

CONTRACT FOR THE PROVISION OF A TELEPHONE SERVICE

1. Definitions

"Charges" means the charges for the Service as set out in the Price List which is available from Fizz Telecom.
 "Contract" means the contract application, which you signed or verbally agreed on the telephone, these terms and the Price List;
 "CPS Service" means Carrier Pre-Selection, which is the selection of the preferred carrier for telephone calls at the British Telecom (BT) local exchange;
 "Minimum Period" means the contract period which is 36 months from the Start Date unless otherwise agreed in writing.
 "Network Operator" means any person(s) authorized or permitted to run a public switched telecommunications network over which we provide the Service;
 "Price List" means the list(s) of the Charges, current at the time you use the Service, as published by us from time to time;
 "Service" means any of (i) the ability to make calls from your property on the Network Operator telephone line(s) that we provide, (ii) the carrying and making of calls and (iii) any related services we have agreed to provide, under this Contract;
 "Start Date" means the date the Service is activated;
 "we" and "us" means Fizz Telecom Limited or our agents;
 "you" means you, the customer with whom we make this contract;

2. Commencement and Term

2.1 The Contract begins when we confirm to you our acceptance of your application and you receive a copy of these terms. The Service will commence on the Start Date. You have a right to a 10 day cooling off period as from the date of the acceptance / Welcome letter to change your mind.
 2.2 We may have to ask a telecoms carrier to provide you with the CPS Service. We cannot guarantee that your application will be processed immediately or accepted. We may need to cancel your Contract if the carrier or BT rejects your application.
 2.3 The Contract will continue for the Minimum Period (subject to Clauses 2.2 and 9.2) and shall automatically renew for periods of 12 months on the expiry of the Minimum Period (each such period shall be a "Renewal Period") unless and until terminated under Clause 9.1.
 2.4 You agree to ensure that you are not in contract with another Service Provider before entering into this Contract. We are not responsible for any fees or charges imposed by another service provider.

3. The Service

3.1 We will provide the Service in accordance with this Contract and with the reasonable skill and care of a competent telecommunications provider.
 3.2 The Service does not include telephones or other equipment that we may supply to you under a separate agreement.
 3.3 You authorize us to act exclusively on your behalf in dealing with a Network Operator in connection with any matter enabling us to provide you with the Service (e.g. authority to change access codes) and to carry your voice and data traffic.
 3.4 From time to time we may have to:
 3.4.1 interrupt the Service for operational or emergency reasons, and/or
 3.4.2 change the code or telephone number or technical specification of the Service for operational reasons, and/or
 3.4.3 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.
 3.5 We may monitor and/or record telephone calls made by or to us relating to customer services and marketing. It is your responsibility to ensure that any monitored alarm system (MAS) i.e. Redcare, you use is compatible with the Service. If we suspend or end the Service, this will affect your MAS. We do not accept liability in connection with your use of a MAS with the Service.
 3.7 We reserve the right to select any Network Operator for the CPS (Carrier Pre-Selection) service.
 3.8 For any sales promotion or discount applicable to the contract during the contract term additional conditions will apply as outlined in the terms of that promotion.
 3.9 It is your responsibility to ensure that any switch reprogramming is performed before the start of the service. Failure to do so may impact on your ability to make outbound calls. We do not accept liability in connection with any disruption this may cause.

4. Charges and Payment

4.1 It is a condition of the contract that you pay the Charges set out in the Price List by Direct Debit and you are responsible if someone else uses the Services supplied under this Contract.
 4.2 We may change the Charges as permitted by Clause 10. We will give you reasonable notice of any changes.
 4.3 Bills will normally be supplied monthly, but may be sent at any time. Line rental charges will be billed in advance. Call charges will be billed in arrears and call times are rounded up to the full second.
 4.4 You agree to pay bills by the agreed method and in full within 10 days of the date of the bill. We may charge interest on any overdue amount(s) at the rate of 2% per annum above the HSBC plc base rate, and may also levy an administration fee to cover our costs of recovering such amounts.
 4.5 All Charges and other sums payable under this Contract are subject to applicable UK taxes and duties, including VAT at the prevailing rate.
 4.6 Should any unforeseen circumstances cause an interruption to call charge data flows you agree to pay by fixed direct debit a fixed amount each billing period which we will calculate based on your estimated annual use, or your actual use in the previous six months or such period which we believe represents your use. We may at any time review and/or adjust the amount payable to ensure that it is sufficient to cover the Charges incurred and you authorize us to change your Direct Debit instruction accordingly.
 4.7 Where you have agreed to pay by variable Direct Debit you authorize us to change your variable Direct Debit instruction according to the charges payable by you for the Service for each billing period, including any bank related charges.
 4.8 If you come off Direct Debit for any reason we have the right to change the pricing of the service. If a Direct Debit is dishonored or cancelled we shall be entitled to pass on to you any administration fee (the amount of which is available on request) which may include third party charges and in addition we may lower your Credit Limit.
 4.9 You agree to pay all Charges until the date on which we stop providing the Service to you. Line rental Charges are payable during any period of suspension.
 4.10 The Fizz 100 Free line rental tariff is charged at a minimum rate of £20 per line per month.
 4.11 Charges will be calculated using details recorded and logged by us.

5. Use of the Service

5.1 You agree to use the Service in accordance with
 a) this Contract;
 b) any instructions we give you under Clause 3.4.3, and ensure that anyone given access by you to the Service does the same.
 5.2 You agree to ensure that neither you, nor anyone else to whom you give access to the Service, uses it:
 5.2.1 for any improper, immoral or unlawful purpose;
 5.2.2 to make any abusive, defamatory, offensive, nuisance or hoax calls, or
 5.2.3 in such a way as to damage or adversely affect the operation or quality of the telecommunications system used to provide the Service. If as a consequence 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.

6. Credit and Security

6.1 We may ask you for a deposit at any time, as security for payment of your bill or other amounts owed, if we believe it is reasonable to do so. Deposits are payable on request and do not bear interest. If not paid when requested we may suspend the provision of the service until such time the deposit is paid.
 6.2 We may use the deposit to pay any outstanding Charges. We will return your deposit on termination of the Contract, if we are satisfied that you have paid all Charges on time and have acted in accordance with the Contract.

7. Your other Responsibilities

7.1 You agree only to connect to the Network, equipment which meets the relevant standards. You agree to obtain and maintain any consents required of you to allow us to provide the Service.

7.2 If we have to put equipment on your premises to provide you with the Service, you agree to treat it in accordance with the instructions that we give you and to pay any costs of repair or replacement if you do not. You agree to prepare your premises for reception of equipment, allow our engineers to access, install and maintain it, and to obtain and maintain any necessary consents.

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

7.4 The number provided to you for use with the Service is personal to you and you agree not to transfer it.
 7.5 You are required to observe the rules and procedures established by the Service provider for the operation of CPS provisioning where applicable. These rules are available on request from Fizz Telecom.

8. Faults

8.1 The Service may be affected by matters beyond our control, e.g. lack of network capacity or service loss. Therefore, we cannot guarantee that the Service will be free of faults or interruptions.
 8.2 We will use all reasonable endeavors to repair faults within a reasonable period, and any repair service we have agreed to provide to you. A charge will be made, as set out in our Price List, for work done outside the hours covered by our repair agreement, and for work done on reported faults where either there is no fault or it arises either from breach of this Contract, or where your equipment or someone at your premises has caused it.
 8.3 If you have a problem with, or a complaint about the Service, please contact our Customer Services team in writing who will provide you with our Customer Maintenance / Repair Plan

9. Suspension and Termination

9.1 This Contract may be terminated in writing by either you or us for convenience (i.e. other than where a breach exists) by giving not less than 30 days' notice to end on the last day of the Minimum Period or any Renewal Period.

9.2 We can suspend (disconnect) and/or terminate this Contract if:

9.2.1 you breach Clause 4 of this Contract; or
 9.2.2 you breach Clause 5 of this Contract (knowingly or otherwise); or
 9.2.3 you breach any other provision of this Contract and fail to remedy it within 7 days of being asked to do so; or
 9.2.4 we have reason to believe that you have given us false or misleading information; or
 9.2.5 you take or have taken against you any insolvency proceedings relating to you; or
 9.2.6 we have reason to suspect fraud or money laundering or you fail any credit checks; or
 9.2.7 we are required to do so by the Government, an emergency service organization or any other competent body, despite our reasonable efforts, we can no longer provide the Service (e.g. due to network unavailability);
 9.2.8 If you terminate this Contract during the Minimum Period other than as permitted by its terms, or we terminate this Contract under 9.2.1 to 9.2.6, you will be liable for a termination fee of £260 per line which shall be paid within 7 days of the date of termination. (the first 90 days "trial period" of the minimum period are exempt from this clause)

You agree that the termination fee which allows for various costs of acquisition, administration costs and other items is a reasonable pre-estimate of our loss if you terminate this Contract other than as permitted by its terms, or we terminate this Contract under 9.2.1 to 9.2.6. This fee will be reduced by 25% from 1 year after the start date and a further 25% the following year.

9.3 If we suspend the Service, you may not be able to make emergency calls.

9.4 If we suspend the Service and agree to reconnect you, you may have to pay a reconnection charge of £30.00 per line.

10. Variation

10.1 We reserve the right to change any term of this Contract, including the Charges, at any time. We will only do so for valid reasons, such as an increase or decrease in tariff access rates or other new charges or changes in charges levied on us by the Network Operator, changing regulatory or legal requirements, or as necessary to enable us to provide the Service to you. This includes the ability to separately charge for services currently included in the service as free. We will give you reasonable notice of any change before it takes effect.

11. Events beyond our Control

11.1 We are not liable for any failure by us to carry out our responsibilities under this Contract due to matters beyond our reasonable control, such as exceptionally severe weather, lightning, acts of terrorism, industrial disputes, civil disturbance, war or default by a third party (including without limitation default by a Network Operator or its telecommunications or other systems. In particular, we are not liable if BT or any other any Network Operator fails to provide the CPS / lines Service).

12. Use of Personal Information

12.1 We (or our agents) may use the information that you provide us with or that we hold about you to:
 12.1.1 identify you when you contact us;
 12.1.2 administer your account;
 12.1.3 prevent and detect fraud or loss;
 12.1.4 carry out customer profiling and marketing analysis;
 12.1.5 contact you, unless you have asked us not to, about the other services and products we can provide.
 12.2 We may disclose your information that we hold about you to licensed credit reference agencies and other organizations to help make credit decisions for debt and fraud prevention purposes. We and the credit agency may retain a record of the credit checks carried out.
 12.3 We may disclose your information to third parties for the purpose of providing the Services that you have requested, or for legal or regulatory reasons.
 12.4 Except as set out above, we will not disclose your information to third parties. If you want to contact us about our use of your information, please write to us at Fizz Telecom, CBS House, The Courtyard, Alban Park, St Albans, Hertfordshire AL4 0LA.

13. General Provisions

13.1 You agree that the person signing this contract or verbal agreement has authority to do so.
 13.2 Waiver: Waiver by us of any breach by you of this Contract will not operate as a waiver of any subsequent breach.
 13.3 Enforceability: If any provision of the Agreement is held by a court to be unenforceable, it will not affect the validity of any other part of this Agreement.
 13.4 Transferability:
 13.4.1 You agree not to transfer any of your rights or obligations under this Contract.
 13.4.2 We may, at any time, assign our rights and/or our obligations under this Contract to another entity which can provide services of the same kind as the services provided by Fizz Telecom.
 13.5 Notices: Any notice given under this Contract must be in writing and delivered by hand or sent by facsimile or registered post to: Fizz Telecom Limited, at the address given in Clause 12.4.
 The Contract is governed by the law of:
 13.6.1 England and Wales if the Service is supplied to an address in England or Wales;
 13.6.2 Scotland if the Service is supplied to an address in Scotland.
 13.6.3 Northern Ireland if supplied to an address in Northern Ireland.
 14. Liability
 14.1 Nothing in this Contract restricts our liability for death or personal injury caused by our negligence or any other matter liability for which cannot, by law, be excluded or restricted.
 14.2 We will not be liable under this Contract for any loss or damage caused by us or our employees or agents in circumstances where:
 14.2.1 there is no breach of a legal duty of care owed to you by us or by any of our employees or agents;
 14.2.2 such loss or damage is not a reasonably foreseeable result of any such breach;
 14.2.3 any increase in loss or damage resulting from breach by you of any term of this Contract."
 14.3 Other than as set out above, our liability is limited to £1,000 per incident or series of connected incidents, and £5,000 in any 12 month period.
 14.4 Our phone lines are supplied and maintained by a third party, any compensation will be limited to the amounts recoverable from the third party.
 14.5 Each of the provisions in this Clause operates separately. If any provision is disallowed or found to be ineffective by any competent body, the other provisions will continue to apply.