

Application for Service

Genesis Communications Solutions

TERMS AND CONDITIONS

1. DEFINITIONS
"We, Us, Our"
Genesis Communications Limited, Waterfold Road, Rochdale Road, Bury, Lancashire, BL9 7BL.
"You, Your"
The customer named overleaf at whose request We agree to provide the Service under this Contract and by whom the Charges are payable.
"Contract"
The agreement between You and Us as set out overleaf and incorporating the terms and conditions set out herein.
"Equipment"
The equipment provided for or used in connection to the Service or for use in connection with the Service, as set out overleaf or in any Additional Information Sheet or to which we have title pursuant to clause 8.2 below and including but not limited to any Cellphone(s) used by You in connection with the Service.
"Service"
The provision of a mobile telecommunications service enabling You to make or receive speech wireless telegraphy by means of the Network together with any such additional services as We may agree to make available to You.
"Network"
The cellular telecommunications system of Our choice through which We shall provide the Service to You.
"Charges"
Any sums owed by You to Us under this Contract including but not limited to those charges set out in Clause 7.
"SIM Card(s)"
The necessary card or cards bearing a unique serial number, used with a GSM (Digital) cellphone, which contains subscriber information and which when used with the appropriate equipment allows access to the Service.
"Service Provider(s)"
Any company, partnership, individual or other business offering a service which is the same as or similar to the Service.
"Call Charge"
A pre-determined charge per unit of time at the rate determined by the Tariff which You will be charged for use of the Service.
"Tariff"
The charging programme (which includes the monthly charges relating to any options requested by You at any time) detailed overleaf or in any Agreement of Variation or in any Additional Information Sheet which applies to the Service provided by Us in respect of each Cellphone used under this Contract and which may be varied from time to time by Us (without any consultation with You).
"Line Rental Charge"
A pre-determined charge of a telephone line facility for each cellphone used under this Contract as set out overleaf or in any Agreement of Variation or in any Additional Information Sheet.
"Cellphone"
A telephone which is connected to the Network under this Contract and which enables You to have access to the Service.
"Additional Information Sheet"
An agreement whereby the number of Cellphones connected to the Service under this Contract is increased and the charges payable under this Contract are increased accordingly (and as otherwise referred to in clauses 6.1 and 19.3 below).
"Month"
A calendar month.
"Minimum Period"
The Number of Months stated overleaf and in default of a Number of Months being stated overleaf (or otherwise) the Minimum Period shall automatically be 12 Months.
"Agreement of Variation"
A credit equal to the Line Rental Charge for the number of months (if any) as stated overleaf from the date of this Contract.
2. ACCEPTANCE OF APPLICATION
You will only be bound by this Contract when it has been signed by You and accepted, and signed by, one of Our authorised representatives. We are under no obligation to provide You with a copy of this Contract when signed by Us.
3. DATE OF COMMENCEMENT
This Contract shall commence for each individual Cellphone on the date of connection to the Network of that Cellphone.
4. LENGTH OF AGREEMENT
This Contract shall continue from the date of commencement (as specified above) for the Minimum Period separately in relation to each individual Cellphone connected to the Network unless termination occurs in accordance with Clauses 11.5, 12.3, 12.4, and 13 or in accordance with other provisions of this Contract.
5. CONNECTION AND PROVISION OF SERVICES
5.1 We will use Our reasonable endeavours to connect the Equipment to the Network and make the Service available to You subject to the provisions of this Contract.
5.2 We may refuse to connect You to the Service if Our confirmatory application procedure shows that any information provided during the initial application procedure is different from the information provided in Your application for Service.
5.3 If Your Cellphone has not been connected to the Service within 90 days of You signing this Contract, this Contract shall automatically lapse.
5.4 Any agreement by Us that the Service will commence on a certain date shall be treated as an estimate. We shall not be liable for any failure to provide the Service by a specified date.
5.5 The Service provided by Us is not fault free, and in particular, though without prejudice to the generality of the foregoing, it may be affected by the specification of the Equipment used under this Contract, or by physical features such as buildings, underpasses, geographical terrain and atmospheric and other causes of interference.
5.6 We will not be liable for any failure of, or fault in, the Service which is due to or caused by the failure of the Network, the performance of which is outside Our control. Our total liability pursuant to this Contract is governed by clause 16 below.
5.7 You may only be entitled to the quality and coverage of Service which We are able to provide to Our customers generally.
6. CHARGES
6.1 You will pay the charges due under this Contract on the basis of the Tariff in relation to each Cellphone used under this Contract at the date the charges are due.
6.2 Where more than one Cellphone is used under this Contract and each Cellphone is operated under a different tariff, charge will be worked out per Cellphone according to each Cellphone's individual tariff.
6.3 You may select the tariff for any Cellphone to be connected to the Service at the time of entering into this Contract. Where a Cellphone is connected to the Network pursuant to an Additional Information Sheet you may at that time select the tariff for each new Cellphone connected.
6.4 We may, at Our discretion, vary the Tariff in relation to any Cellphone connected to the Service.
6.5 The charges made under any particular tariff may from time to time be varied by Us and prices are available upon request in writing from Us.
7. CHARGES
7.1 You will pay to Us, in addition to any charges due under Clause 14 below,
a) Line Rental Charge applicable to Your chosen Tariff for each Cellphone connected to the Network.
b) All call charges at the Tariff prevailing at any given time for each Cellphone connected to the Network. You acknowledge that these are beyond Our control as they are fixed by the Network and may therefore be subject to change at any time.
c) All other monthly charges as set overleaf (including but not limited to Itemised Billing, IT'S/ICS and Call Saver (Option) or requested by You at a later date, for each Cellphone connected to the Network.
d) The Cost to Customer (if any) in relation to each item of Equipment.
7.2 All charges payable by You shall be due within 14 days of the date of Our invoice (whether such charges are demanded in advance or arrears).
7.3 You shall pay to Us all charges by Direct Debit unless We otherwise agree in writing. In the event of You making payment otherwise than by way of Direct Debit You shall be liable to pay a monthly Administration Charge (as set overleaf) for each Cellphone connected to the Network.
7.4 All charges which have not been paid in accordance with clause 7.2 above shall bear interest at the rate of 4% above Barclays Bank PLC base rate until payment.
7.5 Where charges due are not paid You will be liable for all costs and expenses incurred by Us in attempting to obtain payment from You (notwithstanding that such costs and expenses may not otherwise be recoverable from You in accordance with the civil rules of the English Courts).
7.6 You are liable to pay VAT (and (in addition if applicable) any other tax of a similar nature prevailing at the time of payment) on all charges due and payable under this Contract.
7.7 Punctual payment of any and all charges due under this Contract shall be of the essence of this Contract.
8. TITLE
8.1 The title to the Equipment (even if a contribution is paid by You to Us towards the cost of the Equipment and being Equipment that is not governed by clause 8.2 below) shall not pass to You and shall remain with Us until the Contract has ended and You have paid (in cleared funds) all sums due to Us under this Contract in relation to all Cellphones connected to the Network under this Contract. This clause shall have no effect in relation to the title of any Cellphone issued by Us to You under a separate hire agreement.

8.2 Where Other Credit is provided for overleaf and whether or not the Other Credit is actually given by Us the title to any of the Equipment and/or Cellphone numbers for any of the Equipment that is connected to or used in connection with the Network (and which is not initially provided by Us) shall pass to and remain with Us until this Contract has ended and You have paid to Us (in cleared funds) all sums due to Us under this Contract in relation to all Cellphones connected to the Network under this Contract.
8.3 Notwithstanding clauses 8.1 and 8.2 and for the avoidance of doubt all SIM Cards provided by Us shall remain Our property both during and after the completion of this Contract. Your use of any SIM Card is subject to these terms and conditions and any other terms and conditions which We may from time to time issue.
8.4 Without Our prior consent in writing You must not sell, lend, hire out, dispose of or otherwise part with any of the Equipment and/or SIM Cards which are subject to this Contract and/or connected to or used in connection with the Network and/or the Service.
8.5 Notwithstanding any other provisions of this Contract all rights in relation to title and property in any Cellphone number(s) which have been allocated to the Equipment used under this Contract shall at all times remain with Us and may not be sold, transferred, assigned, or otherwise dealt with except without prior written consent for which We reserve the right to demand payment.
8.6 Nothing in this Contract will have any effect on any agreement made by Us to hire goods to You and any provisions of this Contract relating to title of goods shall not have effect in relation to any goods hired by Us to You.
9. SIM CARDS
9.1 Where a SIM Card is lost or stolen or damaged You must inform Us immediately. You are liable for all and any charges arising under this Contract whether the same are due or not and whether the same have been incurred by You or not until We have been notified of the loss, theft or damage and have been able to suspend the Service.
9.2 Where a SIM Card is lost, stolen or damaged We will issue a replacement card for which We may, at Our discretion, charge You.
10. MISUSE OF THE SERVICE
10.1 You must not, (nor must You encourage, request or permit anyone else to) use the Service,
a) For sending any messages or communications which are improper, immoral, indecent, unlawful or for any malicious purpose.
b) In breach of any instructions given to You pursuant to Clause 11.3 of this Contract.
10.2 You must take reasonable care to ensure that Your Cellphone, SIM Card or other Equipment is not used by any unauthorised person and that any code or number allocated to You does not become known to someone not authorised to use Your Equipment.
10.3 Only the Equipment may be used by You for the purposes of the Service provided.
10.4 Only We may connect the Equipment to the Network and You shall not connect anything, directly or indirectly to the Network, nor shall You allow any other person to do so.
10.5 You must not modify or alter or permit the modification or alteration of any of the Equipment of SIM Card used under this Contract or in connection with the Service.
10.6 You must comply with European and U.K. legislation applying to the use of the Service.
11. OUR GENERAL POWERS
At Our discretion We may:
11.1 Replace You Cellphone or SIM Card or any other code number (including personal Cellphone number) allocated to You for use in connection with the Service.
11.2 Temporarily suspend the whole or part of the Service in the event of an emergency or if repairs to and/or maintenance of the Network or any other Equipment and apparatus used in the provision of the Service is necessary.
11.3 Give instructions to You concerning the use of the Service as We from time to time consider appropriate in the interests of safety, of the quality of the Service, of other customers or members of the public, or of the Service as a whole; any such instructions will form part of this Contract and We will bring them to Your attention in the appropriate manner.
11.4 Refuse to provide any service of facility other than the making or receiving of calls. You will not be charged for any service or facility not provided for You, in the event of any such failure to provide any service or facility We shall not be liable under this Contract or otherwise.
11.5 Suspend, terminate or cancel this Contract (or any part of it) without incurring any liability, if any agreement giving Us access to the Network, or any part thereof, is cancelled, terminated or suspended.
11.6 Disclose details of Your account to Your Network operator to enable them to inform You of future products and Service developments and understand Your needs, provided that You have not given Us prior written notice that You do not wish Us to do so.
11.7 Do a search to make credit decisions for the Services and Equipment to be provided to You under the terms of this Contract. This involves checking details that You supply against those held on any databases that Our credit reference agencies has access to. This includes information from the electoral register and fraud prevention agencies. A record of this search will be kept. Search details and other information which is provided to Us and/or Our credit reference agencies about You and those with whom you are linked financially, may be used by Us and other companies. This information may also be used for debt tracing and the prevention of money laundering as well as the management of Your account. We may also pass information to financial and other organisations involved in fraud prevention to protect Us and Our customers from theft and fraud. We will record this search and share this information with other organisations.
11.8 Vary the facilities and terms and conditions subject to which the Service is supplied to the extent necessary to comply with any new legislation, regulations, licenses or technical changes provided under the system. Any re-programming of the Equipment which benefits You shall be done at Your expense.
12. TERMINATION BY NOTICE
12.1 At any time after the Minimum Period has been completed in relation to a particular Cellphone connected to the Network You may serve written notice on Us giving Us not less than 90 days notice of termination of the Contract in relation to that Cellphone.
12.2 If You terminate the Contract in accordance with Clause 12.1 the Contract will end on the last day of the period of notice only in relation to the Cellphone for which the notice has been received.
12.3 After the Contract has been terminated You will, at or Your own expense, return to Us any of the Equipment and/or SIM Cards that belong to Us; whether under Clause 8 or otherwise.
12.4 We may terminate this Contract at any time by giving You not less than 30 days notice in writing.
12.5 When the Contract is terminated in accordance with this clause You will remain liable for all charges becoming due from You under this Contract until the expiration of any notice period.
12.6 After the Contract has been terminated You will, at or Your own expense, return to Us any of the Equipment and/or SIM Cards that belong to Us; whether under Clause 8 or otherwise.
12.7 In the event that, upon termination for any reason, You wish to port any cellular number to any other provider or network We shall be entitled to:
a) Charge You a reasonable Administration fee of no greater than £35 per connection;
b) Decline any request until You have complied with all Your outstanding obligations under this Agreement.
13. TERMINATION ON BREACH
13.1 If You:
a) Fail to observe any of the terms of this Contract or
b) Become bankrupt (in Scotland are sequestrated), call a meeting with Your creditors; enter into a voluntary arrangement with Your creditors; being a company become subject to a receiving order, an Administration order, a winding up order or a winding up petition is presented against You; or a receiver or similar officer is appointed to any of Your assets; or You pass a resolution for winding up or
c) Cease to carry on Your business or a substantial part of it or
e) Suffer execution, distress, any form of diligence (in Scotland) or seizure or be levied or affected on or against Your premises, assets or effects You will be treated as no longer intending to be bound by this Contract and You will be in repudiatory breach of it.
13.2 Where You are in repudiatory breach of the Contract We may:
a) By notice in writing accept that breach and terminate the Contract.
b) Without giving notice suspend the Service (in which case You are still liable for all charges due under the Contract, including those incurred while the Service is suspended) and for any loss suffered by Us as a result of Your breach.
c) Treat the Contract as being in force (in which case You will still be liable for all charges due under this Contract) and any claims, costs, damages and loss suffered by Us as a result of Your breach.
13.3 Where We initially suspend Your Service pursuant to Clause 13.2(b) We may subsequently, while the Contract is still suspended, and upon giving You written notice accept the breach as terminating the Contract.
13.4 Waiver of any breach by Us shall be limited to the particular breach that has been waived and delay on Our part shall not be treated as a waiver of any other breach.
14. PAYMENTS DUE ON TERMINATION BY DEFAULT
14.1 On any termination of this Contract during the Minimum Period for a Cellphone(s) connected to the Network under this Contract (except where termination is in accordance with Clause 12.3) You will immediately be liable for and pay to Us:
a) All charges which have become due under this Contract to the date of termination for the Cellphone(s) connected to the Network (and as referred to in clause 7 above) (which will be deemed to include but shall not be limited to any Free Line Rental Airtime Credit and Other Credit which We may have provided to You (and as set out overleaf) in consideration and in anticipation of this Contract confining during the entire Minimum Period for the Cellphone(s)).
b) Any reasonable disconnection fee which We may charge You at Our discretion for the Cellphone(s) connected to the Network.
c) All future charges (except for call charges) which would, but for termination, have become due and payable up to the end of the Minimum Period less a discount on each such payment at the rate of half of the Barclays Bank PLC base rate current at the date of termination, for the Cellphone(s) connected to the Network.
d) In lieu of Our rights to pursue the return of Equipment that belongs to Us, the Value of Equipment (as specified overleaf and/or in an Additional Information Sheet) save that We will make an allowance for any contribution previously paid by You to Us towards the cost of any piece of Equipment.
e) Any other claims, costs, damages or loss We have incurred as a result of Your breach (including loss of profit, consequential loss and legal fees).
14.2 All charges calculated in accordance with clause 14.1(c) will be calculated on the basis of the tariff(s) in force under the Contract at the date of termination for the Cellphone(s) connected to the Network.
14.3 Where the Contract is terminated in accordance with Clauses 12.3 You will be liable for all charges due under the Contract at the date of termination and as specified in clause 14.1(a) above.
14.4 You acknowledge that payments due on termination in accordance with Clause 14.1 are reasonable in view of the subsidised services provided

by Us under this Contract which are supplied on the initial basis that We will be able to recover the initial investment on acquiring You and subsidising the cost of the Service and retail cost of the Equipment.
15. SUSPENSION
15.1 We may suspend the Service without notice:
a) Where the Direct Debit mandate completed by You is not accepted by Your bank or is subsequently cancelled.
b) Where We are informed by the Post Office that they have been unable to deliver any mail sent by Us to You.
c) Where We have reason to believe that any Charges payable under the Contract by You may not be paid.
d) In accordance with Clause 13.2(b) until You remedy any breach complained of.
e) Where You fail to pay any Charges due under this Contract or are in breach of any other terms of this Contract whether the same amounts to a repudiatory breach or not.
15.2 While the Service is suspended You are liable for all charges that become due under the Contract prior to and during the period of suspension as well as any other losses suffered by Us as a result of any breach of the Contract by You including loss of profit, consequential loss and legal fees.
16. LIABILITY
16.1 We accept no liability in respect of Our negligence, breach of Contract or breach of statutory duty except as provided for below:
a) We accept liability
i) For death or personal injury arising from Our negligence.
ii) Where You deal as a consumer within the meaning of Section 12 of the Unfair Contract Terms Act 1977, for any breach of any obligation implied by statute in connection with the provision of the Service (subject always to having due regard to the fact that We do not operate the Network) or for any breach of any obligation imposed by statute in relation to the title, correspondence with description or satisfactory quality of any of the Equipment supplied to You by Us under this Contract.
iii) For direct physical damage to or loss to property resulting from Our negligence up to the limit set out below.
16.2 Our liability in Contract, tort, breach of statutory duty or otherwise shall not exceed £1,000.00 for any one incident and shall not exceed £2,000.00 for any series of incidents whether the same be related or otherwise, within any period of twelve months.
16.3 Under no circumstances We will be liable, whether in Contract, tort or breach of statutory duty or otherwise for any (direct or indirect) loss of profit, business or other indirect or direct consequential loss of any kind, including though not limited to, any claims made against You by third parties.
16.4 We make no representations nor give any undertaking as to the fitness for use in connection with the Service or the quality or performance of any of the Equipment which We connect to the Network (whether the same is provided by Us under this Contract or not) and accept no responsibility for any failure of any of the Equipment to work in connection with the Network, nor for any loss or damage, however the same may arise as a result of any actual or attempted connection of the Equipment to the Network.
16.5 Clause 16.4 shall apply to this Contract notwithstanding that any of the Equipment is used in accordance with Clause 10.3 of this Contract and further notwithstanding anything that We may do pursuant to Clause 10.4 of this Contract.
17. INSURANCE AND MAINTENANCE
17.1 It is Your responsibility to maintain any Equipment used in relation to the Service, whether provided by Us or not, and to ensure that the same is kept, at all times, in a full working order and is not damaged.
17.2 It is Your responsibility to ensure that any Equipment to which We have title under this Contract is at all times insured for its current value (as specified overleaf or in an Additional Information Sheet) under a policy of insurance which provides cover for the replacement or repair of the Equipment in the event of theft, loss, damage or breakage (whether accidental or otherwise) however the same may arise, and in respect of any injury, loss or damage which may be caused by the Equipment to other persons or property.
17.3 Where Clause 17.2 applies You must provide evidence of insurance in force in respect of the Equipment and proof of payment of the premiums in relation to that policy if We demand the same (save where You have requested Us to arrange insurance for You).
17.4 Where We have title to any Equipment under this Contract You are responsible for any loss of or damage to the Equipment, even if the same occurs without Your fault. You must keep the Equipment in good condition.
17.5 Where We have title to any Equipment under this Contract it must be available for inspection by Us at all reasonable times upon Us giving seven days notice to You in writing.
18. TRANSFER OF RIGHTS AND OBLIGATIONS
18.1 You may not, without Our prior written consent, assign, dispose of or otherwise part with any or all of Your rights or obligations under this Contract (and Our prior written consent can be withheld without reason).
18.2 We may, at Our discretion, assign, licence or otherwise transfer Our rights and obligations under this Contract (or any part of it) to a third party.
19. VARIATION
19.1 We may from time to time unilaterally vary this Contract by serving notice upon You in writing (save that We may not vary Clause 16.1).
19.2 You may vary this Contract with Our consent by entering into an Agreement of Variation.
19.3 Where a Cellphone is added to the Network under this Contract by virtue of an Additional Information Sheet the charges due to Us under Clause 7 of this Contract will be increased accordingly and will become due and payable for each Cellphone connected to the Network.
19.4 An Agreement of Variation and Additional Information Sheet is only valid if it is signed by one of Our authorised representatives.
20. EVIDENCE AS TO SUMS DUE
In any proceedings between You, and Us a certificate from Us, that a specified sum is due from You shall be conclusive evidence and in Scotland sufficient evidence, of that fact.
21. SERVICE OF NOTICES
21.1 Where under any term of this Contract You are required to give Us notice of any kind such notice must be served in writing by recorded delivery to Our then Registered Office.
21.2 Where any notice is served by Us under the Contract it shall be sufficient to serve the same by first class post to Your address shown overleaf.
22. LAW
This Contract is deemed to be made in England and is subject to English law and the jurisdiction of the English Courts.
23. FORCE MAJEURE
We will not be liable for any non-performance of this Contract or of any of Our obligations under it whether the same is caused by any act of God, insurrection, civil disorder, war, riot, fire, flood, lightning, inclement weather, national or local emergency, the acts or omissions of any Government, highway authority or other competent authority, industrial disputes, acts of third parties beyond Our control (including other telecommunications Service Providers) or any other cause whether similar or dissimilar outside Our control.
24. CHANGE IN YOUR CIRCUMSTANCES
You must promptly notify Us in writing if You change Your name or address of if there is any material change in Your financial circumstances or change in the details of Your bank account or other arrangements which may be relevant to the payment of charges under this Contract.
25. ENFORCEABILITY
If any term or provision of this Contract shall be held to be illegal or unenforceable, in whole or in part, under any enactment or rule of law, such term or provision or part shall, to that extent, be deemed not to form part of this Contract but the validity and enforceability of the remainder of this Contract shall not be affected.
26. INTERPRETATION
26.1 Except where otherwise provided, or where the context otherwise requires, in this Contract references to the singular shall include the plural and references to he shall include she and they.
26.2 Clause headings in this Contract are for ease of reference and do not form any part of the Contract.
27. OTHER CREDIT
We shall place the Other Credit (as shown overleaf) on Your account with Us provided that You provide Us with evidence (which We will solely decide whether such evidence is satisfactory) as to the amount due and payable to Your existing Service Provider. If You do not fully comply with the provisions of this clause within 3 months of the commencement of this Contract We shall be under no obligation to provide You with the Other Credit.
28. AIRTIME CREDIT
We shall place the Airtime Credit (as shown overleaf) on Your account with Us. This agreed credit is given on the agreement that each and every SIM Card being used with a period of 30 days of connection, Failure to use a SIM Card so connected within this 30 day period will result in any applied credit note being cancelled by ourselves without further notice.
29. FREE LINE RENTAL
Any Free Line Rental given is given on the agreement that each and every SIM Card connected to The Network will be used within a period of 30 days of connection. Failure to use a SIM Card so connected within this 30 day period will result in any Free Line Rental applied to Your account being charged without notice.
30. SUBSIDISED/FREE OF CHARGE HARDWARE
Any Equipment supplied in accordance with this agreement either at subsidised costs or free of charge is charged dependant upon each and every SIM Card being used with a period of 30 days of connection. Failure to use a SIM Card so connected within this 30 day period will result in a charge for the Equipment being levied to Your account without notice. This charge will equate to the Value of Equipment less any Cost to Customer already charged as shown overleaf.
31. ENTIRE AGREEMENT
These terms and conditions contain all of the terms of the Contract between You and Us and You acknowledge that there are no promises, terms or conditions or obligations other than those set out in this Contract and that no representations were made that contradict the terms of this Contract or that were relied upon by You in entering into it.
32. BILLING DATA NOTICE
We currently analyse and use customer billing data for marketing products and services to our customers. From time to time we may contact You to inform You of improved offers and new services. If You would prefer that Your billing data is not used for these purposes or would not like to receive marketing information, please write to Us at the following address: Customer Help Desk, Genesis Communications, Alexander House, 94 Tatbot Road, Old Trafford, Manchester, M16 0PG.
All customers have the right to obtain a copy of the information held by Us about You by writing to Us and requesting the information at the above address.
The definition of "billing data" is the date, time, duration and volume of Your handset calls, plus the numbers dialled.