

SOLWISE TELEPHONY LIMITED. TERMS & CONDITIONS FOR 'CALLS ONLY' SERVICES WHERE BT CONTINUE TO INVOICE FOR LINE RENTALS.

For the Solwise discounted 'Calls Only' service we try to keep the terms and conditions to an absolute minimum. We will invoice once a month and payment is normally by Direct Debit. Special arrangements can be made to pay by cheque or continuous credit card authority.

1. Please supply the Solwise Telephony Service on the telephone numbers supplied from time to time.
2. I agree to pay for all calls that are made from these numbers at the agreed call rates.
3. I agree there are no minimum call levels per month, and that should I wish to rate a call via the standard BT services at standard BT rates at any time I can simply prefix the number dialled by 1280.
4. I understand I can cancel this agreement at any time by giving one months notice.

SOLWISE TELEPHONY LIMITED

STANDARD TERMS & CONDITIONS FOR TELECOMMUNICATION SERVICES WHEN LINE RENTALS ARE PAID TO SOLWISE TELEPHONY LIMITED.

PUBLICATION DATE: 1st October 2004

GENERAL TERMS & CONDITIONS OF SALE

Please particularly note points 5.1, 8.1 and 8.1.1 relating to notice periods, charges on transfer of lines to Solwise Limited, and charges on disconnecting lines or transferring from Solwise to another supplier

1. DEFINITIONS:

- 1.1. In these Conditions the following words and expressions shall have the following meanings:
 - 'Act' means the Telecommunications Act 1984 including any statutory modification or re-enactment thereof for the time being in force;
 - 'Agreed Delivery Date' means the proposed date for commencing Service, as detailed in the Order Form or correspondence;
 - 'Agreement' means the Order Form, these Conditions of Sale, the Tariff Schedule, any relevant service level agreement and any Service Literature;
 - 'Call' means signals, messages or communication transmitted using an approved and licensed public telecommunication operator;
 - 'Charging Period' means a period for calculating charges as set out in the Tariff Schedule;
 - 'the Company' means Solwise Telephony Limited or any of its subsidiary companies;
 - 'the Customer' means any person, firm, company or corporation receiving a quotation from and/or placing an order for the provision of Service with the Company;
 - 'Group Company' means the Company's ultimate Holding Company or any Subsidiary (whether direct or indirect) of such Holding Company from time to time;
 - 'Holding Company' shall have the meaning given to such expression in Section 736 of the Companies Act 1985 (as amended);
 - 'Initial Period' means a period commencing on the Service Commencement Date of thirty days for all services EXCEPT Broadband/ADSL services. For Broadband/ADSL services the initial period shall be 90 days.
 - 'Licence' means any licence granted under Section 7 of the Act relating to the Services (and any supplements or amendments to this licence from time to time);
 - 'Network' means the public telecommunication system(s) owned and/or used by the Company for the provision of Service;
 - 'Order Form' means the customer order form, signed by the Customer, detailing the Service(s) and other relevant information concerning the relationship between the Customer and the Company;
 - 'Service' means telecommunication service as specified in the Order Form or other applicable document forming part of this Agreement;
 - 'Service Commencement Date' means the date upon which the Service is tested and ready for use or if earlier, the date on which the Customer first uses the Service;
 - 'Service Literature' means customer guide, description, information or instructions as current from time to time published by the Company in connection with the provision of Service;
 - 'Service Location' means the premises in which the Service is provided;
 - 'Service Support' means service support in relation to Service Equipment;
 - 'Software' means the software programmes including any upgrades provided as part of the Service;
 - 'Subsidiary' shall have the meaning given to such expression in Section 736 of the Companies Act 1985 (as amended);
 - 'Tariff Schedule' means the Company's schedule detailing certain charges and other costs, as varied by the Company from time to time, relating to the provision of the Service(s) and to the particular customer
 - 'Usage Charges' means the Company's applicable usage charges for provision of the Service or Service Support as specified in the Tariff Schedule or otherwise notified by the Company in writing.
- 1.2. In these Conditions any undertaking by the Customer not to do any act or thing shall be deemed to include an undertaking not to permit or suffer the doing of that act or thing.
- 1.3. In these Conditions the words 'include' and 'including' shall be construed without limitation.

2. DURATION

- 2.1. These Conditions apply to all contracts for the supply of Service(s) by the Company to the exclusion of any other terms and conditions subject to which any quotation is accepted or purported to be accepted, or any order is made or purported to be made by the Customer. Subject to Condition 19.1 no additions or modifications to or terms or conditions inconsistent with these Conditions shall be binding unless agreed by the Company in writing.
- 2.2. Unless otherwise stipulated, the Agreement shall come into force immediately and shall continue until the Agreement is terminated in accordance with Condition 8 below.
- 2.3. Any advice or recommendation given by the Company or its employees or agents to the Customer or its employees or agents as to the storage, application or use of Service Equipment shall not be confirmed in writing by the Company or its employees or agents as to the storage, application or use of Service Equipment, and the Company shall not be liable for any such advice or recommendation not so confirmed.
- 2.4. If the Customer becomes a member of a group of companies the Company may perform any of its obligations or exercise any of its rights hereunder by itself or through any Group Company Provided That any act or omission of any such Group Company shall be deemed to be an act or omission of the Company.

3. PROVISION AND USE OF SERVICE

- 3.1. The Company shall provide the Service from the Service Commencement Date in accordance with the Agreement.
- 3.2. The Service shall be provided in accordance with the Agreement (as varied from time to time) and/or in accordance with the relevant provisions of the Act, the Licence, any direction of the Director General of Telecommunications or other competent authority and any relevant licence granted there under which governs the running of a telecommunications system.
- 3.3. The Service shall not be used:
 - (a) as a means of communications for a purpose which is specifically prohibited in the Service Literature; or
 - (b) for any communication which, or is intended to be a hoax call to emergency or other services, is of a defamatory, offensive, abusive, or of an obscene nature, is intended to commit or aid the commission of a criminal or unlawful offence.
- 3.4. The Customer shall indemnify and shall keep the Company indemnified against all liabilities, claims, damages, losses, expenses and costs suffered by the Company howsoever, arising (directly or indirectly) from any breach of any terms contained in Condition 3.

4. PROVISION OF INFORMATION AND MONITORING

- 4.1. The Customer will inform the Company promptly of any change of address, telephone number or any other detail which has previously been provided to the Company and shall provide the Company with any other information required to enable the Company to carry out its obligations under the Agreement.
- 4.2. The Customer will co-operate with the Company and allow the Company to examine any records relating to the use of the Service or the equipment connected to it for the purpose of enabling the Company to investigate any suspected abuse of the Network.
- 4.3. In order to monitor and to continually improve the level of service provided to the Customer, the Company may from time to time monitor or record telephone calls made between the Customer and the Company.

5. CHARGES

- 5.1. In consideration of the provision of the Service the Customer shall pay to the Company Usage Charges. The customer will pay a charge of £3 per analogue line or £3 per ISDN channel that are transferred to The Company as a once only administration charge.
- 5.2. The Company may increase or decrease the Usage Charges payable at any time after the Initial Period.
- 5.3. The Company shall charge the Customer for the reconfiguration of a Service in accordance with the Tariff Schedule or as otherwise agreed.
- 5.4. Subject to Condition 5.2 the Company reserves the right to vary or introduce new charges at any time and the Company shall ensure details of changes in the Company's charges will be made available at the Company's main trading office prior to implementation and the Company shall take reasonable steps to bring such changes to the Customers attention.

6. PAYMENT

- 6.1. Usage Charges shall be payable in arrears in respect of all usage of Service (whether with or without the Customer's authority and by whoever it is used). Usage Charges shall be calculated by reference to data recorded, calculated or logged by the Company, or, where applicable, another network operator, and not by reference to any data recorded, calculated or logged by the Customer. The Company shall prepare and send invoices for Usage Charges due at the end of each Charging Period. Unless otherwise specified in the Agreement, payment of all sums due under the Agreement shall be made within thirty days of the date of the invoice. If the Customer fails to make payment within this period the Company shall have the right to require the Customer to pay all sums due under all contracts between the Company and the Customer on demand and without any set-off or deduction.
- 6.2. Payment of all sums due under the Agreement shall be made by direct debit or such other method as the Company may reasonably specify from time to time and payment of all such sums shall be made in full (without any set-off, deduction or withholding whatsoever).
- 6.3. Without prejudice to the Company's other rights, interest shall be charged on a daily basis on all outstanding amounts at the rate equal to 4% per annum above the Barclays Bank base lending rate from time to time (both before and after judgement). Interest shall continue to accrue from the due date to the date of payment in full notwithstanding termination of the Agreement for any cause whatsoever.
- 6.4. Charges are exclusive of Value Added Tax ("VAT") and any other taxes applicable from time to time, which the Customer shall pay in full.
- 6.5. The Customer shall reimburse to the Company, the Company's costs and expenses incurred in collecting or attempting to recover any monies owing under this Agreement.

7. DEPOSIT

- 7.1. The Company may require the Customer to pay a deposit. If a deposit is required, the Customer will be notified within ten business days of signing this Agreement and the deposit will be payable immediately. Service may be suspended until the deposit is paid in full.
- 7.2. Any deposit paid, may at the Company's discretion, be credited to any invoice payable by the Customer for the Service. If the Company does not credit an invoice, the deposit will be refundable twelve months after the date of this Agreement subject to deduction in respect of any amounts then payable by the Customer under this Agreement.

8. TERMINATION

- 8.1. Either party shall be entitled to terminate any service(s) under this agreement EXCEPT Broadband/ADSL by giving the other party not less than 30 days prior written notice after the Service Commencement Date provided that in the case of notice served by the Customer such notice shall not expire on or before the last day of the Initial Period. To terminate Broadband/ADSL services no less than 90 days prior written notice after the Service Commencement Date must be given provided that in the case of notice served by the Customer such notice shall not expire on or before the last day of the Initial Period.
- 8.1.1. If the Customer gives notice to terminate the service where The Company has taken over line rentals, then a termination administration charge will apply based on the length of time the line rentals have been invoiced by The Company. These charges are £15 per line where line rentals have been invoiced for less than 6 months, £10 per line where line rentals have been charged between 7 and 12 months, and £2 per line thereafter. For ISDN services 'line' and 'channel' shall be regarded as the same.
- 8.2. Without prejudice to the Customer's other rights, the Customer may terminate the Agreement on giving written notice to the Company, such notice to take immediate effect, if the Company is in breach of a material obligation under the Agreement and fails to remedy such breach within 40 days of receipt of a written notice from the Customer giving full particulars of the breach.
- 8.3. The Company shall, at its option, be entitled (without prejudice to any other right or remedy available to the Company) to terminate all or any of its contracts with the Customer forthwith and recover all expenses, losses and damages resulting to the Company including loss of profit or other consequential loss if:
 - 8.3.1. The Customer has a bankruptcy petition presented against him or the Customer makes or seeks to make any composition or arrangement with his creditors or the Customer makes a proposal to his creditors for a voluntary arrangement or applies for an interim order or an embargement takes possession of any of the Customer's assets or any of the Customer's property is taken in execution or process of law or a petition is presented or an order is made or a resolution is passed for the winding-up of the Customer or an administration order is made in relation to the Customer or the Customer's directors make a proposal for a voluntary arrangement with the Customer's creditors or the Customer is unable to pay its debts (within the

- 8.3.2. meaning of the Insolvency Act 1986) or a receiver or administrative receiver is appointed over any of the Customer's assets; or
- 8.3.3. the Customer fails to make any payment owed to the Company on the due date whether owing under this Agreement or not; or
- 8.3.4. the Customer is in breach of the terms and conditions of any contract with the Company (including breach of these Conditions) and shall fail to remedy the same within 14 days of notice specifying the breach and requiring remedy (if the breach shall be remediable).
- 8.3.5. the Company has reasonable grounds to suspect fraud or misconduct in connection with the Customer's use of the Service or by any other third party whatsoever, with or without the Customer's knowledge or approval; or
- 8.3.6. the Company is directed by the Director General of Telecommunications or other competent authority to cease to provide or allow the provision of any Service; or
- 8.3.6. the Customer does not make material use of Service for a significant period of time; or
- 8.3.8. the Customer provides the Company with false or misleading information at any time.

9. CONSEQUENCES OF TERMINATION

- 9.1. On termination of the Agreement, all outstanding Charges shall be payable by the Customer immediately.
- 9.2. Upon termination of the Agreement for any reason the Customer shall immediately cease to use the Service.
- 9.3. Termination or expiry of the Agreement shall not affect the provisions of Conditions 11 to 21 which shall continue to apply.

10. SUSPENSION AND RECONNECTION

- 10.1. The Company may, without prejudice to its other rights under the Agreement or otherwise, and within its unfettered discretion, suspend immediately the provision of Service until further notice on notifying the Customer either orally (confirming such notification in writing) or in writing if:
 - (a) the Agreement is terminated or the Customer is entitled to withdraw Service(s); or
 - (b) it is instructed or requested to do so by Government, an emergency services organisation, or other competent authority; or
 - (c) the Customer prevents or delays Service Support from being carried out and, in the Company's opinion, such action would prevent the satisfactory provision of Service. In this event Service shall be suspended until the Customer enables the Company to carry out the Service Support.
- 10.2. If the Company suspends Service as a result of the Customer's breach, fault or omission and the Company subsequently agrees to reactivate the Service, the Customer shall pay any reconnection charge specified in the Tariff Schedule in respect of the relevant Service or as notified by the Company if not specified in the Tariff Schedule.

11. SOFTWARE AND INTELLECTUAL PROPERTY

- 11.1. The Company shall provide the Customer with Software, all legal and beneficial rights in it remain the Company's property or the property of its licensor at all times.
- 11.2. The Company grants to the Customer a non-exclusive non-transferable licence to use the Software exclusively for the purpose for which it is intended. The Customer shall not reproduce the Software, save that the Customer, shall be entitled to make a single back-up copy for security purposes only. The Customer shall keep the Software confidential. The Customer shall not modify, adapt, translate, reverse engineer, decompile or disassemble the Software or create any derivative work based thereon or merge or include the Software with or in any other software.

12. WARRANTY/LIMITATION OF LIABILITY

- 12.1. The Company shall provide the Service using reasonable care and skill. All other express and implied terms, conditions or warranties (whether statutory or otherwise) relating to the Service are hereby excluded.
- 12.2. Except as expressly provided in the Agreement, the Company shall have no other obligation, duty or liability whatsoever in contract, tort or otherwise to the Customer.
- 12.3. The Company shall not be liable to the Customer in contract, tort or otherwise including any liability for negligence or for breach of statutory duty for:
 - (a) any loss of income, profit, business, contracts or anticipated savings; or
 - (b) any indirect or consequential loss (including corruption or recreation of data), howsoever and whensoever arising.For the purpose of Condition 12.3 'anticipated savings' shall mean any expense which the Customer may expect to avoid incurring or to incur to a lesser extent as a result of using the Service.
- 12.4. Nothing in this Agreement shall limit or attempt to limit the Company's liability for death or personal injury resulting from the Company's negligence or the negligence of its officers or employees while acting in the course or its duties.

13. NOTICES

- 13.1. Any notice, consent, notification, acknowledgement, authority or agreement required or referred to in the Agreement shall be:
 - 13.1.1. in writing; and
 - 13.1.2. given to the party for whom it is intended at such party's registered or main office or last known address; and
 - 13.1.3. given by first class post or facsimile transmission and shall be deemed to have been received 2 days after the date of posting or at the time of transmission if during business hours. If transmission occurs outside business hours then the facsimile transmission shall be deemed to have been received at the start of the next business day.

14. ASSIGNMENT/SUBCONTRACTING

- 14.1. The Customer shall not assign or delegate all or any of its rights and obligations under the Agreement without the Company's prior written consent, such consent not to be unreasonably withheld.
- 14.2. The Company shall have the right to assign, sub-contract or transfer all or any of its rights and obligations under the Agreement to any person or other company without restriction.

15. DELIVERY AND FORCE MAJEURE

- 15.1. The Company shall take all reasonable steps to perform its obligations and deliver within the time specified, but such times are estimates only. Save as expressly provided otherwise the Company shall not be liable for any expenses, losses or damages caused by late performance or delay and delays shall not entitle the Customer to rescind the Agreement.
- 15.2. With respect to the generality of Condition 15.1 neither party shall be liable to the other under the Agreement, for any loss, expenses or damage which may be suffered by the other party due to any delay or default in performance caused directly or indirectly by any matter beyond that party's reasonable control including any act of God, inclement of weather, failure or shortage of power supplies, flood, drought, lightning or fire, strike, lock-out (or other industrial action), trade dispute, labour disturbance or shortages of materials, or the act or omission of Government, authorities, other telecommunication operators or administrations or other competent authority, the obstruction by a third party of line of sight between microwave installations, war, military operation, acts of terrorism or riot, difficulty, delay or failure in manufacture, production or supply by third parties of the Service.

16. ENTIRE AGREEMENT

- 16.1. This Agreement represents the entire understanding between the Customer and the Company in relation to its subject matter and supersedes all prior agreements understandings or arrangements made by either party, whether oral or written. Further each party acknowledges that it is not entering into this Agreement in reliance on any representation except those contained in this Agreement. In the event of misrepresentation (other than fraudulent misrepresentation) the only remedy available shall be a claim for breach of contract.

17. MODIFICATION

- 17.1. If during the term of the Agreement the Company sends to the Customer a revised version of these Conditions together with a notice stating when they will come into force and the Customer continues to make use of the Service after such date, then the Customer will be deemed to have accepted the revised Conditions with effect either from such date or, if later, the end of the Initial Period. The revised Conditions shall have effect as if no Initial Period is specified therein.
- 17.2. The Company shall have the right by notice in writing to the Customer to modify the Agreement at any time so as to comply with any regulations or other requirement applicable to or imposed upon the Company under the Licence or by any competent authority.

18. NO WAIVER

- 18.1. No failure or delay by the Company in exercising any of its rights under the Agreement shall be deemed to be a waiver of that right and no waiver by the Company of any breach of the Agreement by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

19. SEVERABILITY

- 19.1. If any provision of the Agreement shall be found by any court or administrative body or competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any other provisions and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect.

20. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 20.1. Pursuant to section 1(2)(a) Contracts (Rights of Third Parties) Act 1999 the parties intend that no term contained in the Agreement may be enforced by a third party.

21. GOVERNING LAW

- 21.1. The Agreement shall be governed by and construed and interpreted in accordance with English law, and the parties hereby submit to the exclusive jurisdiction of the English courts.

SECTION 2 - SERVICE SPECIFIC TERMS

22. CARRIER PRESELECT

- 22.1. If the Customer notifies the Company that it wishes to cancel the Service prior to the Service Commencement Date the Company may, without prejudice to its other rights, accept such cancellation provided that the Customer reimburses all the Company's costs incurred to the date of cancellation including:
 - (a) the cost of work done; and
 - (b) where applicable, costs which are not reasonably recoverable in respect of the installation of Service in furtherance of the Agreement; and
 - (c) reasonable administration costs.
- 22.2.1. The Agreed Delivery Date cannot be changed except by express agreement between the Customer and the Company unless a delay is reasonably necessary by virtue of the Customer's failure to fulfill its obligations under the Agreement or due to any other cause beyond the reasonable control of the Company.
- 22.2.2. Save if the Agreed Delivery Date is delayed in accordance with Condition 22.2.1 if the Company does not meet the Agreed Delivery Date the Company shall pay to the Customer, as a result of the delay, the amount of any liquidated damages in accordance with any compensation scheme provided in the Service Literature, if any.
- 22.2.3. If the Service Commencement Date precedes the Agreed Delivery Date, the Service Commencement Date may be delayed with the consent of the Company, to a date no later than the Agreed Delivery Date.
- 22.3.1. Delivery Date the Company shall pay on demand compensation by way of liquidated damages in accordance with any compensation scheme provided in the Service Literature, if any.
- 22.3.2. If the Company agrees to pay the foreign operator's charges on the Customer's behalf, the Company shall charge the Customer for the foreign operator's charges before the Company pays the foreign operator in accordance with the payment terms set out in Condition 6. The sum payable by the Customer shall be the amount of the charges after conversion at the spot rate for Sterling purchases of the relevant foreign currency in the Financial Times on the date of the Company's invoice.
- 22.3.3. If the Customer becomes aware of a defect in the performance of Service the Customer shall notify the Company as soon as reasonably practical of the nature of the defect and shall request Service Support to be provided. Any such notification and request shall be made by telephone and confirmed in writing to the Company, addressed to the customer services department.
- 22.4.1. If the Customer so requests and the Company agrees, the Company shall use its reasonable endeavours to report either to the Service Location, or the location at which the Company determines the cause of the reported fault is located or, where appropriate, to attend to the fault at a point remote from the location of the fault, as soon as is reasonably practicable and within the time stipulated in our Service Literature.
- 23.1. The Customer shall comply with the terms and conditions of third party information providers as may be specified, displayed on-line or published in some other form from time to time and the Company shall be entitled to suspend Service in the event that it has reason to believe that the Customer is in breach of these third party terms and conditions.
- 23.2. In so far as the Company is entitled, the Company excludes all responsibility for the accuracy or content of any information obtained by use of the Service.
- 23.3. The Customer agrees not to use information obtained as the sole basis for any business decision, but only as one factor in the making of such decisions.