



Broadband Terms and Conditions

Version 1

March 2011

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Definitions

- 1.1** "Service" means the installation (where applicable), connection and supply of broadband network access to the internet and/or any other services provided by EliteCalls to the customer.
- 1.2** "Customer Equipment" means any equipment, the property of the customer or rented by the Customer from a third party, used by the customer in order to use the Service.
- 1.3** "EliteCalls" means Universal Utilities Plc, trading as EliteCalls.
- 1.4** "Service Equipment" means any equipment, which is the property of EliteCalls, including any modem or router supplied to the customer.
- 1.5** "Usage Charges" means the charges made by EliteCalls to the customer for the use of the Service, including any reconnection charges following suspension of the Service, as provided for at clauses 6.3 and 8.2.
- 1.6** "Rate Schedule" means the schedule of charges applicable from time to time in respect of the Usage Charges.
- 1.7** "Number" means the telephone line(s) in respect of the telephone number(s) set out overleaf.
- 1.8** "Supply Period" means the period during which Service is provided pursuant to this agreement, which shall commence on the day that Service is first provided.
- 1.9** "Initial Fixed Supply Period" means the minimum period during which Service is provided as agreed between the Customer and EliteCalls, which shall commence on the day that Service is first provided.
- 1.10** "Subsequent Supply Period" means any period during which Service is provided, subsequent to the Initial Fixed Supply Period, as agreed between the Customer and EliteCalls.

Service

- 2.1** EliteCalls will procure Service to the customer subject to the terms of this Agreement. EliteCalls, or its principals, may at any time without notice vary the Service for technical, operational or other reasons within its entire discretion. EliteCalls will use reasonable endeavours to procure a continuous high quality Service in accordance with the terms and conditions set out herein. EliteCalls reserves the right not to provide Service where Service cannot be reasonably provided due to any geographic, practical or technical issues arising.
- 2.2** EliteCalls will endeavour to provide the customer the Service at the speed stated overleaf, however this speed cannot always be guaranteed and download times may be slower if the network or the Internet is congested.

Charges & Payment

- 3.1** EliteCalls will make Usage Charges for the use of the Service in accordance with its Rate Schedule, appertaining to the relevant discount tariff referred to overleaf, prevailing from time to time which may be varied upon giving ten days notice, but subject to the customer's right to terminate referred to at clause 8.1(d).
- 3.2** Invoices are due for payment by Direct Debit 14 days after invoice date. If an invoice is not paid by Direct Debit 14 days after invoice, then the Usage charges for Service to which that invoice relates, together with all other Usage charges for Service to be invoiced for during the remainder of the Supply Period shall be charged at a deemed rate, equal to the applicable Usage Charges plus 25%.
- 3.3** Interest will be charged on unpaid invoices from the due date until payment at a rate of 1.5% per month or part thereof.
- 3.4** Value Added Tax, or any other levy or tax, at the rate prevailing will be added on to all sums due to EliteCalls, which are quoted as exclusive of Value Added Tax.
- 3.5** The customer shall not be entitled to delay or withhold payment or claim any set off against any payment due hereunder in respect of any claim or complaint, which the customer may have for any reason whatsoever. Any payments made by the customer to EliteCalls may be applied by EliteCalls as it deems fit.

3.6 EliteCalls reserves the right to use information provided by the customer to make necessary credit status enquiries. Subject to credit status EliteCalls may require a non-interest bearing deposit or pre-payment.

3.7 In the event of any action taken by EliteCalls in relation to any charges due from the customer to EliteCalls whatsoever, the customer shall reimburse and indemnify EliteCalls, with and in respect of all expenses relative thereto, including all legal charges and professional fees on a full indemnity basis.

3.8 The actual Usage Charges applicable to each customer shall be determined by the option agreed at the time this Agreement is entered into, subject to clause 3.1.

3.9 Usage Charges shall be invoiced monthly in advance or Usage Charges shall be pre-paid by way of deposit. Usage Charges may relate back to months prior to the previous month.

Obligations

4.1 EliteCalls will provide the Service Equipment or make other arrangements necessary to enable Service to be provided.

4.2 The customer undertakes: -

(a) To use the Service and or the Service Equipment in accordance with the reasonable instructions of EliteCalls or its principals;

(b) Not to, in any way whatsoever, modify or disconnect the Service Equipment;

(c) Not to use the Service Equipment for any broadband network access not provided by EliteCalls;

(d) To protect the Service Equipment from any interference and to keep it safe;

(e) Not to use, nor to permit anybody else to use, the Service in any improper, illegal or unlawful manner or in any manner which may cause offence;

(f) Not to use, nor to permit anybody else to use, the Service to do any of the following:

- publish, post, distribute or disseminate defamatory, infringing, obscene, indecent or other unlawful material or information;
- threaten, harass, stalk, abuse, disrupt or otherwise violate the rights (including rights of privacy and publicity) of others;
- knowingly make available or upload files that contain software or other material, data or information not owned by or licensed to the Customer;
- knowingly make available or upload files that contain a virus or corrupt data;
- falsify the true ownership of software or other material or information contained in a file that the customer makes available;
- "spam" or otherwise deliberately abuse the Service;

(g) To notify EliteCalls of any existing technical or other facilities including but not limited to, water and gas which could be damaged during installation of the Service Equipment;

(h) To allow EliteCalls or its duly appointed agents access to the customer's premises for the purposes of installation, programming and maintenance, or for any other reason whatsoever;

(i) Upon termination to remove the Service Equipment, and to return it in good condition to EliteCalls;

(j) To ensure that the Customer Equipment is in good working order and is maintained by a competent maintainer or service provider approved by EliteCalls;

(k) To use only BABT approved telephone equipment, all equipment must comply with all relevant legislation relating to its use from time to time;

(l) To pay for all Service provided by EliteCalls within the time limits and in the manner set out herein and to be responsible for the usage of the Service, whether the use of the Service has been authorised by the customer or not;

- (m)** That in the event that the Service Equipment becomes damaged by the customer, or by any person on the customer's premises (save for employees and agents of EliteCalls), or becomes damaged due to the use of unapproved equipment, to pay EliteCalls for any remedial work undertaken at such rate as is reasonable in all the circumstances;
- (n)** To inform EliteCalls immediately in writing of any changes in personal details of the customer including change of address, in accordance with clause 10.10;
- (o)** To provide appropriate space and any necessary electricity supply for the power of the Service Equipment. The customer will not charge EliteCalls for the space or the electricity consumed by the Service Equipment;
- (p)** Not to in any way whatsoever modify the programming of the Customer Equipment;
- (q)** In the case of payment not being made by Direct Debit within 14 days of invoice date, to pay the increased charges in accordance with clause 3.2 above;
- (r)** To report with sufficient detail any fault which affects the Service to EliteCalls as soon as reasonably practical after detecting the same;
- (s)** To use the Service only in accordance with the Fair Usage Policy, as detailed below.

Faults

5.1 EliteCalls will use reasonable endeavours to repair and maintain the Service Equipment.

5.2 If a fault is caused by the customer's own equipment, by breach of this Agreement by the customer, or by the customer's negligence, EliteCalls may recover all reasonable costs incurred from the customer.

Suspension of Service

6.1 EliteCalls shall be entitled to suspend Service in order to maintain or improve its Network or if obliged to do so by virtue of any direction or request from any Government Department, Emergency Service, Regulatory or Administrative Authority, or by its principals, or for any other reason whatsoever.

6.2 EliteCalls will use reasonable endeavours to give the customer notice of such suspension as reasonably practicable.

6.3 EliteCalls shall be entitled to suspend any part of or all of the Service without notice in the event that any payments are not made within 14 days of invoice date, or are not made by Direct Debit. Such suspension will not affect the customer's obligation to pay for the Service during the period of suspension or thereafter, and will not affect EliteCalls rights to charge a termination fee.

Liability

7.1 Neither party shall be liable to the other for any consequential losses arising from or in connection with the Agreement.

7.2 Neither party's liability in respect of death or personal injury caused by or arising from that party's negligence is affected by anything in this Agreement.

7.3 Unless warranties, representations, agreements, terms or conditions, either express or implied, including as to merchantability and fitness for purpose, are expressly set out in this Agreement, then such warranties etc. are expressly excluded.

7.4 In particular, no warranties, representations, agreements, terms or conditions, either express or implied, are given by EliteCalls as to the quality of Service provided, which is determined by matters, within or outside the control of EliteCalls.

Termination

8.1 This Agreement will remain in force: –

(a) for the Initial Fixed Supply Period, and will continue thereafter until terminated, by the customer giving to EliteCalls not less than 30 days written notice, to expire at the end of the Initial Fixed Supply Period or any Subsequent Supply Period, or,

(b) until the customer has committed a material breach of this Agreement (including but not limited to none payment of any invoices by Direct Debit within 14 days of the invoice being raised, and none compliance with this agreement due to ceasing to be responsible for the Number, e.g. when closing, or moving the premises of, the business) or,

(c) until the customer has a Receiver, Administrative Receiver, Liquidator or Supervisor of a Voluntary Arrangement appointed over it, or over any part of its undertaking or assets or a resolution is passed for its Winding Up, or if an Administration Order is made, or if it enters into a Voluntary Arrangement with its Creditors, or ceases or threatens to cease to carry on business, or,

(d) until in the event that the average of Usage Charges, appertaining to the relevant discount tariff referred to overleaf, is increased in any one calendar year by more than a cumulative total of 10% over the increase in the Retail Price Index, and the Customer has given notice to terminate within 14 days of the date of the notice of variation, provided for at clause 3.1.

8.2 EliteCalls may suspend Service in circumstances where it could terminate this Agreement or when the customer has failed to pay any amount due or it reasonably believes that the customer will fail to pay any amount due or to become due and any such suspension will be without prejudice to the right to terminate.

8.3 In the event of the Agreement being terminated pursuant to clause 8.1(b) or 8.1(c) above then the customer shall pay to EliteCalls a sum equal to £150 per connection per year or part year of supply remaining. The Customer agrees that the aforementioned represents a fair and reasonable estimate of the losses, costs, and expenses, which EliteCalls would suffer in the event of the Agreement being terminated pursuant to clause 8.1(b) or 8.1(c).

Fair Usage Policy

9.1 EliteCalls operates a fair usage policy. If the customer sends and/or receives 30GB or more of data in any calendar month, or if EliteCalls believes that the customer's use of the Service is adversely affecting the network (or any part of it) or other customers, then EliteCalls may either regulate the customer's usage or suspend the Service (at its sole discretion).

General

10.1 The customer may not assign or transfer this Agreement or any rights hereunder to any third party, without the prior written consent of EliteCalls. EliteCalls may assign or transfer this Agreement or any rights hereunder.

10.2 Neither party shall be liable for breach of its obligations under this Agreement to the extent that such breach is caused by flood, fire, accident, explosion, strike, war, embargo, Government restriction, Act of God, inability to secure materials, industrial dispute or any other cause beyond the parties' reasonable control including in particular acts or omissions of other providers of telecommunication services.

10.3 The remaining parts of this Agreement shall remain in full force in the event that any part of this Agreement shall be invalid, illegal or unenforceable, as if the unenforceable part had been omitted from the original Agreement.

10.4 All the terms of this Agreement are set out herein. Neither party has relied upon any representations, assurances or other agreements unless set out herein.

10.5 EliteCalls may change the terms and conditions of this agreement upon giving 14 days notice.

10.6 In the unlikely event that you have a complaint about the service received, please refer to our website www.elitecalls.com/complaintscodofpractice.pdf for details about our complaints procedure.

10.7 EliteCalls may advise the customer that all future changes made under clause 3.1 and/or clause 10.5 will be advised on a website upon giving 14 days notice, such notice to include the address of that website.

10.8 No waiver by either party shall constitute any variation to this Agreement.

10.9 Singular words shall be construed as including words of the plural and vice versa.

10.10 Any notices given by the customer under this Agreement shall be made in writing and sent by registered post. Any notices given by EliteCalls under this Agreement shall be made in writing, and sent by post, email or fax. In either event, the address for service shall be the address given overleaf for each party, unless changed; in which case, notice of change shall be given in accordance with the terms of this clause.

10.11 This Agreement shall be governed by and interpreted in accordance with the Laws of England.

10.12 Any unresolved dispute, which may arise under, out of or in connection or in relation to this agreement, shall be referred to the exclusive jurisdiction of the Manchester County Court.

