

# COMMSWORLD

## Terms and Conditions



### Customer Terms and Conditions for Services

#### 1. Commencement and Duration

Subject to the termination provisions set out in Clause 7, this agreement will commence from the date the services are connected and it will last for the minimum term indicated on your agreement. This Agreement may thereafter be terminated upon 30 days prior written notice.

#### 2. Our Obligations and Commitment to You

Commsworld shall use all reasonable efforts to provide you with the services that we have agreed to supply overleaf or in a separate order form referring to this Agreement. Commsworld shall use all reasonable care and skill to provide you with high quality services. Commsworld shall correct any failures in the Services as soon as reasonably possible unless the failure is caused by a reason covered in 6c. (liability). Commsworld shall use all reasonable efforts to provide you with the Services by the date Commsworld advises you. Commsworld's acceptance of this Agreement shall be the earlier of when you are notified that Services are available or when Commsworld commences other works to prepare for the provision of Services.

#### 3. Your Obligations and Commitment to Us

You shall ensure that:-

- a. Your telecommunication equipment (to the extent that it is not provided or maintained by Commsworld) is in proper working order and complies with all applicable standards and approvals so as to enable Commsworld to provide and continue to provide the Services and that such equipment will not damage the network of any other operator over which Commsworld transmits your calls;
- b. You do not use the Services for any improper or unlawful purposes and not in a manner, which is offensive, nor allows others to do so;
- c. You pay all the charges set out in the Commsworld bills for the Services as notified to you from time to time, whether or not the use of the Service is authorised by you;
- d. You comply with this Agreement and any reasonable instructions Commsworld gives you relating to use of the network;
- e. You provide all reasonable assistance to Commsworld to enable it to provide the Services, including obtaining access to all appropriate sites and equipment for Commsworld authorised personnel at mutually agreeable times and in the event of an emergency or termination of this Agreement, you allow removal, installation and maintenance of any Commsworld equipment upon request by Commsworld;
- f. You meet your payment obligations set out in paragraph 4;
- g. You pay Commsworld at its current published rates for visits required from Commsworld where the fault does not lie with Commsworld or its equipment or you damage the Commsworld equipment;
- h. You indemnify Commsworld against all direct losses, liabilities, costs (including legal costs) and expenses, which Commsworld may incur as a result of breach of your obligations under this Agreement.

#### 4a. Our Charges

You must pay upon demand the price of any phones and equipment that you may buy from Commsworld. You must pay the call charges (plus VAT) as set out in the Commsworld tariff you have chosen, together with any monthly/quarterly line rental charges or such other charges identified overleaf. A copy of the tariff is available on request, and may vary from time to time. Commsworld will invoice you monthly and all payments must be made by you within 14 days of the date of invoice. In the event that you dispute any invoice, you must inform Commsworld within 14 days of the date of the disputed invoice, providing full details of the nature of the dispute. You must pay all charges by direct debit. If any payments are not paid when due, Commsworld may, without prejudice to its other rights, charge interest on the unpaid amount at the rate of 2% above the base rate for the time being of The Royal Bank of Scotland plc from the date when payment was due until the date of actual payment. Commsworld also reserve the right to recover from you all costs associated with late or non-payment of charges.

#### 4b. Outpayment Services

1. Subject to Clause 2 below we will pay the outpayment to you on a monthly basis. Whilst we shall endeavour to make payment on the same date each month this may prove impractical and we

therefore reserve the right to pay the outpayment on such date each month as we shall reasonably determine.

2. We shall be under no obligation to pay any outpayment to you until the amount of outpayment due to you equals or exceeds the minimum outpayment namely £10.00. Any outpayment unpaid in any month shall be carried forward and shall become payable at the end of the month in which the amount of outpayment due equals or exceeds the minimum outpayment. Payment of outpayments shall be made by BACS or by such other alternative method of payment as we may reasonably stipulate from time to time.
3. Prior to payment of the first outpayment you shall provide us with evidence of your VAT status and you shall notify us of any change in your VAT status as soon as reasonably practicable in advance of any such change. We shall be entitled to vary the rate of outpayment payable to you from time to time in line with any amendments made by our Carriers (e.g. BT) to their payment rates.
4. In the event (for whatever reason) that we fail to receive from our Carriers any monthly call revenue properly due in respect of the numbers allocated to you then we shall have no liability to pay such monthly call revenue to you, unless and until the Carriers pay such revenue to us. In the event of our Carriers making retrospective amendments to their monthly call revenue payments to us, we shall be entitled to make similar retrospective amendments to the payments made to you. The outpayment due to you shall be calculated by us by reference to our records and not by reference to any records retained by you. We shall be entitled to set off against any outpayment due to you any sums which you owe to us either in respect of outpayment services or any other service which we provide to you.

#### 5. Our Equipment (Fixed Line Services Only)

If your telephone system has least cost routing software you will need to have your equipment reprogrammed. If your telephone system does not have least cost routing software, Commsworld may supply, install and connect to your telecommunications systems, Commsworld access equipment. Title in Commsworld equipment shall remain with Commsworld whilst equipment is on your premises, and you shall ensure that it is kept safe and secure and it is not interfered with. Upon termination of this Agreement, you will ensure that Commsworld, in accordance with paragraph 3e is allowed prompt access to all relevant premises to remove Commsworld equipment. You shall provide appropriate equipment, space, ducting, environment and continuous stable electrical power to install and maintain the Commsworld equipment at your premises to enable Commsworld to provide the Services without charge or cost to Commsworld.

#### 6. Our Liability and Responsibility To You

- a. To the extent that all or any part of the Services are faulty, unavailable, or interrupted Commsworld will use its reasonable endeavours to provide the Services, however, Commsworld shall not be liable for faults in your telecommunications equipment which result in Commsworld being unable to provide the Services.
- b. Commsworld shall not be liable for any damages whatsoever to property at your premises resulting from the installation, repair or removal of Commsworld equipment or associated wiring carried out by Commsworld unless such damage is caused by Commsworld's willful misconduct or negligence.
- c. Save as provided in paragraph 6b above Commsworld has no liability under this Agreement for Commsworld's negligence or otherwise. In no circumstances shall Commsworld be liable for any loss of profits, revenue, business or anticipated savings you expected to make, indirect or consequential loss or data being harmed. In the event of a failure in the Services, Commsworld shall not be liable if you direct your traffic to another carrier, for such additional costs.
- d. Commsworld shall not be liable for any failure of performance of the Services for reasons beyond Commsworld's reasonable control including but not limited to default or failure of a third party, government actions, failure in the supply of third parties access line or other events of force majeure.
- e. Any liability Commsworld may have of any sort (including any liability because of Commsworld's negligence) shall in no circumstances exceed £100,000 in respect of one event or series of events.

- f. In this Agreement Commsworld does not exclude liability in relation to death or personal injury caused by Commsworld's negligence.
- g. This paragraph 6 sets out Commsworld's entire liability in relation to this Agreement. All other express or implied terms, conditions or warranties (whether statutory or otherwise) are hereby excluded to the fullest extent permitted by law.
- h. The provisions of this paragraph 6 shall continue to apply even when this Agreement terminates or expires.
- i. Each part of this Agreement that excludes or limits the liability of Commsworld operates separately. If any part is disallowed, or is not effective, the other parts will continue to apply.
- j. Any phones supplied by Commsworld shall be subject to the benefit of any manufacturers warranty

- e. This Agreement is governed by Scottish Law and disputes will be decided in the Scottish Courts. As used in this Agreement, singular includes the plural and vice versa.

#### **7. Suspension and Termination of this Agreement**

- a. You may terminate this Agreement in writing immediately if Commsworld breaches any of the terms of this Agreement, and cannot rectify the discrepancy within 14 days of informing Commsworld in writing, or if Commsworld fails to provide services for 14 or more consecutive days.
- b. Commsworld may suspend the services immediately if: Commsworld believes any of your phones or equipment are being used in an unauthorized or illegal manner, you are in breach of any of the terms of this Agreement, the network fails or is being tested, modified or maintained, or you fail to pay Commsworld any charges when they become due.
- c. Commsworld may terminate this Agreement immediately if you become bankrupt, insolvent, go into liquidation, or give Commsworld false information or following any other breach by you of any of the terms of this Agreement or any other Agreement you may have with Commsworld.
- d. When this Agreement is terminated: You will be responsible for all outstanding charges under Clause 4 for the remainder of this Agreement period (if applicable). Where this Agreement is terminated due to a breach of it by Commsworld, Commsworld shall only be entitled to outstanding charges to the date of termination..
- e. If any directly connected services are terminated or if termination is by reason of your breach of this Agreement, Commsworld reserves the right to charge you for its reasonable costs in respect of the installation of such service and ancillary equipment.
- f. Where services are terminated prior to the expiry of the Minimum Contract Term, Commsworld reserves the right to apply a charge equal to the average monthly charges for both calls and service rentals for the remainder of the Minimum Contract Term, except if the Agreement is terminated due to a breach of the Agreement by Commsworld.

#### **8. Consultancy**

In the event that Commsworld provides consultancy in regards to a customer's existing network service infrastructure, Commsworld reserves the right to charge a fee for this service. Where the consultancy results in a specific one-off credit to the customer, the fee payable to Commsworld shall be 50% of the credit amount received by the customer as a result of Commsworld consultancy. This fee may be waived by Commsworld where the customer subsequently migrates the network services associated with the credit to Commsworld.

#### **9. General**

- a. You cannot transfer this Agreement or any part of it to anyone without Commsworld's prior written consent. Commsworld may transfer this Agreement at any time.
- b. Any notice given in connection with this Agreement shall be served in writing by registered or recorded delivery post or delivered by hand. Commsworld's address for service of notices is the address set out in Commsworld's last invoice to you. Your address for service shall be the address you have requested Commsworld to send your invoices to. In the event that your address changes, you must inform Commsworld immediately of the new address.
- c. Any waiver, concession or extra time Commsworld may allow you are limited to the specific circumstances in which it was given. It does not affect Commsworld's rights under this Agreement in any other.
- d. If you take Non Geographic Numbering services from Commsworld, then you herein agree that you shall have no rights of ownership in any Non Geographic numbers allocated to you and that Commsworld reserves the right to change such numbers