination of the Service Agreement in total or by means of transfer of all or part of the services provided by the Service Provider to another Service Provider will not be blocked or unreasonably denied by the Service Provider subject to :

9.5.1 1 Calendar month written notice of such changes being received by the Service Provider. Note : email or verbal notice is not acceptable for security reasons.

9.5.2 All charges due are fully settled by the subscriber prior to the transfer either by means of a bond pending final calculation of charges, or, in the case of fully paid up accounts only, by a 10 day invoice generated after the event, at the discretion of the Service Provider.

10. ASSIGNMENT

10.1 The Service Provider may, but the Subscriber shall not (without the prior written consent of the Service Provider such consent not to be unreasonably withheld or delayed), assign or delegate or otherwise deal with all or any of its rights or obligations under this Agreement.

10.2 The subscriber agrees without restriction in the case of liquidation, insolvency or business re - organization to inform the service provider at the earliest opportunity. The service provider can only provide services where there is a written service agreement in place, and change of business name, trading style or ownership will result in suspension of services unless a new network agreement is in place and all outstanding charges are settled at the time of the change. A surety may be required before service is provided for the incoming administration.

11. GENERAL

11.1 This Agreement represents the entire understanding between the parties in relation to the subject matter hereof and supersedes all other agreements and representations made by either party, whether oral or written. This Agreement may be modified upon the Service Provider giving to the Subscriber not less than 30 days prior written notice thereof.

11.2 Failure by either party to exercise or enforce any right conferred to this Agreement shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof of any right on any later occasion.

11.3 By signing the Order Form the Subscriber thereby agrees to the total exclusion of all its terms and conditions of business from this Agreement.

11.4 Any notice, invoice or other document which may be given by either party under this Agreement shall be in writing (except as provided otherwise) and shall be deemed to have been duly given if addressed to the party to which it is to be given and if left at or delivered by pre-paid mail, telex or facsimile (provided that such facsimile is then confirmed by pre-paid mail) to that party's address as shown on the Order Form or in either case at such other address as has been notified by one party to the other.

11.5 This 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.

11.6 Any director or representative of a limited company who signs on behalf of the Subscriber will be deemed an authorised signatory and thereby guarantee the Subscriber's acceptance of its obligations under this Agreement.

11.7 Any terms that would be implied herein by statute or common law shall be excluded to the fullest extent permitted by law.