

# 1 DEFINITIONS

"**Account**" means the record of all Charges due from a Customer.

"**Agreement**" means the agreement between GCS and the Customer.

in respect of the Services incorporating these terms and conditions.

"**Charges**" means the charges payable in respect of the Services (as amended from time

to time in accordance with clause 5.8 below) as set out in the Customer Order Form or as

otherwise notified to the Customer before they are incurred.

"**Customer**" means the party named as such on the Customer Order Form to whom GCS

agrees to provide Services and by whom Charges are payable.

"**Customer Order Form**" means GCS Online or Paper Customer Order Form completed

by the Customer.

"**Initial Connection**" means the time and date when the Services are first made available

to the Customer..

"**Operator**" means the provider of access to the Telecommunications Network.

"**Order**" means a Customer's order for services made on a Customer Order Form.

"**Premium Rate Number**" means the telephone number allocated to a Customer for the

purpose of enabling the Customer to provide Premium Rate Services.

"**Revenue**" Means sums payable by GCS to the Customer in respect of Premium Rate

Services.

"**Services**" means connection to the Telecommunications Network, provision of Telephone Numbers and other telecommunications services as set out in one or

more

Customer Order Forms for the Customer or otherwise notified in writing by GCS to the

Customer.

**"Destination"** Means the Destination Telephone Number or Email Address where we

Route Calls or Faxes to.

**"Telecommunications Network"** means the public and private telecommunications systems accessed by the Telephone Number or by which the Services are made available.

**"Telephone Number"** means the telephone number (including Premium Rate Numbers if

applicable), allocated to a Customer.

"GCS" means GCS Limited.

## **2 PROVISION OF SERVICES**

**2.1** GCS agrees to provide Services to the Customer on the terms and conditions of this

Agreement once GCS has accepted the Customer's Order. GCS will have accepted the

order upon the Initial Connection.

**2.2** It is estimated that the Initial Connection will be no more than 48 hours after receipt

of the Order. GCS will notify the Customer if this is not the case.

**2.3** The minimum period for the Services is 12 months from the Initial Connection unless

stated otherwise (the "Minimum Period"). This Agreement will continue after the expiry

of the Minimum Period unless and until:

**2.3.1** it is terminated by either party giving at least one month's written notice to

terminate the Agreement expiring on the first or any subsequent anniversary date of the

Initial Connection. In the case of notice given by the Customer, the notice shall not become operative until the Customer receives, by way of acknowledgement, a cancellation acceptance form signed by an officer of GCS on GCS's Letter Head; or

**2.3.2** in accordance with clause 11 below.

**2.4** The Services are supplied subject to all limitations of the Telecommunications Network including the risk of imposed prefix or number changes. In particular GCS is unable to guarantee that all overseas systems will be able to access the Customer using

the Telephone Number or that telephone keypads will use the same alphanumeric combinations as are currently used in the UK.

**2.5** Each Order will with these terms comprise a separate contract between the parties

unless the order specifies that it is an amendment to an existing contract.

**2.6** Where an Order covers more than one Telephone Number each Telephone Number

shall be deemed the subject of a separate and severable Agreement.

**2.7** Where the Customer's name or if applicable company registered number on the

Customer Order Form is incorrect or incomplete, the Customer agrees that GCS may treat

as being the Customer the individual or organisation that paid the initial service charge

for the Services.

### **3 GCS's OBLIGATIONS**

**3.1** GCS will use reasonable endeavours to provide the Services but GCS shall not be

liable for any failure resulting from factors outside GCS's control. In particular GCS is

not responsible for the operation of the Telecommunications Network.

**3.2** GCS reserves the right from time to time to improve or alter the Services as it deems

appropriate, provided that such changes do not substantially change the nature of the

Services.

**3.3** GCS will provide an after sales service and help desk contactable by telephone.

## **4 CUSTOMER RESPONSIBILITIES**

**4.1** The Customer shall at all times:-

**4.1.1** comply with any reasonable directions or instructions (including requests for assistance or information) issued from time to time by GCS in connection with the Services or any of them;

**4.1.2** pay GCS's charges under this Agreement on or before the due date for payment

without set off or deduction;

**4.1.3** ensure insofar as is possible that the Telephone Numbers are not used in any unlawful, improper or damaging manner;

**4.1.4** indemnify and hold harmless GCS against all liabilities, claims, damages, losses,

costs and proceedings howsoever arising from any improper use of the Services;

**4.1.5** indemnify and hold harmless GCS against all liabilities, claims, damages, losses,

costs and proceedings howsoever arising from a claim by a third party where the third

party claims it has the right to prevent the Customer from using the Telephone Number.

**4.2** Where the Customer's Order Form includes an order for a Premium Rate Number the

Customer shall also:-

**4.2.1** provide GCS with an accurate description of the Premium Rate Service it intends to

provide;

**4.2.2** notify GCS immediately of any intention on the part of the Customer to change the

nature of the Premium Rate Service and obtain GCS's agreement in writing to the proposed change prior to providing the new Premium Rate Service;

**4.2.3** ensure the Premium Rate Service:-

**4.2.3.1** complies with all relevant legislation, regulations, guidelines and codes of practice;

**4.2.3.2** does not include any material which is defamatory, offensive, indecent, threatening or likely to bring GCS into disrepute by virtue of its connection with the Customer;

**4.2.3.3** does not refer to GCS or the Operator without their prior approval in writing.

**4.2.4** The Premium Rate Service may be monitored from time to time by GCS in order to

ensure compliance with the terms and conditions of this Agreement or by the Operator,

ICSTIS or any similar authority to ensure compliance with all applicable legislation, regulations, guidelines and codes of practice.

**4.2.5** If a Customer selects "Delete Number" they will be asked to confirm whether they

want to delete the number - if they confirm that they want to delete the number, the number will be If a Customer selects "Delete Number" they will be asked to confirm

whether they want to delete the number - if they confirm that they want to delete the number, the number will be de-activated and become available for someone else to use.

There is no Pro-Rata refund for any services or numbers.

**4.2.6** All Customers must provide have a valid email address in order to use any of GCS's

Services. GCS sends out Alerts, Invoices, Call Credit Balance Updates, Service Updates

and Company News by email to all customers.

## **5 CHARGES AND PAYMENT**

**5.1** Connection and Initial Service Charges are payable on completion of the Customer

Order Form.

**5.2** Any other Charges including Call Routing Charge are payable in advance. GCS may

invoice Monthly, Quarterly or Annually. In respect of unascertainable future charges, GCS may require a reasonable security deposit.

**5.3** GCS requires that the Customer pay by Credit/Debit Card, Electronic Bank Transfer

(BAC's and CHAP's), Direct Debit, Standing Order or Cheque. In the event that the Customer is unwilling or unable to pay by GCS's chosen means - or - such automated

means are not set up or fail for any reason before GCS invoices the Customer; an additional administration charge may be levied for each invoice.

**5.4** Certain Services (e.g. Routing Call to a Mobile or International Destination) have additional costs which are outside the control of GCS. Where any such charges are increased to GCS it shall forthwith advise the Customer and be entitled to increase its

own charges for the same Services by the same proportion.

**5.5** Overdue payments shall be subject to interest at an annual rate equal to the statutory

interest rate chargeable under the Late Payment of Commercial Debts (Interest) Act 1998

both before and after judgement.

**5.6** Our published prices are exclusive of Value Added Tax.

**5.7** GCS shall in respect of each Service be entitled to review and vary from time to time

the Charges and introduce new charges. Subject to clause 5.4 the varied or new charges

shall take effect 2 weeks after written notice has been sent to the Customer detailing such

variations or new charges.

**5.8** Charges may also be imposed in the following circumstances brought about by a Customer request:-

**5.8.1** Change of Destination Number if Customer is using an IVR Application or a Premium Rate Service.

**5.8.2** Change of Operator for any Telephone Number.

**5.8.3** Change of Service Provider or Network Operator upon termination of this Agreement in respect of any Telephone Number.

**5.8.4** Transfer of any Telephone Number to another Individual or Organisation.

**5.9** The Customer shall not dispute the amount of any Operator generated Charges unless

and then only to the extent that GCS is entitled to dispute such charges with the Operator.

**5.10** GCS shall be entitled to impose a £25 reconnection fee in the event that the Customer requests and GCS agrees, to reconnect the Telephone Number following disconnection under clause 9.

## **6 GCS'S LIABILITY**

**6.1** GCS does not exclude or restrict any liability to the Customer for death or personal

injury attributable to its own negligence or that of its employees or agents.

**6.2** GCS shall exercise reasonable skill and care in the provision of the Services.

**6.3** Except as stated expressly otherwise in this Agreement, in relation to the provision of

Services, GCS shall have no obligation, duty or liability in or for contract, tort (including

negligence and breach of statutory duty) or otherwise and all other conditions, warranties,

terms representations and undertaking, express or implied (whether they are implied by

statute, common law or in any other way) are excluded to the fullest extent permitted by

law.

**6.4** Where any Service has been continuously unavailable to a Customer for a continuous

period of more than 7 days (the "Unavailable Period") and not as a result of any action or

omission of the Customer or any event beyond the reasonable control of GCS the

Customer may apply to GCS for a rebate of any time based Charges in respect of the

unavailable Period and GCS shall allow the Customer a proportionate rebate of such time

based charges. GCS shall have no other liability for failure or unavailability of the

Telecommunications Network.

**6.5** GCS shall not be liable for any indirect or consequential losses, damage or expenses

suffered by the Customer including (but not limited to) loss of anticipated sales profits or

savings, goodwill, business contracts or losses resulting from third party claims.

**6.6** Notwithstanding the provisions of clause 6.3 and subject to clause 6.1, GCS's liability

to the Customer for breach of contract shall be limited to £1,000. Any other liability shall

be limited to the amount of relevant insurance cover carried by GCS.

## **7 SUSPENSION OF SERVICES**

**7.1** GCS may suspend all or part of the Services or any of them for so long as reasonably

required or disconnect the Telephone Number at any time without notice if:-

**7.1.1** The Customer is in material breach of this agreement or any other agreement between the parties and in particular in breach of clause 4 or 5;

**7.1.2** The Customer acts in such a way or permits anything to be done which, in the reasonable opinion of GCS, relates to the Services and may impair or jeopardise the operation of the Services or any part of the Telecommunications Network;

**7.1.3** Required for modification or maintenance or in cases of emergency;

**7.1.4** GCS has reason to believe the Services are being used for unlawful, fraudulent or

improper purposes.

**7.2** The Customer shall remain liable for all Charges during any period of suspension attributable to the actions or omissions of the Customer.

## **8 DATA PROTECTION ACT**

**8.1** Information that the Customer provides to GCS about private individuals relevant to

GCS's dealings with the Customer will be stored within GCS's computer system.

**8.2** For the purpose of the Data Protection Act 1998 ("the Act") GCS needs to specify

the purposes for which it will use that information. It will of course only use it for legitimate purposes, including:-

**8.2.1** Communicating with the individuals concerned as necessary in connection with the Customer's dealings with GCS;

**8.2.2** Communicating with the Customer in connection with GCS's services generally;

**8.2.3** Providing it to third parties as required by the Customer or the law or as necessary

in connection with the Customer's dealings with GCS (including for inclusion in publicly available directories). Those third parties may be outside the European Economic Area;

**8.2.4** Providing it to licensed credit-referencing agencies for credit checks to be undertaken.

**8.3** By giving GCS that information the Customer consents to GCS holding using and disclosing it for those purposes.

**8.4** GCS is permitted under the Act to hold and use personal data for the purposes specified above. It will not process such data provided by the Customer otherwise than

for those purposes or as otherwise required by the Customer.

**8.5** GCS confirms that it will comply with the Seventh Data Protection Principle under the Act (data security) in relation to all personal data supplied by the Customer.

## **9 TERMINATION OF AGREEMENT**

**9.1** GCS may terminate this Agreement immediately by notice in writing to the Customer if:-

**9.1.1** the Customer is in breach of any of the terms of this Agreement or any other agreement between the parties and does not remedy the breach within 7 days of the date

of written notice from GCS specifying the breach and requiring it to be remedied;

**9.1.2** any licence, permission, agreement or authorisation granted to the Operator or to

GCS necessary for the provision of the Services is suspended, revoked or terminated; or

GCS is unable to recover from the Operator Revenue payments due to the Customer.

**9.2** Either GCS or the Customer may terminate this Agreement immediately by notice in

writing if it has reasonable reason to believe that the other has or will have debts to it which will not be paid when due.

**9.3** The Customer can at any time by reasonable notice terminate any Agreement upon

the transfer of the Telephone Number the subject of that Agreement to another Operator

or service provider. In these circumstances the Customer shall be liable to compensate

GCS for its likely loss of income under that Agreement (from whatever source) from the

date of termination to the date on which the Customer could have first terminated the agreement under clause 2.3.

**9.4** Any termination of this Agreement shall be without prejudice to the rights of either

party accrued to the date of termination.

## **10 GENERAL**

**10.1** GCS shall address all Bills and serve any Notices on the Customer pursuant to this

Agreement in writing by post to the address set out in the Order or the Customer's and or

the Registered Office or any other address provided by the Customer for this

purpose.

**10.2** The Customer shall serve any notice pursuant to this Agreement by post on GCS at

its Main or Registered Office address.

**10.3** All documents shall be deemed served 48 hours after posting.

**10.4** No failure by GCS to exercise any of its rights under these terms and conditions or

concession granted and shall prevent subsequent enforcement of those rights or constitute

an agreement to provide the same concession again.

**10.5** Subject to clause 10.6, the Customer acknowledges that it has not been induced to

enter into this Agreement by any representations made before or on entering into this

Agreement (whether made negligently or innocently or whether oral or written) and that

it has only relied upon matters set out in this Agreement in deciding to enter into this Agreement.

**10.6** The Customer acknowledges that the only remedy it has against GCS for any misrepresentation or untrue statement shall be a claim for damages for breach of this

Agreement. However, if GCS has made any fraudulent representations upon which the

Customer has relied, the Customer may pursue GCS, and the Customer shall be entitled

to all available remedies under English law.

**10.7** No variation of this Agreement or waiver hereunder shall be effective unless agreed

in writing by GCS.

**10.8** If any provision of these terms and conditions is held by any competent authority to

be invalid or unenforceable in whole or in part, the validity of the other provisions of these terms and conditions and the remainder of the provisions in questions shall not be

affected as a result.

**10.9** The Customer shall not assign or try to assign any or all of the rights and responsibilities under the Agreement but GCS may transfer its right and obligations hereunder to a new service provider in which circumstances the Customer shall enter into

a new agreement in the same terms as this with the new service provider.

**10.10** Where two or more persons constitute the Customer their liability is joint and several.

**10.11** Nothing within this Agreement is intended to create third party rights pursuant to

the Contracts (Rights of Third Parties) Act 1999.

**10.13** Any dispute as to the sum to which GCS is entitled pursuant to clause 9.3 shall be

referred to a single expert to be appointed by agreement between the parties or in default

by the application of either party to the President for the time being of the Institute of Chartered Accountants. The expert's fees will be shared equally by the parties.

**10.14** This Agreement is governed by English Law and English Courts shall have exclusive jurisdiction as regards any dispute.