

CLEARCALL 2000 LTD - TERMS AND CONDITIONS OF SERVICE

1. What the Service is

The Service we (CLEARCALL) supply to you (our Customer) is the ability to make or receive a Call (or both). The Service does not include any phones or other equipment that we may supply to you under a separate agreement. In providing the Service, we promise to use the reasonable skill and care of a competent telecommunications service provider.

2. Things we may have to do

2.1 We may have to do some things that could affect the Service. These things are listed in paragraph 2.2. If we have to interrupt the Service we will restore it as quickly as we can.

2.2 Occasionally we may have to:

- change the code or phone number or the technical specification of the Service for operational reasons;
- interrupt the Service for operational reasons or because of an emergency;
- give you instructions that we believe are necessary for health or safety, or for the quality of the Service that we supply to you or to our other customers.

3. Phone number

3.1 You have no right to sell or to agree to transfer the number provided to you for use with the Service and you must not try to do so.

4. The Phone Book and Directory Enquiries

4.1 We will put your name, address and the phone number for the Service in The Phone Book for your area and make your phone number available to the directory enquiries service as soon as we can. However, we will not do so if you ask us not to.

4.2 If you want a special entry in The Phone Book you must let us know. Where we agree to a special entry you must pay an extra charge and sign a separate agreement for that entry.

5. Call Monitoring

We may occasionally monitor and record calls made to or by us relating to customer services and telemarketing. We do this for training purposes and to improve the quality and accuracy of our customer services, including complaint handling.

6. Use of your information

6.1 We may use the information we have about you and your use of the Service for marketing purposes. However, we will not do so if you ask us not to.

6.2 For your information we process your billing data and information about your use of Clearcall's service (this includes information about your bill size, the numbers you call and the times you call) for marketing our own telecommunications products and services. This allows us to better inform you about products, services, pricing packages and special offers which we provide and which we believe may be of particular interest to you. WE DO NOT DISCLOSE THIS INFORMATION TO ANYONE ELSE. We need your consent to continue to give you all the benefits that this processing provides and will assume we have it, unless you tell us otherwise by writing to us.

7. When we will provide the Service

We aim to provide you with the Service by the date we agree with you unless we fail for a reason covered by paragraph 12.

8. Repairing faults

8.1 We cannot guarantee that the Service will never be faulty but will always use our best endeavours to ensure that service is resumed as quickly as possible.

8.2 We will work on any fault that is reported to us according to the repair service we have agreed to provide to you during office hours ie 9.00am to 5.00pm Monday thru Friday (excluding Public Holidays).

8.3 When we agree to work on a fault outside the hours covered by the repair service that we provide to you, you must pay us any extra charges that we incur.

8.4 If you tell us there is a fault in the Service and we find either that there is not or that someone at our premises has caused the fault, we may charge you for the cost of any work we have done to try to find the fault or to repair it.

What you agree to do

9. Paying our charges for the Service

9.1 Charges

(a) You must pay the charges for the Service by Direct Debit unless otherwise agreed as set out in our Price List. This applies whether you use the Service or someone else does. We can change the charges as explained in paragraph 14.

9.2 Rental

You must pay us rental from the day we supply the Service. We will usually ask you to pay the rental in advance. The rental will depend on how we classify your line. The classifications are explained in our Price List. If we supply you with temporary Service, you may have to pay the rental in advance for the whole period that you want the Service.

9.3 Calculating the Call charges

We will calculate the charges for Calls using the details recorded by Clearcall's telephone billing system.

9.4 Bills

We will send you your first bill shortly after we provide the Service. We will send you further bills every month, but we may send you a bill at any time. We will include all charges on your next bill where possible, and in any event as soon as we can. We will send bills to the address you ask us to.

9.5 Payments in advance, deposits and Call Levels

(a) We may ask you for a payment before one is normally due. This will not be more than the connection charge and rental for the minimum period, except in circumstances where we send you a bill because you have exceeded your Call Level.

(b) We may ask for a deposit at any time, as security for payment of your bills if we think it is reasonable for us to do so.

(c) We may decide a Call Level is no longer necessary. We will inform you of this.

9.6 When you must pay

You must pay all charges and rental (including charges for any trial period or promotion offer) by Direct Debit as soon as these become due, which will normally be 10 days from date of invoice. If you cancel your Direct Debit for any reason, or you pay your bill by any method other than Direct Debit, you are liable to pay a surcharge (currently £10.00) on each monthly invoice until the Direct Debit agreement is re-instated by you. Deposits are payable upon request. If we have not received payment of your bill by the due date, we may disconnect your telephone service. If this is necessary the following conditions may apply:

(a) Normal monthly rental will continue to be charged during any period of disconnection.

(b) You will be charged a fee for reconnection to our services, which is £99 per affected line, subject to VAT.

(c) If Outgoing Call Barring is placed on your line because we have not received payment by the due date, a payment will be required in advance before Outgoing Call Barring is removed.

9.7 Offset

We reserve the right to offset any amount owed to you until payment has been received in full for our charges.

10. Your other responsibilities

10.1 Connecting and using your equipment with our network

(a) You may only connect phones, extension wiring, sockets or other equipment to our network using a main telephone socket, unless we agree otherwise. We may end any such agreement after giving you reasonable notice.

(b) Equipment must only be used with our network in a way that meets the relevant standards and your licence. If your equipment does not meet those standards or your licence, you must immediately disconnect it, or allow us to do so at your expense. If you ask us to test your equipment to make sure that it meets those standards or your licence you will be charged for the cost of doing this.

10.2 Supplying a place and electricity for our equipment

We may have to place equipment on your premises to provide you with the Service. For residential customers this will normally be just a main telephone socket. You must provide a suitable place and conditions for our equipment. If we have to supply equipment that needs a continuous mains electricity supply and connection points, you must provide them where we need them at your own expense.

10.3 Preparing your premises

You must prepare your premises before we arrive according to any instructions that we give you. For the avoidance of doubt, when our work is completed you will also be responsible for putting items back and for any necessary re-decorating.

10.4 Entry to your premises

(a) If our engineers have to enter your premises you must let them do so as long as they show their Identity Card. We will meet your reasonable requirements about the safety of people on your premises and you must do the same for us.

(b) If we need someone else's permission to cross or put our equipment on their premises, you must get that agreement for us and make any necessary arrangements.

10.5 Damage

Nobody must tamper with our equipment that is on your premises. If anyone does and there is any damage to or loss of our equipment, you must pay for any necessary repair or replacement.

10.6 Misuse of the Service

Nobody must use the Service:

(a) To make offensive, indecent, menacing, nuisance or hoax calls;

(b) Fraudulently or in connection with a criminal offence and you must make sure that this does not happen. The action we can take if this happens is explained in paragraph 13.4. If a claim is made against us because the Service is misused in this way, you must reimburse us in respect of any sums we are obliged to pay or any costs that we incur.

10.7 Indemnity

If you use the Service for business purposes, you must indemnify us against any claims that anyone (other than you) threatens or makes against us because the Service is faulty or cannot be used by them.

10.8 You must ensure that you are not currently in a contract period with your existing supplier; Clearcall will not be held responsible for any cancellation fees payable to your previous supplier. Or, if you are still connected to any other service provider, for call slippage or programming or re-programming of any telephone system.

11. Warranties and limitations of liability

11.1 Nothing in this agreement shall exclude or restrict the liability of Clearcall 2000 Ltd for death or personal injury relating from the negligence of Clearcall 2000 Ltd or its employees while acting in the course of their employment.

11.2 Clearcall 2000 Ltd shall not be liable to the customer in connection for any loss of revenue, goodwill, anticipated savings or profit or of any indirect consequential loss however arising even if such a loss is reasonably foreseeable or Clearcall 2000 Ltd has been advised of the possibility of the customer incurring the same.

11.3 Clearcall 2000 Ltd shall not be liable to the customer in connection to any alarm line failures or any consequential loss arising as a direct or indirect result of alarm line failure.

11.4 Clearcall 2000 Ltd shall not be liable to the customer in connection to any call charges or other charges resulting from fraudulent use of the Equipment or Services by the Customer or any third parties and the Customer agrees to pay all additional charges related to such fraud. Customers are therefore urged to verify with their equipment provider that all necessary steps to combat fraudulent use have been taken.

12. Matters beyond our reasonable control

If we cannot do what we have promised in this agreement because of something beyond our reasonable control such as lightning, flood, or exceptionally severe weather, line failure, fire or explosion, civil disorder, war, or military operations, national or local emergency, anything done by government or other competent authority (including British Telecommunications PLC or any of its successors, any action by any network provider or industrial disputes of any kind, (including those involving our employees), we will not be liable for this.

13. If you break this agreement

13.1 We can suspend the Service or end the agreement (or both) at any time without telling you if:

(a) you break this agreement or any other agreement you have with us for telephone, telex or other services and fail to remedy the breach within a reasonable time of being asked to do so;

(b) we believe that the Service is being used in a way forbidden by paragraph 10.6. This applies even if you do not know that the Calls are being made or the Service is being used in such a way;

(c) bankruptcy or insolvency proceedings are brought against you, or if you do not make any payment under a judgment of a Court on time, or you make an arrangement with your creditors, or a receiver or administrator is appointed over any of your assets, or you go into liquidation. If you have a limited payment history for the Service (less than 3 bills received and paid in full) we may also restrict your ability to make outgoing calls pending payment of charges accrued on our billing system.

13.2 If you miss a payment, we will not suspend the Service or end the agreement until 7 days after the payment was due. However, if we suspend the Service and you miss another payment during the 12 months after we provide the Service again, we may then suspend the Service or end the agreement (or both) 7 days after the payment was due.

13.3 If we suspend the Service, we will not provide it again until you do what you have agreed, or satisfy us that you will do so in future or that the Service will not be used in a way that is forbidden by paragraph 10.6.

13.4 If we suspend the Service because you break this agreement, the agreement will still continue. You must pay us rental until we end the agreement by giving notice under paragraph 13.1 or you or we end the agreement by giving notice under paragraph 16.1.

Changing, Transferring and Ending the Agreement

If you ask us to make any change to the Service we may ask you to confirm your request in writing. If we agree to a change, this agreement will be changed when we confirm the change to you in writing.

14. Conditions

We can change the conditions of this agreement including our charges at any time. We will inform you with your next bill if there has been or will be a material change to our liability.

15. General

You may not assign or transfer this Agreement or any part of this Agreement without our prior written consent. We shall have the right to assign, sub-contract or otherwise deal with all or any of our rights and obligations under this agreement to any party, but will only do so after giving notice of our intention to do so. This agreement is governed by and subject to the law of England and the exclusive jurisdiction of the English courts and supercedes all understanding, representations, and prior agreements between you and us. This agreement may only be modified if such modification is in writing and signed by a duly authorised representative of each party. Neither party shall be liable to the other for any failure to carry out its obligations under this agreement due to matters beyond its reasonable control as covered in paragraph 16.

16. Ending the agreement

16.1 This agreement, or the supply of the Service is for twelve months from the start of the service via Clearcall and can be ended by:

(a) One month's notice from you to us. This notice to be received by us at least one month before the anniversary of the commencement of the agreement. If such notice is not received within this time schedule the agreement will enter a subsequent minimum one year term and these terms and conditions will continue to apply; or

(b) one month's notice from us to you.

16.2 If we give you notice, you must pay rental up to the end of that notice. If you give us notice, you must pay rental until 30 days from the date we receive your notice, or until the end of the notice if that is later.

16.3 If you give us notice that ends during the Contracted Period you must pay us a standard cancellation charge of £150 per line / channel. If you have participated in a free or reduced rate ISDN Install or other promotions or offers giving discounts, you are liable to repay the full costs of that install in accordance with the pre-offer price list or conditions attached to that promotion or offer.

16.4 If you have paid any rental for a period after the end of the agreement, we will either repay it or put it towards any money you owe us.

16.5 You must pay all charges for the Service until the date on which we stop providing the Service to you.

16.6 We end this agreement at any time without telling you if paragraph 13.1 applies.

16.7 Committed Call Spends

If you are contracted to a minimum call spend and at the end of the year you have not met the spend, then you will be liable to pay 20% of the difference between what has been spent and what should have been spent under the agreement. This also applies should you terminate your contract with us before the end of the contract period.

16.8 General Call Spends

If the required notice is not given to end the agreement then you will be liable to pay for the call spend until the end of the agreement. This will be based on the average monthly spend (determined from the average months spend of the previous quarter or if only recently started the last full month) and calculated until the end of the agreement.

17. How to give notice

Any notice given under this agreement must be delivered by hand, facsimile or sent by email or prepaid post as follows:

(a) to us at the address shown on the Welcome to Clearcall letter or on your last bill.

(b) to you at the address you have asked us to send bills to.

18. Other documents

18.1 These conditions, the documents referred to in them, the Customer Service Agreement and the Welcome to Clearcall letter set out the whole agreement between you and us for the Service.

18.2 Our Price List contains explanations, definitions, notes and conditions which form part of this agreement. You can see a copy of our Price List or obtain copies of the relevant pages from our website.

19. Third Party Rights

A person who is not a party to this agreement, has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

20. Explanations of certain words

"Call" means a signal, message or communication which is silent, spoken or visual on each line that we agree to provide to you under this agreement.

"Call Level" means the sum of money, you agree with us, you expect to spend on Call Charges during the period covered by your bills.

"your equipment" means equipment that is not part of our network and which you use or intend to use with the Service.

"failure of the Service" means the continuous total loss of the ability to make or to receive Calls or the continuous total loss of a related service.

"your line" means a connection to our network.

"main telephone socket" means the point where your equipment is connected to our network which is called the Network Termination Point in your licence.

"Contracted Period" means the term agreed for the Service or the period set out in our Price List.

"our network" means any Clearcall provided telecommunications network.

"your premises" means the place where the Service is or will be provided.

"Price List" means the price list published from time to time on our website or alternatively available from us upon written request.

"Service" means all or part of the Service explained in paragraph 1 and any related services listed in our Price List that we agree to provide to you under this agreement.

"we" and "us" means Clearcall 2000 Ltd "Clearcall"

"working day" means Monday to Friday not including Public Holidays.

"you" means the customer we make this agreement with. It includes a person who we reasonably believe is acting with the customer's authority or knowledge.