



**INTELLIGENT**  
NETWORKS LIMITED

Terms and Conditions  
January 2010

These General Terms and Conditions apply to all Order(s) for The Service accepted by us. These General Terms with the relevant Order(s) will form the Contract between us and you. References in this contract to “us” and “we” will mean Intelligent Networks Limited registered in England number 4595409 (also referred to hereinafter as ‘the Company’) or any assignee of ours and references to “you” will mean the customer named on the relevant Application Form or order(s).

## 1. Definitions in this contract

“**BT**” means British Telecom Plc or its successor or replacement telecoms infrastructure provider or any relevant subsidiary or associated company.

“**Charges**” means the charges payable by you to us for the provision of the service in accordance with our published standard tariff rates as shown on the Intelligent Networks Website or any variation, modification or addition thereto given in writing under the signature of a Director of the Company and notified to you at the time of your order together with value added tax and any other applicable taxes and any interest or other charges or costs due in accordance with the provisions of Clause 8.1 to 8.12 below.

“**CLI**” means Caller Line Identifier being in respect of each line or ISDN circuit.

“**Committed Period**” means an initial term of twelve months from the later of the Start Date or the date upon which any additional service(s) is/are provided or the period of months specified on the Customer Application Form if longer which shall renew automatically for a further period of twelve months with effect from each anniversary of either the Start Date or the date upon which any additional service(s) is/are provided or the date being the end of the period of months specified in the Customer Application Form if later unless and until terminated in accordance with clauses 9, 12 and 13 hereof

“**Contract**” means these General Terms and Conditions, the Order and any other document specifically incorporated by us into this Contract offer giving you written notification thereof.

“**CPS**” means Carrier Pre – Selection.

“**Customer Equipment**” means any hardware and/or software owned, controlled or licensed by you which is to be provided to us by you or otherwise made available for the purposes of providing the Service.

“**Credit Limit**” means £500 or the amount notified to you at the time of your order being the maximum amount which can be outstanding in respect of accrued but unpaid Charges in respect of your use of the Service and as may be varied by us from time to time without notice.

“**Equipment**” means any hardware and/or software used by us to provide the Service.

“**Intelligent Networks**” means Intelligent Networks Limited

“**Intelligent Networks Service Helpdesk**” means the helpdesk support to be provided by us as notified to you from time to time.

“**Intelligent Networks Website**” means the website located at [www.inwcomms.co.uk](http://www.inwcomms.co.uk) or such other website as may be notified by us.

“**The Licences**” means the licenses issued by the Secretary of State under the Telecommunications Act 1984 (as amended) in connection with the operation of the communications network provided through us or any thereof.

“**Line Rentals**” means the recurring charges made in accordance with clauses 8.1 and 3.6 for the provision of connections providing access to the BT network.

“**Office Hours**” means 8:30am to 5:30pm on Mondays to Fridays excluding Public Holidays.

“**Order**” means your order for Service over the network provided through us for the Charges and any modification or special terms particular to your order which have been agreed by us in writing.

“**Service Failures**” means any failure, error or defect in the provision of the Service by us but excludes failures, errors and defects arising from, caused by or contributed to by your acts or omissions or third parties including other providers of telecommunications, computers or other equipment or services including internet services or any failure, error or defect arising as a result of causes beyond our reasonable control.

“**Service**” means the provision of a communications network made available through us and its use by you for calls involving either voice or data traffic and the connection of lines through your local exchange utilising the BT Network infrastructure (or others).

“**Software**” means the software provided by us to you for the purposes of enabling you to use the Service including all associated documentation.

“**Start Date**” means the date for the commencement of the provision of the Service to you.

“**VAT**” means Value Added Tax at the rates applicable in the United Kingdom and as may be varied from time to time.

“**Working Day**” means any day from Monday to Friday excluding Public Holidays.

## 2. Services Provided By Us

2.1 We will provide the Service in accordance with the Terms of this contract.

2.2 We have used reasonable skill and care when selecting the communications network on which to provide the

Service or selecting any substitute or additional network service to combine, extend or expand our service or reduce operational cost.

2.3 The Service is provided for use by you in the course of your activities or business.

### **3. Service Levels**

3.1 We do not guarantee that the Service will be continuously available to you or free from periodic service failures.

3.2 Where you believe that you are experiencing a Service Failure you must immediately report this to us via the Intelligent Networks Helpdesk, providing sufficient information to enable us to investigate the problem. We will log the time of receipt of all such reports and will notify the network provider.

3.3 Where we spend time investigating a fault reported by you and conclude that there has been no Service Failure we reserve the right to charge you for all the reasonable costs and expenses incurred in investigating the report and you agree to pay such charges.

3.4 Where, as a result of a Service Failure, there has been a material and prolonged interruption to service, we will at our absolute discretion consider issuing you with a credit note to compensate you for any disruption or inconvenience caused.

3.5 Any credit note issued by us as aforesaid shall be the maximum extent of our liability and your exclusive remedy in respect of any failure to achieve service levels, and all other rights, remedies and liabilities are excluded to the maximum extent permitted at law.

3.6 Where Line Rental is included in the Service provided the support level is the same as the basic service level provided by BT Retail (during Office Hours on each Working Day); that is replies to customer enquiries or fault reporting will be obtained from BT by the end of the next following Working Day and information promptly given to the customer.

3.7 If you require an enhanced service level on all or any of your CLIs you must notify us in which case Intelligent Networks can offer two alternatives for the additional charges referred to below.

Prompt Service level under which service is provided during Office Hours and between 8:30am and 5:30pm on Saturdays and response time is shortened from the end of the following Working Day to within four hours (resolution or progress report).

An additional charge of £1.99 per month per line or ISDN circuit is made for the provision of Prompt Service level.

Total Care Service level is available on a 24 hour a day 7 days a week basis with the same four hour response (resolution or progress report).

An additional charge of £4.99 per month per line or ISDN circuit is made for the provision of Total Care Service level.

A charge of £1.00 per minute is made for calls out of normal Office Hours to the special out of hours support number (which is available on request from the Intelligent Networks Service Helpdesk) but this charge is refunded to any customers who pay the charges (as above) for Total Care Service.

### **4. Your Use of The Service**

4.1 You agree that you will not use the Service in a way which would:

- a) Contravene or cause us to contravene any laws or regulations including, but not limited to, the Telecommunications Act 1984 ("The Act");
- b) Contravene our acceptable use policy (where applicable);
- c) Compromise the security of our Equipment or other systems, including by introducing viruses or failing to employ appropriate procedures;
- d) Enable or permit unauthorized access by you or third parties to data stored on our network;
- e) Cause a degradation of service to any of our other customers;
- f) Result in the transmission of any material of a pornographic, obscene, defamatory, menacing or offensive nature or which would result in the breach of any third parties intellectual property rights confidential information or privacy;
- g) Breach or cause us to breach any applicable data protection legislation including, but not limited to, the Data Protection Act 1998;
- h) Exceed your Credit Limit or cause an overload of the Network accessed through us;
- i) Breach or cause us to breach the Licences.

4.2 You will indemnify us against any claims, proceedings or threatened proceedings from third parties and against any loss or damage suffered by us arising from any breach of your obligations under this Contract, including this Clause 4, and for all costs and expenses reasonably incurred by us in investigating and defending ourselves in relation to any such claims, proceedings or threatened proceedings.

4.3 You will ensure that your usage of the Service does not exceed the Credit Limit and does not disrupt our network. You will give us not less than 2 days written notice of any advertising, promotion or other campaigns which may result in unusually high usage demands being placed in our network.

4.4 To enable us to perform our obligations under this Contract, you will provide such reasonable assistance and information as we request from time to time.

## **5. Our Equipment**

- 5.1 Our Equipment is owned by us, or our suppliers or licensors, and no title in any of our Equipment will pass to you under this Contract. We grant you a non-exclusive licence to use the Equipment in the Order whilst the Service to which the Equipment relates is being provided to you under this Contract.
- 5.2 Where any Equipment is being provided for use at your site you will be responsible for its maintenance and prompt return to us on the termination of the Service. Unless we agree otherwise, you will be responsible for the installation of any such Equipment. Where we are to install Equipment you grant us and our agents a right of access to your site, on reasonable notice, to install our Equipment and in all cases to inspect, test, maintain or otherwise deal with our Equipment and to recover it in the event that you fail to return it on request.
- 5.3 Risk in respect of Equipment will pass to you on delivery of the Equipment to you and you will obtain and maintain all risks insurance cover sufficient to protect our interests in relation to the Equipment.
- 5.4 You will indemnify us against any claims, proceedings or threatened proceedings from third parties (including our customers) and against any loss or damage suffered by us arising from your use of our Equipment where such claims and/or losses arise from the acts or omissions of you or your agents or subcontractors, and for all costs and expenses reasonably incurred by us in investigating and defending ourselves in relation to any such claims, proceedings or threatened proceedings.
- 5.5 If you have a BT Connection to your local exchange, no additional equipment will be necessary at your premises to use CPS.

## **6. Customer Equipment**

You will ensure that your telecommunications equipment conforms at all times with the relevant standard designated by all relevant legislation, including the Act and all applicable regulations, instructions and orders. We will not be under any obligation to connect or keep connected any Customer Equipment if it does not so conform or if in our reasonable opinion it is liable to cause death, personal injury or damage to property or to impair the quality of the Service provided by us or to put us in breach of the Licences or our obligations to any third party.

## **7. Allocation and Use of Telephone Numbers**

Where we allocate you any telephone numbers or codes as part of the Service, you acknowledge that you will not acquire any legal, equitable or other rights in relation to any numbers or codes. We may on giving you notice withdraw or change any such numbers or codes which will remain at all time the property of Intelligent Networks. You may not sell or transfer or seek to sell or transfer any numbers or codes allocated by us. You may port numbers to us from other carriers with whom we have porting agreements. All intellectual property rights or other rights in any numbers or codes allocated by us shall at all times, as between ourselves and you, remain vested in us.

## **8 Charges and Payment**

- 8.1 You will pay us the Charges for the Service at our published standard tariff rates (excluding VAT) as shown on the Intelligent Networks Website (and any future amendment or modification thereto) at [www.inwcomms.co.uk](http://www.inwcomms.co.uk) and specifically in the case of Line Rentals at BT Retail price (and any published increase thereof which takes place after the Start Date) unless any of the said standard tariff rates and/or the Line rentals have been reduced under the written authority of a Director of Intelligent Networks Ltd (in which case the reduced rates quoted will replace our standard rates but only for the routes services or destinations referred to without prejudice to the continued application of our standard tariff rates in respect of all and any other services provided) together with any service fee payable in accordance with the provision of clause 8.7. If a reduced rate is initially agreed for Line Rentals this may be increased if the BT Retail price for Line Rentals subsequently increases but by no more than the percentage increase published by BT. The Charges will be payable with effect from the Start Date.
- 8.2 All Charges are stated exclusive of value added tax (VAT) or other applicable taxes. You will be responsible for paying VAT and other applicable taxes that will be included in our invoices at the applicable rate(s).
- 8.3 We will issue invoices for the Service after the end of each month during which Service has been provided, usually between the 7<sup>th</sup> and 14<sup>th</sup> days of the month following.
- 8.4 You will pay invoices within 14 days of the date of the invoice and unless otherwise agreed, we will collect from your nominated bank account by direct debit within this timescale (or later at our discretion). We will make a charge of £10.00 (ex. VAT) on each occasion that any collection by direct debit is refused or declined by your bank for whatever reason to cover our administrative expenses. We will also make a charge of £10.00 (ex. VAT) in respect of any cheque issued by you to us which is not paid upon first presentation by us or our

- bank. In addition, we may charge interest on all overdue amounts calculated on a daily basis at a rate of 10% per annum, to run from the date on which payment was due until receipt by us of the full amount (including any accrued interest) whether before or after judgement in respect of the overdue amount
- 8.5 If you reach your Credit Limit we reserve the right to raise an immediate invoice for any charges that have accrued and to debit your bank account with the amount payable to us for the charges without prior notice the amount of such charges (and VAT) been shown as a credit on your next statement.
  - 8.6 Where under this Contract a Credit Note or other sum of money becomes payable by us to you, we shall be entitled to deduct that sum from the charges due from you to us from time to time, we will show any such deductions as a credit on the invoice issued by us following the due date for payment of the sum owed by us to you.
  - 8.7 If the charges (excl. VAT) payable to us in respect of any month are less than £29.99 a service fee of £5.00 a month may be added to the amount on the invoice and such fee will form part of the overall charges payable to us.
  - 8.8 Where rebates are payable by us to you, based upon agreed minimum usage of the Service we will calculate the amount of rebate due and will show the amount credited as an item on the next invoice for charges issued to you after any rebate is triggered. You do not have the right to deduct rebates payable by us to you from the payment of Charges due from you to us unless and until we have calculated the rebate due and credited it in the manner aforesaid.
  - 8.9 Subject to any additional charges as provided elsewhere in this Agreement, the minimum charge for each individual call made using our service is 3.00p
  - 8.10 Subject to the provisions of clause 8.9 above any charges payable by you in accordance with these terms and conditions for calls to fixed line numbers in the United Kingdom or overseas will be calculated to the nearest following second. Any charges for calls to UK mobile phone networks or overseas mobile phone networks are charged to the nearest complete half minute over the call duration so that, for example, a mobile phone call with a duration of 68 seconds will be charged as a 90 second call as will one with a duration of 89 seconds. Charges for individual calls are then rounded to the nearest one tenth of a penny over the exact cost for the call duration. The total amounts payable for all charges is then rounded up to the nearest penny on your next invoice
  - 8.11 If you breach any of the terms and conditions of this contract you agree to indemnify us against all loss actions claims demands proceedings costs and legal expenses (on a full indemnity basis) and pay these to us on demand.
  - 8.12 Where any amount becomes payable by you in respect of the provision of call service(s) to you for calls to geographic or non-geographic destinations/ numbers and/ or premium rate numbers or any other call charges or other items not specifically referred to in the published standard tariff referred to above we will recharge any such costs to you at our cost with the addition of a mark up.

## **9. Changes to Services and Contract**

We may at any time on 30 days written notice to you vary any of the General Terms and Conditions, the Charges or any other provisions of this Contract including the technical specification of the Services provided that if any increase is made in the Charges you will be allowed to terminate the contract between us irrespective of how long a period remains outstanding within the Committed Period.

## **10 Security and Backup Services**

- 10.1 You are responsible for the security of your use of the Service including, but not limited to, protecting all passwords, backing up all data, employing appropriate security devices, including virus checking software, and having disaster recovery processes in place.
- 10.2 Where as part of the Service we provide our Equipment or service which have the principal purpose of safeguarding the security of the Service received by you, we will use reasonable efforts to ensure that, as at the date of installation of our Equipment or the provision of the Service, our Equipment and/or Service complies with the agreed specifications for our Equipment and/or Service. However, we provide no guarantee or warranty with respect to the security of the Service.
- 10.3 Where you are or become aware of any matters, which you know, or ought to reasonably be expected to know constitute a threat to the security of the Service you will immediately advise us of such matters.

## **11. Term and Start Date**

- 11.1 This Contract will commence on the Start Date and will continue initially for the Committed Period and thereafter until terminated in accordance with terms set out in clauses 12 and 13 below.
- 11.2 We will use our reasonable efforts to begin providing the Service by the estimated Start Date given, if any, as stated in the Order. However, any date given in this contract as the Start Date is estimated and is provided for planning purposes only. We will have no liability for any failure to meet the estimated Start Date as time is not of the essence in relation to the commencement of Service under this Contract.

## **12. Termination**

- 12.1 If you fail to pay any Charges or fail to comply with your obligations under Clause 8 these failures will be deemed to be material breaches for the purposes of Clause 12.2.
- 12.2 We may terminate this Contract with immediate effect by notice in writing if you:
  - a) Fail to pay any sums due to us within 14 days of receiving written notice from us indicating the sums due and demanding payment;
  - b) Are in material breach of this Contract;
  - c) Commit persistent breaches of the Contract;
  - d) Have any licence under which you have the right to run your telecommunication system and connect it to our system revoked or amended, or such licence otherwise ceases to be valid;
  - e) Make any voluntary arrangements with your creditors or become subject to an administrative order or go into liquidation, whether voluntary or compulsory (other than for the purposes of reconstruction or amalgamation), or an encumbrance takes possession of or a receiver is appointed in respect of any of your assets.
- 12.3 In the event of termination by us for good reason as provided hereinabove or by you other than as permitted in accordance with clause 9 or clauses 13.1 or 13.2 hereof during the Committed Period you will, in addition to paying any unpaid Charges due as at the date of termination, be liable to pay to us an additional amount representing any other charges levied by us in accordance with Clause 8 together with a balancing charge calculated at the rate of one third of the Charges for calls and two thirds of the charges for Line Rentals that would have been payable by You during the unexpired portion of the Committed Period on the assumption that the Charges that would have been payable are calculated at the same daily rate as the average daily rate payable for Service in the period from the Start Date or at any time during the six months prior to termination if the Start Date is earlier or additional Service has been provided at any time in the six months prior to the date of termination.
- 12.4 We may terminate this contract if the licences under which our network is provided are revoked, amended or curtailed in any way which has a material impact on our ability to provide Service to you or if we are no longer able to use the Network to provide service to you for any other reason.
- 12.5 We will not be liable to pay any costs or damages to you if we terminate this Contract for whatever reason.

## **13 Cancellation and Suspension**

- 13.1 You may cancel this Contract by giving us 30 days' written notice within 30 days of the end of the initial twelve months and each subsequent anniversary of the Start Date.
- 13.2 You may cancel this contract during the Committed Period if we are in material breach of our obligations hereunder to provide Service and in particular if Service is interrupted for any continuous period of six hours or an aggregate of twenty four hours in any continuous period of six months other than as a result of any failure in the connection or networking services still provided by BT
- 13.3 Where you cancel this Contract as a result of changes made to this Contract by us in accordance with Clause 9 and, where the changes have a material adverse effect on your enjoyment of the relevant Services, you will not be liable for any charges arising as a direct result of such cancellation, but you will remain liable to pay any charges due and payable in respect of provision of Service up to the date upon which written notice of cancellation is received by us.
- 13.4 We may suspend or terminate services to you without notice if charges exceed your Credit Limit and we are unable to collect the outstanding amount by direct debit from your bank account in accordance with the provisions of clause 8.5 or if you fail to pay the charges invoiced to you by direct debit or within 14 days of the date of our invoice.
- 13.5 We may suspend or terminate the Service to you if we have reasonable cause to believe that you or any third party is acting in breach of our acceptable use policy.
- 13.6 We may suspend or cancel this Contract and the Service to you if we have reason to believe that it is your intention to breach any of the Terms and Conditions of this Contract or any law or we are obliged to do so to comply with any order, instruction or any other request of a competent, government regulatory or other authority.
- 13.7 We may suspend the Service if maintenance work carried out to the network interrupts our ability to provide the Service to you for reasons beyond our control and may cancel this Contract if the network provider ceases to provide service for whatever reason.

## **14 Force Majeure**

Neither party will be liable to the other for any delay in performing or failure to perform any of its obligations under this contract (other than the obligation to pay charges) which occurs as a result of circumstances beyond a party's reasonable control. For the avoidance of doubt, circumstances beyond our reasonable control include, but are not limited to, power failures, non-availability of any third party telecommunication services, breakdown of any equipment not supplied by us.

## **15 Intellectual Property**

- 15.1 Except, as expressly set out in this Contract, all intellectual property rights in any equipment supplied by us will remain with us or our suppliers or licensors.
- 15.2 Where software is provided to enable you to make use of the Service, we grant to you a non-exclusive non-transferable licence to use the Software solely for the purpose of receiving the Service.
- 15.3 We will maintain records of your usage of the Network Service provided through us for the purpose of:
  - a) Calculating the Charges to be invoiced to you for the provision of our Service;
  - b) Complying with any applicable laws, regulations, statutory instruments or the Terms of our Licences or Contract or those of our Network Provider;
  - c) Monitoring the Service Level Provided and complying with any request for information or disclosure from a court or other appropriately authorised body.
- 15.4 You acknowledge that we have the right to access retain and disclose copies of your call data for the purposes set out in Clause 15.3 above.

## **16 Confidentiality**

Other than as provided for herein above neither party will disclose to any third party without the prior written consent of the other party any confidential information received from the other party as a result of this contact. Both parties agree that any confidential information received from the other party will only be used for the purposes of providing, continuing or maintaining Service. These restrictions will not apply to any information which:

- a) Is or becomes generally available to the public other than as a result of a breach of an obligation under this clause or;
- b) Is acquired from a third party who owns no obligation of confidence in the respect of the information; or
- c) Is or has been independently developed by the recipient.

## **17 Limitation of Liability**

- 17.1 We accept liability to a limit of £250,000 (two hundred and fifty thousand pounds) for death or personal injury arising from our own negligence or for any fraudulent pre-contractual misrepresentation on which you can be shown to have relied.
- 17.2 Our liability to issue credit notes in accordance with clauses 3.4 and 3.5 will be the maximum extent of our liability and your sole remedy for any service failures.
- 17.3 Subject to clauses 17.1 and 17.2, we are not liable to you whether under this contract, tort (including negligence) or otherwise for direct or indirect loss of profits, anticipated profits, business, goodwill or anticipated savings, or for any indirect or consequential loss or damage arising from any interruption to, suspension of or cancellation of Service including, but not limited to, claims against you from third parties and loss of or damage to your data even if such a loss was reasonably foreseeable or we had been advised of the possibility of you incurring the loss.
- 17.4 Subject to Clause 17.1, our liability to you in contract, tort (including negligence) or otherwise in relation to or arising out of this contract is limited to the greater of £25,000 (twenty five thousand pounds) or one third of the annual aggregate Charges arising under this Contract for all events, claims, losses however arising during the term of this contract. Credit Notes issued by us to you will be taken into account for the purposes of calculating the limitation amounts set out in clauses 17.1 and 17.2.
- 17.5 Except as expressly set out in this contract and to the extent permissible by the law all other warranties, terms and conditions whether expressed or implied by law, custom or otherwise are excluded.
- 17.6 We are not liable to you in contract or tort (including negligence) for any acts or omissions of you or any party other than us, including other providers of telecommunications, computers or other equipment or services including internet services.
- 17.7 Each provision of this contract excluding or limiting our liability operates separately. If any provision of this contract is held to be invalid in whole or part such provision will be deemed not to form part of the contract.
- 17.8 You must bring any legal proceedings arising from this contract within three years from the date when you first became aware or ought reasonably to have become aware of the facts giving rise to the liability or alleged liability or within the relevant statutory limitation period, whichever is earlier.
- 17.9 Subject to clause 17.8 no delay in enforcing any of the provisions of this contract will effect or restrict any party's rights arising under this contract. No waiver of any provision of this contract will be effective unless made in writing.

## **18 Assignment**

- 18.1 We may assign, sub-contract or otherwise transfer this contract or any part of it to a third party at our absolute discretion.

18.2 You may not assign sub-license or otherwise transfer this contract or any of your rights or obligations arising under it without our written consent.

**19 Entire Agreement**

19.1 This contract supercedes all prior agreements, undertakings and representations between the parties and constitutes the entire agreement between the parties relating to its subject matter (except that neither party excludes liability for any fraudulent pre-contractual misrepresentations on which the other party can be shown to have relied).

19.2 A third party which is not a party to this Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract.

19.3 In the event and the extent of any conflict between the General Terms and Order then these General Terms will take precedence.

**20 Law and Disputes**

This Contract will be construed in accordance with and governed by the laws of England and in the event of any dispute relating to or arising from this Contract the parties agree to submit to the non-exclusive jurisdiction of the English courts.

**21 Notices**

Notices must be in legible writing and delivered by prepaid first class post, or registered post, or recorded delivery addressed to the other party at the respective address shown on the application form signed by you (the customer) or any other address notified in accordance with this clause. Notices will be deemed to be served on the second day after sending.