

Telephone Network Terms And Conditions

1. CONTRACT DEFINITION

- 1.1 'Application Form' means the application order form relating to the provision of the Services in the form provided by ONC from time to time incorporating these terms and conditions.
- 1.2 'Associated Company' means an employee or subcontractor of ONC.
- 1.3 'Authorised Person' means an employee or subcontractor of ONC.
- 1.4 'Network One Commitment Plan' means the account opened by ONC in the name of the Customer upon creation of the Contract and relating to the Services.
- 1.5 'Customer' means a person, company, body corporate or other entity or association whatsoever or howsoever whose Application Form is accepted by ONC and for whom ONC has opened a Network One Account.
- 1.6 'Contract' means the contract governed by these terms and conditions made between ONC and the Customer created upon acceptance by ONC of the Customer's Application Form and evidenced by the opening of a Network One Account for the Customer.
- 1.7 'ONC' means Overline Network Consultants which expression shall, where the context so requires, include its successors and assigns and any Associated Company thereof.
- 1.8 'ONC Access Equipment' means call routing apparatus supplied by ONC.
- 1.9 'ONC Network One' means the telecommunications system ONC runs which operates on least cost routing software.
- 1.10 'Discount' means the amount at which any of the Services are provided by ONC to the Customer during the Contract at less than the full rate. The amount of such discount having been supplied in writing to the Customer and/or inserted on the Application Form prior to any of the Services commencing as Discount Services.
- 1.11 'Discount Services' means any Services provided by ONC to the Customer from time to time and not charged for by ONC from time to time or charged at a Discount.
- 1.12 'Least Cost Routing Software' means software installed on a telephone system which automatically enables the routing of calls via different telephone operators.
- 1.13 'Minimum Term' means the minimum duration of this Contract, which unless otherwise expressly stated on the Application Form shall be 12 months or in the case of Network One Commitment Plan Customers this contract shall be for 60 months from the date of the opening of a Network One Account by ONC for the Customer.
- 1.14 'Services' means re-routing the Customer's telecommunications including without limitation all calls, voice, fax and data traffic over the ONC (Network One) Network under the terms of the Contract, and in particular the provision of a free phone number. Services shall be deemed to include Discount Services where appropriate.
- 1.15 'Services Literature' means ONC's literature specific to the Services and other associated services existing from time to time.
- 1.16 'User' means the Customer and any individual or company permitted by the Customer to use the Services.

2. THE SERVICES

- 2.1
- a) The Customer shall complete, sign and return to ONC an Application Form prior to ONC agreeing to provide the Services.
- b) Where the Customer has Least Cost Routing Software available for use at its premises, ONC will, if necessary, and at its sole discretion, reprogram it in order to provide the Services.
- c) Where the Customer does not have Least Cost Routing Software available for use at its premises, ONC will, if necessary, and at its sole discretion, install and connect the Customer to ONC Access Equipment in order to provide the Services.
- d) ONC shall use all the reasonable care and skill of a competent telecommunications provider to provide the customer with the Services throughout the term of the Contract.
- e) ONC shall be at liberty, where necessary, to improve, update or upgrade the Services or alter the provision of the Services without any notice to the Customer.
- f) ONC do not supply telephone line rentals/products on their own, these are only supplied in conjunction with telephone call charges.
- g) ONC will not be held responsible for the inability to transfer or take over incompatible lines or services that cannot be transferred to their telephone network 'Network One'.
- 2.2
- a) the terms of Condition 4.12 shall apply;
- b) the Services and the ONC (Network One) Network will only be used in accordance with the Contract;
- c) only the Customer and Users shall use the Services and the ONC (Network One) Network and no other person shall be suffered or permitted to use the same;
- d) upon the termination of the Contract:
- (i) no attempt shall be made to make calls via the Services or otherwise to use the ONC (Network One) Network and;
- (ii) the Customer shall pay in full an amount equal to the Discount for the period any of the Services have been supplied as Discount Services such payment to be in accordance with and subject to Condition 4;
- e) the Services Literature and any other instructions regarding the use of the Services and the ONC (Network One) Network as may be notified to the Customer by ONC from time to time shall be complied with promptly and such literature and instructions shall be deemed to form part of the Contract.
- 2.3 The Customer agrees that at all times during the term of the Contract it shall:
- a) provide access to all appropriate sites for any Authorised Persons during the Customer's normal working hours and allow the removal, installation and maintenance of ONC Access Equipment;
- b) keep its telecommunications equipment including without limitation the ONC Access Equipment in good working order and ensure that the equipment complies with all applicable standards and approvals so as to enable ONC to provide the Services;
- c) only use and connect those telephones, ducting, cables, sockets and other equipment to the ONC (Network One) Network that have been approved in advance by ONC in writing and comply with all the relevant legislation relating to the use of such equipment;
- d) provide all reasonable assistance required by ONC to enable it to provide the Services;
- e) inform ONC by one month's prior notice in writing of any premises relocation or change of telephone number(s) on which

the Services are registered:

- f) provide a safe working environment for Authorised Persons working on the Customer's premises;
- g) indemnify ONC fully against all losses, liabilities, costs (including without limitation legal costs) and expenses which ONC may incur as a result of any breach of the Customer's obligations under the Contract or misuse of the Services or the ONC (Network One) Network;
- h) pay ONC (at its then current published rates) for all call out visits required from ONC where ONC determines that (i) the problem with the Services or the ONC (Network One) Network is not the fault of ONC or the ONC Access Equipment or (ii) the ONC Access Equipment has been damaged by the Customer.
- 2.4 The Customer undertakes to ONC to ensure that the Services and the ONC (Network One) Network are not used:
- a) for the transmission of any material which is intended to be a hoax call to emergency services or is of a defamatory, offensive, abusive, obscene or menacing character; or
- b) fraudulently or in connection with a criminal offence; or
- c) otherwise in a manner which constitutes a violation or infringement of the rights of any other party; or
- d) otherwise than for the purpose of a telecommunications system.

3. ONC'S RIGHTS

- 3.1 ONC shall be entitled to alter any access or authorisation number or method of accessing the Services from time to time and may reprogram the Customer's equipment as a result.
- 3.2 If Overline is prevented for an aggregate of 45 days or more from providing network services or otherwise carrying out its obligations as a result of any delay, refusal, restriction or default by the Customer, then the Customer shall be deemed to have cancelled the order and the terms of clause 4.12 shall apply.
- 3.3 ONC may suspend the Services to the Customer at its sole discretion including but not limited to the following:-
- a) in the interests of the quality of the Services or the ONC (Network One) Network;
- b) if any credit limit agreed between ONC and the Customer from time to time is exceeded;
- c) if any term of the Contract is breached (including, without limitation, in the event of a failure to make any payment or provide any deposit required to be made or provided under the Contract);
- d) in order to comply with an order, instruction or request of any government, emergency service organisation or other competent authority; or
- e) if fraud or attempted fraud is suspected by ONC (in its reasonable opinion) in connection with the use of the Services or the ONC (Network One) Network.
- f) if in ONC's reasonable opinion it suspects the Customer is offering to resell the Services to any third party.
- 3.4 ONC may collect and store data and information about the Customer and its use of the Services and provide this information to (i) companies affiliated with ONC including without limitation any Associated Company and (ii) third parties.

4. CHARGES AND PAYMENTS FOR THE SERVICES

- 4.1 All sums due to ONC under the Contract shall become due on the date of the relevant invoice and are payable within 5 days (including week-ends and bank holidays) of the date of the relevant invoice.
- 4.2 In the event of any error or omission in an ONC invoice for any period, ONC may issue a corrective invoice at a later date, but no later than sixty months after the relevant invoice date.
- 4.3 If the Customer fails to make any payment within the 5 day period following the date of the relevant invoice, without prejudice to its other rights hereunder, ONC shall have the right to require the Customer to pay all sums due on demand. ONC reserve the right that if these overdue sums fail to be paid immediately the customers network services be restricted without further notification and this restriction not to be lifted until all overdue sums are settled in full.
- 4.4 Time of payment of all sums due to ONC under the Contract shall be of the essence.
- 4.5 ONC reserves the right to amend its charges for the Services from time to time.
- 4.6 ONC shall use its best endeavours to bring to the attention of the Customer any variation in prices prior to their implementation.
- 4.7 Without prejudice to ONC's rights to treat the non-payment as a material breach of the Contract, ONC reserves the right to charge interest on outstanding amounts from the due date until payment is received in full at a 5% per annum above the Bank Of Scotland plc base lending rate as current from time to time whether before or after judgement. Interest shall continue to accrue and on a day to day basis from and including the date for payment under Condition 4.1.
- 4.8 ONC reserves the right to charge for administrative costs incurred by ONC in pursuing late payers.
- 4.9 All sums due to ONC under the Contract are subject to Value Added Tax ("VAT"), and any other applicable taxes, levies or charges, which may from time to time be introduced.
- 4.10 The Customer shall be liable for all charges arising from use of the Services by any person utilising the Customer's registered Services telephone number(s) (with or without Customer's authorisation) until such time as the Customer has notified ONC of any unauthorised use of the Service.
- 4.11 Details of the Contract and the conduct of the Network One Account will be registered with a licensed Credit Reference Agency. Information thus registered may be used to help make credit decisions or, fraud prevention or the tracing of debtors.
- 4.12 In the event of the Customer obtaining any services from a third party which are competitive with or substantially similar to the Services during the Minimum Term the Customer accepts that ONC shall be entitled to invoice the Customer in advance and as a lump sum for each month of the remainder of the Minimum Term an amount equal to either:
- a) the average of the monthly amounts invoiced by ONC to the Customer prior to the breach by the Customer of Condition 2.3(a); or
- b) the actual amount payable by the Customer for the Services during such month (whichever is the higher). This relates to all network line rentals, call charges & services supplied to the customer.
- 4.13 All customers' services must be paid via ONC's direct debit system in all cases.
- ## 5. ONC ACCESS EQUIPMENT
- 5.1 The Customer shall provide without charge or cost to ONC appropriate equipment space, ducting, environment and continuous stable electrical power to install and maintain the ONC Access Equipment at its premises and to enable ONC to provide the Services.
- 5.2 It is deemed that title to any ONC Access Equipment shall remain with ONC and whilst the ONC Access Equipment is on

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the Customer's premises, the Customer shall ensure that it is kept safe and secure and is not interfered with by any person.

5.3 Upon termination of the Contract, the Customer will ensure that ONC is allowed prompt access to all relevant premises to remove the ONC Access Equipment.

6. TERMINATION

6.1 The Contract may be terminated by either ONC or the Customer at any time by 90 days written notice in writing to the other (including week-ends and bank holidays) PROVIDED THAT such notice does not expire prior to the expiration of the Minimum Term.

6.2 If neither ONC nor the Customer provide notice to terminate in accordance with Condition 6.1 the Client and ONC agree that the Contract shall automatically be renewed for a further Minimum Term.

6.3 ONC (without prejudice to its other rights) may terminate the Contract forthwith in the event that:

a) the Customer fails to make any payment when it becomes due to ONC or shall default in due performance or observance of any obligation under the Contract or any other contract with ONC or an Associated Company and (in the case of remedial breach) fails to remedy the breach within a reasonable time specified by ONC in its written notice so to do; or
b) an interim order is made, or a voluntary arrangement approved, or if a petition for a bankruptcy order is presented or a bankruptcy order is made against the Customer or if any circumstances arise which entitle the court or a creditor to appoint a receiver, administrative receiver or administrator or to present a winding-up petition or make a winding-up order.

6.3 The terms of this Contract shall continue to bind the parties hereto to such extent and for so long as may be necessary to give effect to the rights and obligations embodied in it including without limitation Conditions 2.2, 4, 7 and 8.

6.4 If the Contract is terminated by either party hereto, the Customer shall:

a) pay to ONC all arrears of charges together with any interest payable under the Contract up to the date of termination;
b) return to ONC all equipment owned or provided by ONC and/or allow ONC access forthwith to the Customer's premises for the removal of any ONC Access Equipment;
c) undertake and comply with the provisions of Condition 2.2(d); and
d) cease being provided the Services and have no right to use the same.

7. CONFIDENTIALITY

7.1 The Customer and any User shall at all times keep confidential the terms of this Contract and all matters relating to the Services, and shall not disclose the same to any third party without the prior written consent of ONC.

7.2 The confidentiality obligations set out in Condition 7.1 shall survive the termination of the Contract.

8. LIMITATION OF LIABILITY

8.1 The following provisions set out ONC's entire liability (including any liability for the acts and omissions of its directors, officers, employees, agents or sub-contractors) to the Customer in respect of:

(a) any breach of its contractual obligations arising under this Contract; and
(b) any representation statement or tortious act or omission including negligence arising under or in connection with this Contract.

AND THE CUSTOMER'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF THIS CONDITION 8.

8.2 Any act or omission on the part of ONC or their directors, officers, employees agents or sub-contractors falling within Condition 8.1 shall for the purposes of this Condition 8 be known as an "Event of Default".

8.3 ONC's liability to the Customer for the tort of deceit and for death or injury resulting from their own or that of their directors, officers', employees', agents' or subcontractors' negligence shall not be limited.

8.4 SUBJECT TO THE PROVISIONS OF CONDITION 8.3, ONC'S ENTIRE LIABILITY IN RESPECT OF ANY EVENT OF DEFAULT

SHALL BE LIMITED TO DAMAGES NOT EXCEEDING THE SUMS PAID BY THE CUSTOMER TO ONC FOR THE SERVICES PURSUANT TO THIS AGREEMENT IN THE PRECEDING TWELVE MONTH PERIOD IN THE CASE OF A SINGLE EVENT OF DEFAULT AND TWICE THE SUMS PAID BY THE CUSTOMER TO ONC FOR THE SERVICES PURSUANT TO THIS AGREEMENT IN THE PRECEDING TWELVE MONTH PERIOD IN THE CASE OF ALL EVENTS OF DEFAULT OR SERIES OF CONNECTED EVENTS OF DEFAULT OCCURRING IN ANY TWELVE MONTH PERIOD.

8.5 Subject to Condition 8.3, ONC shall not be liable to the Customer in respect of any Event of Default for loss of profits, goodwill, contracts, opportunity or any other type of special, indirect or consequential loss whatsoever or howsoever even if such loss was reasonably foreseeable or ONC had been advised of the possibility of the Customer incurring the same.

8.6 If a number of Events of Default give rise substantially to the same loss then they shall be regarded as giving rise to only one claim under the Contract.

8.7 Except in the case of an Event of Default arising under Condition 8.3, ONC shall have no liability to the Customer in respect of any Event of Default unless the Customer shall have served notice of the same upon ONC within six months of the date the Customer became aware of the circumstances giving rise to the Event of Default or the date when it ought reasonably to have become so aware.

8.8 ONC shall not be responsible for complying with statutory regulations, or by local by-laws, or the fulfilment of any special regulations affecting the Customer.

8.9 Save as set out in Condition 8.3, ONC shall have no liability under this Contract of the acts and omissions of other public telecommunication operators or the breakdown total or partial of the ONC (Network One) Network or any other network.

8.10 The extent that all or any part of the Services are faulty, unavailable or interrupted, the Customers sole and exclusive remedy shall be to be compensation in accordance with compensation schemes that may be introduced from time to time by ONC.

8.11 ONC shall not be liable for faults in the Customer's telecommunications equipment, which result in ONC being unable to provide the Services.

8.12 Dates and terms for provisions of the Services shall be estimates only and no liability shall accrue to ONC for failure to meet any such dates or times. ONC will not be held responsible for any loss due to programming errors or omissions made by any Authorised Person.

8.13 In the event of any failure in the Services, ONC shall not be liable to the Customer for any charges incurred by the Customer should it direct its telecommunication traffic to another carrier.

8.14 ONC reserves the right not to provide the Services due to any technical limitation in the Customer's telephone system, telephone exchange or ONC Access Equipment.

8.15 The obligations set out in this Condition 8 as to limitations of liability shall remain in full force and effect notwithstanding the expiration or any termination of this Contract for any reason whatsoever.

9. DEPOSIT

9.1 ONC may at any time before or after the provision of the Services require payment by the Customer in a manner specified by ONC of a sum to be held by way of a deposit as and against any charges arising from use of the Services by the Customer and ONC shall be entitled to offset such deposit against any sums due under this Contract from time to time including interest due or owing to ONC pursuant to Condition 4.6.

9.2 Any deposit held by ONC will not accrue interest whatsoever although any deposit (or part thereof), which is held by ONC for over one year and which is subsequently repaid to the Customer may, at ONC's discretion, attract interest at an amount determined by ONC.

10. ASSIGNMENT

10.1 The Customer shall not assign, transfer, sub-contract, delegate all or any of its rights and obligations hereunder to an Associated Company or other person.

11. FORCE MAJEURE

Neither ONC or the Customer shall be liable to the other for any loss or damage which may be suffered by the other party due to any cause beyond the first party's reasonable control including without limitation any act of God, inclement weather, failure or shortage of power supply, flood, drought, lightning or fire, strike, lock-out, trade dispute or labour disturbance, the act or omission of Government, highway authorities, public telecommunication operators or other competent authority, war, military operations, or not, difficulty, delay or failure in manufacture, production or supply by third parties of the Services or any part thereof.

12. NO WAIVER

Failure by either ONC or the Customer to exercise or enforce any right conferred by this Contract 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.

13. ENTIRE CONTRACT

The Contract represents the entire understanding between the parties in relation to the subject matter of the Contract and supersedes all other agreements and representations made by either party whether oral or written.

14. SERVICE OF NOTICE

14.1 Any notice or invoice or other document which may be given under this Contract shall be in writing and shall be deemed to have been duly given if left or sent by post (whether by letter, or, where the parties agree, by magnetic tape or any other form), telex or facsimile transmission (subject to the sender's machine producing confirmation that all pages have been sent) or, where the parties expressly agree, by electronic mail to the registered office of the party to be served or any other address notified by the party to be served to the other party in writing as an address to which notices, invoices and other documents may be sent.

14.2 Any notice sent by first class post shall be deemed to have been received two business days after posting. Any notice sent

by telex, fax or electronic mail shall be deemed to have been received on the day of its receipt by the addressee.

15. GENERAL

15.1 Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re-enacted, with or without amendment.

15.2 Unless there is something inconsistent in the subject or context, words denoting the singular number only include the plural and vice versa; words denoting one gender only include the other genders.

15.3 Unless the context otherwise requires, a reference to a Condition is to a condition of the Contract.

15.4 The headings in the Contract are inserted for convenience only and do not affect its interpretation.

15.5 If any provision of the Contract is held invalid, illegal or unenforceable for any reason, such provision shall be severed and

the remainder of the provisions hereof shall continue in full force and effect as if the Contract had been entered into with the invalid provision eliminated.

15.6 A person who is not a party to this Contract has no right under the Contracts (Rights of Third parties) Act 1999 to enforce any provisions of this Contract.

16. GOVERNING LAW

The Contract shall be governed, construed and interpreted in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts as regards any claim, matter or dispute arising out of or relating to the Contract or any document entered into pursuant to the Contract.