



# The small print

(Full terms and conditions)

for

Line Rental (“LR”)

Call Service (“Call Service”)

Broadband Internet Access (“Broadband Service”)

TalkTalk Mobile (“Mobile Service”)

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## DISTANCE SELLING

### IMPORTANT!

If you ordered any Service (as defined below) from us either over the internet, by telephone, by mail order or by any other distance selling method you may cancel the Contract (as defined below) pursuant to the Consumer Protection (Distance Selling) Regulations 2000 ("Regulations") at any time up to 7 working days either after receiving these terms and conditions for any Service or up to but not including, the date our supply of that Service to you commences if sooner ("Trial Period") provided that you notify us in writing of such cancellation within the Trial Period. If we have supplied you with any goods without charge (for example a wired modem) or if you have purchased any goods from us (such as a wireless router) that you wish to return for a refund, you must first call our Returns Department on 0870 087 3526 to obtain a Returns Authorisation Number (RAN). You must then return the goods to us undamaged and in their original packaging, together with your RAN and proof of purchase, by sending them special delivery to Talk Talk Returns c/o A Novo UK Ltd, 71 Bilton Way, Enfield, EN3 7EP. We will issue you with a cheque refund within thirty (30) days of receiving any goods from you that you have purchased from us. This refund will only apply to the purchase price of the goods; we will not refund the cost of returning them to us unless they are faulty. For further details see clause 4 below.

You will be deemed to have received these terms and conditions 48 hours after they are posted to you.

Please note that if you do not return all the goods you have received, we shall be entitled to charge you for the costs we incur in collecting them from you. These terms and conditions do not affect your rights under law. If you require any advice or assistance we would suggest you contact your local branch of the Citizens' Advice Bureau, which should be able to help.

Finally, please note that if you have commenced using any Service after receiving these terms and conditions, you will be deemed to have accepted these terms and conditions and agree that you will also lose your statutory right of cancellation under the Regulations.

Regardless of the above, we will not charge you anything if you cancel your LR or Call Service within 10 working days from the date on which you agreed to take those services.

These terms and conditions are effective from 15 April 2008.

## **Your Legal Rights**

These Conditions do not affect your rights under law. These Conditions also include certain exclusions as to our liability to you. If you require any assistance we suggest you contact your local branch of the citizens' advice bureau, which should be able to help.

### **1. General Provisions Relating to the Services**

#### ***Eligibility***

- 1.1 The Services are for home use only and not for business.
- 1.2 To place any Order you must be at least eighteen (18) years old and you agree that the details that you provide to us on your Order shall be true, accurate and complete.
- 1.3 Our Service(s) may not be available to a small number of customers in certain circumstances. We will tell you if this applies to you.

#### ***Duration***

- 1.4 The Services, for which you enter a Contract, will start on the Commencement Date and will continue until terminated in accordance with clause 10 of these Conditions. Your Contract may also be subject to a Minimum Period, but we will tell you what this is before you sign up.

#### ***Equipment***

- 1.5 Other than a Modem, (which we may sell or provide to Customers of our Broadband Service under clause 4) and/or a SIM Card (which we may provide to Customers of our Mobile Service under clause 5), we do not provide you with any equipment (such as a telephone). We are not responsible for any problems you may have with such equipment.
- 1.6 You agree not to connect equipment to our network that may harm it or other customers' equipment. If you do, you must disconnect it immediately, or allow us to do so at your expense.

#### ***Your Bill***

- 1.7 We will send you a bill, which you must pay on time. We may send you separate bills if you take more than one Service from us. If you choose to manage your account online, you must provide us with a working email address so that we can send you our bill.
- 1.8 Please note that you cannot change your billing email address on line and to make this change you will have to phone Customer Services or write to us at TalkTalk Telecom Limited, PO Box 156, Birchwood, Warrington WA3 7WR.

#### ***Telecommunication Networks***

- 1.9 When we provide you with a Service, we will use the reasonable skill and care of a competent service provider, but we cannot guarantee that the Service will never be faulty. This is because the Networks, which allow you to access the Services may be provided by other third party companies over which we do not have control. For example, we shall have no liability if, from time to time, the Mobile Service is impaired by too many people trying to use the relevant Network or by geographical, topographical, atmospheric, or other conditions (including buildings, underpasses and other causes of interference).

### ***Your Telephone Number***

1.10 You accept that you do not own any telephone number we make available to you under your Contract. You agree not to transfer the number to anyone else or to try to do so. You accept that we may have to change your telephone number. We will try and do so only when it is reasonably necessary or if we are requested to do so by Ofcom or another similar regulator. We will tell you before we change your number. You may request us to 'port' your number from another communications provider and we will try to do this wherever it is reasonably practicable. However you accept that this may not always be possible. In these circumstances we may have to provide you with a new number. If you have any questions in this regard please call Customer Services.

### ***Ending a Particular Service or Changing a Tariff***

1.11 You accept that the price that we charge for a bundle of products may be lower compared to prices of the individual products in the bundle taken together. If you take a bundle of Services, but later choose to take one or more of the Services from another telephone provider, you accept that we may charge for the remaining Services at their stand-alone price.

1.12 Please note that, if you make calls over another operator's Network using an override code these calls may be charged at a higher rate than your normal TalkTalk rates.

### ***Transferring a Service***

1.13 We will try to give you the same set of services that you received from your previous telephone provider. However you accept that this may not be possible in some limited circumstances. Furthermore, since the services will not be automatically retained on transfer to TalkTalk, we can only provide you with Services, which you specifically selected when signing up to us.

1.14 If, immediately prior to receiving the Services from us, you were a customer of BT, some calls (such as subscriber or premium rate services) that appear on your TalkTalk bill may involve additional call charges. We will charge you for these at our rates as set out in our list of Charges (as amended from time to time).

1.15 You may have existing contracts for telecommunications services (i.e. line rental, or calls, or broadband, or mobile) with your old service providers, which have minimum service periods in them. You are responsible for checking any such contracts and for paying for any ongoing charges or charges on termination you may have to pay to your old service provider. These will be in addition to our charges.

1.16 If you move house and want to access the Services at your new address you may need to set up new accounts for that location by calling Customer Services. You will have to provide us with what we regard as suitable proof of your new address if you wish to receive the LR Service or the Broadband Service. We will follow good industry practice in deciding what proofs of address are required. If you do not provide this information we will not be able to terminate your existing account and you will be liable for any charges that remain due in respect of the remainder of the term for the particular Service (for example, the remainder of the Minimum Period for the Broadband Service).

### ***TalkTalk Privacy***

1.17 If you have given us your permission, we will register your telephone number for 'TalkTalk Privacy' using the Telephone Preference Service ("TPS") registry. The TPS is a central register of individuals who have indicated that they do not wish to receive unsolicited sales and marketing calls. Registering your telephone number on the TPS will stop telemarketing calls from all other companies in the UK, including those who regard you as a customer unless you have previously told them you have no objection to them calling you.

### ***Codes of Practice***

1.18 We seek to provide our Services in accordance with our consumer code of practice. The code is available on [www.talktalk.co.uk](http://www.talktalk.co.uk) or by calling our customer services.

### ***Connection Fee***

1.19 When you connect to our Network you will usually be charged a connection fee ("**Connection Fee**"). This Connection Fee is levied in addition to any other Charges, which may be due under any other term of these Conditions and it arises primarily from charges which BT levy on us. Accordingly, we reserve the right to pass on some or all of these charges to you and if appropriate to charge you for any additional related expenses we may incur in relation to your connection. The Connection Fee will usually be charged at the point of connection to the relevant Service, but if you take more than one Service from us it will be levied only once. The Connection Fee is currently £29.99 but we reserve the right to increase, decrease or even waive this amount from time to time. We will notify you in advance if it is to be increased and you may be able to terminate your Contract in accordance with clause 15.1.

### ***General LLU Provisions***

#### ***How we provide the Services to you***

#### ***Local Loop Unbundling***

1.20 Developments in Network technology (known as Local Loop Unbundling or "**LLU**") may enable us to provide fixed line Services to you through our own Network rather than a third party Network. We will let you know when these developments occur. If you have previously agreed to take our LR service we may transfer you to our LLU network but we will still offer the same Services to you as those which you received from us before the transfer

- 1.21 On the day that we transfer you to our LLU network, you may experience a temporary loss of Service of up to 24 hours. Afterwards, you may also have to re-set your access numbers and/or passwords.
- 1.22 Unless you have agreed previously to take our Broadband Service, we will seek your express consent before transferring you to our LLU network if you take a broadband service from another provider on the same telephone line at the time of transfer.
- 1.23 When you have been transferred to our LLU network, you need to be aware that:
- 1.23.1 you may no longer be able to use some telecommunications services you purchase from other telephone providers, such as indirect access services (whether using the BT 1280 or other indirect access codes);
  - 1.23.2 you will no longer be able to use Broadband or Line Rental Services from other providers. We will not be liable for any charges which may arise as a result of the termination of your contract with your existing providers for those services;
  - 1.23.3 if you want to switch one or more of your services to another telephone provider, we may have to provide your remaining Service(s) through another Network. You accept that you may have to pay additional charges for receiving Services from us in that case.

### **TalkTalk Plus Customers**

- 1.24 If you are a TalkTalk Plus Customer, in the event that future changes to the way in which we purchase telecommunications services from BT and other Network Operators permit us to take over responsibility for your telephone connection (i.e. your line rental) including the billing of your line rental charge (i.e. the LR Service), we will do so subject to the following procedure:
- 1.24.1 we will provide you with at least one month's written notice before the proposed takeover date. This notice will give you the opportunity to object to such a takeover within 14 days of receipt of our notice;
  - 1.24.2 on expiry of the notice in clause 1.24.1 above, we will send you a statutory transfer letter which will give you another opportunity to object by contacting us within 10 days of receipt of that letter; and
  - 1.24.3 on expiry of the period referred to in clause 1.24.2 above, the responsibility for your telephone connection will be transferred to TalkTalk and you will receive a letter from us confirming that this has happened. Such a takeover will involve terminating your existing agreement with your current Network Operator.
- 1.25 In the event that a takeover as set out in either clause 1.20 or clause 1.24 above occurs, you will also become subject to the provisions governing the LR Service as set out below in clause 2 of these Conditions.

## **2 Specific Provisions Relating to the LR Service**

### **General**

- 2.1 If you take our LR Service you must also take our Call Service. Your contract for our LR and Call Service will not include: telephone or other equipment (other than line rental); internet access; or calls via our Mobile Service.
- 2.2 If we do not provide your LR Service over our LLU network you may use another provider for broadband services but you will need to continue paying them in order to receive that particular service.

### **Specific Provisions for LR and LLU**

- 2.3 If you are a Customer of the LR Service only you are not eligible to:
- 2.3.1 participate in the 'calling circle' promotion;
  - 2.3.2 receive "Inclusive Calls" (referred to in clause 3.4 below);
  - 2.3.3 participate in the "£1,000 Challenge" (referred to in clause 3.9 below); or
  - 2.3.4 take advantage of any other offers made available by us from time to time.
- 2.4 At an additional cost, we can also provide you with the following optional LR select services:
- 2.4.1 voicemail;
  - 2.4.2 voicemail plus;
  - 2.4.3 call waiting;
  - 2.4.4 ring back;
  - 2.4.5 call divert;
  - 2.4.6 withhold number on all calls;
  - 2.4.7 anonymous caller reject;
  - 2.4.8 last caller barring; and
  - 2.4.9 caller display.
- 2.5 Please note you can only change your select service options once in any given month. We will make any requested change to your service with effect from the following month.

### **Moving House**

- 2.6 If you are moving home, we will do our best to arrange the transfer of your line whilst retaining your existing telephone number. However, you accept that we may not always be able to do so and we are not liable to you if we cannot.
- 2.7 You accept that the installation of a new line in your new home will usually attract new line connection charges and a new twelve (12) month minimum term contract.
- 2.8 If you have been allocated or have chosen to obtain a new number, you accept that we may bill you for your calls at a higher rate than normal until our Call Service has been activated on your line.

### **Faults and Repairs**

- 2.9 If there is a fault with your Service, you should contact Customer Services. We will try and repair a service failure by midnight on the first weekday (not including public and bank holidays) after the day you report the fault to us.
- 2.10 You may also be able to claim compensation if we fail to repair your Service or if we fail to respond to a fault when we said we would. Please contact Customer Services or visit our Website for further information on reporting a fault and details of our compensation policy. If your compensation claim is successful, the amount you receive will be credited to a later invoice. The maximum compensation claimable is £500.00 per line per annum.
- 2.11 Please note, you cannot claim compensation if:
  - 2.11.1 you don't qualify under the terms of our compensation policy;
  - 2.11.2 you have not made your claim within one (1) month from when we put things right;
  - 2.11.3 someone other than TalkTalk has caused the fault;
  - 2.11.4 the fault was caused by something outside TalkTalk's control, e.g. network or atmospheric conditions;
  - 2.11.5 we ask to come onto your property and you do not allow us to;
  - 2.11.6 we reasonably ask you for other help and you do not give it; or
  - 2.11.7 your Service(s) haven't been fully installed and activated at your address (whether you're a new customer or are moving house and taking your service with you).
- 2.12 If you have agreed to a visit from our engineer but the engineer is not able to come onto your property, we will charge you an abortive visit charge.
- 2.13 We can also charge you for any such engineer visit if we reasonably believe that you have caused the fault by damaging the phone line or phone plug in your wall.

### **Transferring Services**

- 2.14 If you are a Call Service Customer and / or an LR Service Customer and elect to use another provider for some or all of your calls we may, at our sole discretion, decide to: (i) bar your use of IDA codes; (ii) charge you a higher fee for your use of the Call Service and / or LR Service; or (iii) disconnect your Call Service and / or LR Service (or Broadband Service if applicable).
- 2.15 If we provide the Services to you over our LLU Network, we may also charge you a higher fee for your Broadband Service.

## **3 Specific Provisions Relating to the Call Service**

### **General**

- 3.1 Your contract for the Call Service does not include line rental, mobile phone service or broadband. You will need to continue paying your existing providers for those services.
- 3.2 If your telephone line is faulty and you do not take our LR Service, you will need to contact your Line Rental Provider (usually BT) to repair and maintain the line and/or connection in accordance with the terms and conditions of your agreement with them. We are not responsible for any charges you may incur as a result.
- 3.3 Calls to the Channel Islands and the Isle of Man are not automatically included in your Tariff Plan or in any promotion offered by TalkTalk. In addition if your account was setup before 15/05/07 your Call Service will not include the ability to make calls to the following countries: Nigeria, Columbia, Russian Federation, Bangladesh, India, Pakistan, Sao Taome, or Kuwait. We may permit you to call these countries but we may also withdraw such access at any time. If your account is activated after 15/05/07, you will be able to make calls to those countries without our prior permission, subject to the other provisions in these Conditions, including clause 6.4.

### **Inclusive Calls**

- 3.4 If your Tariff Plan includes Inclusive Calls, you will not be charged for the first 180 minutes of each call. Thereafter, the standard Charges relevant to your Tariff Plan will apply for all minutes in excess of 180 minutes. Inclusive Calls are available on the following conditions:

- 3.4.1 the calls must be made for normal residential use and not for business purposes. You must also use TalkTalk as your only call provider;
  - 3.4.2 you must call a number belonging to an active TalkTalk customer;
  - 3.4.3 you must call a number starting with 01, 02 or 03; and
  - 3.4.4 you cannot use a call divert facility.
- 3.5 You accept that we can withdraw your ability to make Inclusive Calls at any time at our sole discretion. We will try and give you 30 days notice if we believe that our Inclusive Calls offer is damaging our business. However we do not have to give you any notice if we believe you are in breach of these Conditions or that your use may cause degradation of service levels to other TalkTalk customers.
- 3.6 If you are the 'Talk240' Tariff Plan, any local calls to other TalkTalk Customers will first be deducted from your Inclusive Call allowance under that Tariff Plan.
- 3.7 IDA service customers (whether under the 'Talk Now' brand or otherwise) are excluded from participating in Inclusive Calls.
- 3.8 If your Call Service Tariff Plan allows you to call to customers on other Networks for a fixed fee, these calls will be subject to certain limitations. If any such call (whether national or international) lasts for longer than seventy (70) minutes you will be charged for any minutes, which are in excess of this time. If you wish to avoid these charges you can replace the handset and re-dial before the seventy (70) minute threshold is reached.

#### **TalkTalk £1,000 Challenge**

- 3.9 The full terms and conditions of the TalkTalk £1,000 Challenge are available in any Carphone Warehouse store or on our Website. The TalkTalk £1,000 Challenge excludes:
- 3.9.1 calls carried over other Networks (other than calls via WCLI);
  - 3.9.2 renumber charge;
  - 3.9.3 nuisance call service;
  - 3.9.4 caller display;
  - 3.9.5 new line installations;
  - 3.9.6 any calls made using International Access;
  - 3.9.7 any calls routed through the BT Network (other than calls via WCLI);
  - 3.9.8 any operator connect call;
  - 3.9.9 any reverse charge call; and
  - 3.9.10 any Customer who receives their Services from any third party operating under licence from TalkTalk.
- 3.10 Only calls made over the TalkTalk CPS or LLU Networks or via WCLI can be Inclusive Calls within the definition of Inclusive Calls set out in clause 3.4 and therefore, except for calls made via WCLI, calls routed through the BT Network, an operator connect call or a reverse call, will not fall into the Inclusive Calls category and will not be eligible for the 'calling circle' discount. Although these calls will appear on your TalkTalk invoice, if you make any such calls, they will be charged at the appropriate rate as varied from time to time and for CPS calls this may be at a higher rate (which may be the applicable BT rate at the time of the call) as may be specified in the TalkTalk price list which appears on our Website.

#### **Moving House**

- 3.11 If you move house, your Call Service should continue uninterrupted. However, you accept that there may be interruptions to your service in some circumstances. For instance this may be the case if your telephone number changes or if you move out of an area covered by our LLU Network.
- 3.12 We do not charge you for reconnecting your TalkTalk Call Service in your new home. However you accept that you may have to pay higher call charges if you make calls before our Call Service has been activated at your new address. This may be the case if you have to get a new telephone number at your new address.

#### **International Access**

- 3.13 You may be able to make international calls using our International Access service. This allows you to make cheaper international calls by first dialling an Access Code. Your phone line may be barred for international destinations in which case you must first call our Customer Services before you can make any international calls.
- 3.14 You accept that you may not always get through to all international destinations and that we may also require you to pay a deposit or impose a Credit Limit before we allow you to use International Access. Even if we have imposed a Credit Limit, you will be responsible for any call charges you incur in excess of that limit because of delays in our billing system.
- 3.15 You accept that you will need to pay higher charges for international calls that you make without using the Access Code.
- 3.16 Unless we tell you, our other promotional offers do not apply to International Access.

#### **Mobile Extra**

- 3.17 You accept that if you request Mobile Extra it is subject to the following special conditions:
- 3.17.1 you must pay the Mobile Extra monthly charge;
  - 3.17.2 calls to which Mobile Extra applies are not eligible for any other TalkTalk discounts or promotions;

- 3.17.3 we will charge you pro-rata for the remaining month if you choose Mobile Extra during a month (the Billing Period);
  - 3.17.4 minimum call Charges apply to all calls and any such minimum call Charges are not subject to the Mobile Extra discount. For full details of current call Charges (including minimum call charges) please contact Customer Services or visit our Website;
  - 3.17.5 please allow up to forty eight (48) hours after opt-in before your Mobile Extra is active;
  - 3.17.6 if we bar your number for whatever reason then you will lose the benefits of Mobile Extra. You accept that we will not refund you if Mobile Extra is not used.
- 3.18 If you no longer want Mobile Extra, you must tell us at least forty eight (48) hours before your next Billing Period commences. This is normally at the beginning of each month. To notify us, please call Customer Services or email us at: [customerservices@talktalk.co.uk](mailto:customerservices@talktalk.co.uk). If you do not do this in time, then your TalkTalk bill for that Billing Period will have the monthly charge added to it and no refund will be given. Mobile Extra will continue to be applied and your monthly Charge deducted each month until you opt out of the Mobile Extra service.

#### **4 Specific Provisions Relating to the Broadband Service**

- 4.1 The Broadband Service is available as a separate Service and does not include fixed line or mobile calls or line rental. If you use another provider for these services, you must continue paying the other provider.

##### ***Eligibility***

- 4.2 In order to provide you with the Broadband Service, we need to test your telephone line to ensure that broadband is available in your area. You are responsible for paying for any work that needs to be carried out on your telephone line in order to receive broadband.
- 4.3 When we activate your Broadband Service you accept that there may be a temporary loss of your line.

##### ***Hardware***

- 4.4 To be able to receive and use the Broadband Service you will need an existing telephone line and a personal computer ("PC") of minimum specification. Please speak to Customer Services for further details of the minimum PC specification that is required. You will also need compatible cables and extension leads between your PC, Modem and telephone socket. You accept you may need to modify your PC slightly to make it operate with the Broadband Service. It is your responsibility to ensure that such modifications do not invalidate the terms of any warranty that you may have concerning your PC. We will not be liable if any such warranty has been invalidated as a result of work carried out by you, us or our agents (including BT) to make your PC operate with the Broadband Service, except in the event of our negligence.

##### ***Modem***

- 4.5 If when your order our Broadband Service you purchase a Modem (for example a wireless router) from us or we otherwise agree to supply one to you without charge (for example a wired modem) with our Broadband Service, we will try and make sure that the Modem is delivered to your home before the Broadband Service is activated. However we cannot guarantee that you will receive the Modem in time. Please note, for environmental reasons, any Modem that we agree to supply without charge may be a Modem in 'as new' condition. This will be a Modem that has been refurbished and/or repackaged, but it will look and operate in exactly the same way as a new Modem.
- 4.6 You must inspect the Modem as soon as you receive it and tell us of any damaged or missing items within seven (7) days by calling Customer Services. We will then send you a new Modem, but if we do this you must also return the faulty one to us in accordance with clause 4.7 below. We will also repair or replace the Modem if it becomes faulty during the first eighteen (18) months after we supply it to you, but we will not replace any faulty Modem if you are responsible for the fault (including without limitation as a result of your failure to follow the manufacturer's instructions or your mis-use or alteration of the Modem without our approval). In that case you must pay for a new Modem in order to receive the Broadband Service.
- 4.7 If we send a replacement Modem, you must return to us the faulty Modem (including all cables and software that came with it) within thirty (30) days of receipt of the replacement Modem. You accept that we will charge you for the replacement Modem if you do not return the faulty Modem (including all cables and software that came with it). We will accept proof of postage as proof that you have sent us the faulty Modem. You must keep the original box and packaging for the Modem in good condition and ensure that the Modem is stored in accordance with the manufacturer's recommendations. We will refund the reasonable cost of returning the faulty Modem to us by post. At your request we will send you a pre-paid returns envelope to return a faulty Modem to us.
- 4.8 If you wish to use a modem or any other equipment that we have not supplied, we will try and help you as far as we can. However we cannot guarantee that the Broadband Service will work with that modem or equipment.
- 4.9 If prior to the Commencement Date you cancel your Order for our Broadband Service in accordance with the Consumer Protection (Distance Selling) Regulations 2000 and we have supplied you with a Modem without charge, or if at any time your purchase a Modem from us over the phone or from our website and in accordance with the same regulations you cancel your contract for the purchase of that Modem by giving us notice within the period of seven working days starting from the day after you receive the Modem from us, you must: (i) first obtain a Return Authorisation Number from TalkTalk by calling our Returns Department on 0870 087 3526; and (ii) return the Modem to us undamaged and in its original packaging, together with your RAN and proof of purchase, by sending it special delivery to TalkTalk Returns c/o A Novo UK Ltd, 71 Bilton Way, Enfield, EN3 7EP. If you have purchased the Modem from us, we will issue you with a cheque refund within thirty

(30) days of receiving the returned Modem from you. This refund will only apply to the purchase price of the Modem; we will not refund the cost of returning it to us unless it is faulty.

4.10 If you return the Modem to us in accordance with clauses 4.7 or 4.9 and have either failed to take reasonable care of the Modem while it remained in your possession or you fail to return all the relevant cables and appropriate ancillary equipment or software supplied to you with the Modem, we shall be entitled to debit your account (using the details that you provided to us with your Order) for the full replacement cost of such Modem. To take reasonable care of the Modem you shall retain and keep the original box and packaging for the Modem in good condition and shall ensure that the Modem is stored in accordance with the manufacturer's recommendations.

#### **Software**

4.11 In order to connect to the Broadband Service, we may require you to install certain software on your PC. If you do not to install this software, we may not be able to resolve any installation and/or connection problems you may experience. In addition, we are not responsible to you for any matter that may arise as a result of your failure to do so. By installing this software you also allow us access to your PC so that we can diagnose and fix any problems. You accept that we will be able to access your PC in this way.

4.12 Before you install the software supplied with the Modem and before you connect the Modem to your PC, you should back up or save any data on your PC. We are not responsible to you if you lose any data.

#### **Transmission Speeds**

4.13 We will try to give you the 'download' Transmission Speed that you have signed up for. This may be 8 mbps but we cannot guarantee that you will always be able to get this Transmission Speed. If we cannot provide you with the Transmission Speed you have signed up for, we will give you the next available lower Transmission Speed. The Transmission Speed may also change if you move house because they are dependent on your proximity to your local telephone exchange. You accept that 'upload' speeds will always be slower than 'download' speeds. We will provide you with further details of these upon request.

#### **Customer Services**

4.14 If you have any queries regarding your Broadband Service or want to report a fault, you need to contact our Customer Services. In addition, we will operate a Technical Support Helpline to provide information and advice to you on any technical issues relating to your use of the Broadband Services. Calls to Customer Services and the Technical Support Helpline will be charged at the prevailing rates set out on our Website.

#### **Allocation and use of e-mail addresses**

4.15 We will give you a username and password in order to access the Broadband Service. You will be responsible for keeping this username and password confidential and agree to take all necessary steps to ensure their confidentiality and that they are not disclosed to any unauthorised third parties. You will inform us if you become aware of or suspect any unauthorised use of your username and password and agree to take all necessary steps (or such steps as may be requested by us) to prevent such use.

4.16 You accept that you do not own any e-mail addresses that we have given to you. You also accept there may be good reasons why sometimes we may need to change the e-mail addresses.

4.17 To prevent 'spam' from affecting the operation of our systems and the Broadband Service, we may need to block access to or delivery of any e-mail which appears to be of an unsolicited nature and/or part of a bulk e-mail transmission. We may also use virus screening technology that may result in the deletion or alteration of e-mail and or e-mail attachments. We expect this software to be fully effective but we cannot guarantee that it will always protect you from unsolicited emails or any virus, worm, Trojan horse or similar. We therefore recommend that you install your own anti virus software.

4.18 You accept that we may sometimes need to limit the size of your mailbox. We will only do so when it is reasonably necessary.

#### **Alarm Systems**

4.19 It is your responsibility to make sure that the Broadband Service does not affect any alarm system in your home.

#### **Transferring or Terminating your Broadband Service**

4.20 You may need to obtain a Migration Authorisation Code ("**MAC**") from your current broadband provider in order to move to our Broadband Service. This MAC will be valid only for a limited period and can only be used once. You accept that we may charge you if you are moving your broadband from another provider to us. For further details about MAC's or of these charges please call Customer Services or visit our Website.

4.21 If you terminate your Broadband Service prior to the end of the Minimum Period you must pay us the amount set out in clause 10.8 below. The same applies if your telephone line is disconnected for any other reason such that we can no longer provide you with our Broadband Service.

### **5 Specific Provisions Relating to the Mobile Service**

#### **Ordering and Delivery of your SIM Card**

5.1 The TalkTalk Mobile Service is no longer available to new customers as at 1 April 2007. For existing customers of the Mobile Service, the remaining provisions of this clause 5 still apply.

- 5.2 You shall be responsible for ensuring that the SIM Card you have purchased under this Contract for the Mobile Service is:
- 5.2.1 of the correct specification for your intended use and location from which you intend to make or receive calls; and
  - 5.2.2 registered to the TalkTalk landline number (that has been issued by us and used under the Contract for our Call Service) which entitled you to enter a Contract for the TalkTalk Mobile Service. Although this process should occur automatically you are advised to contact Customer Services for further details about how to ensure that these landline and mobile numbers are properly registered together.
- 5.3 From time to time we may have to change the specification of the SIM Card in order to make it:
- 5.3.1 conform with any applicable safety or other statutory requirements; or
  - 5.3.2 reflect changes in the manufacturer's specification.
- 5.4 You accept that from time to time we may also have to make other necessary changes in the specification of the SIM Card, but these will not materially reduce the quality or performance of the SIM Card.

#### **Warranties, Repairs and Replacement**

- 5.5 Unless your SIM Card is faulty, once you have received your SIM Card all risk of damage in it (or loss of it) shall pass to you. The SIM Card, where new, is sold with the benefit of and subject to the terms applicable to such warranty or guarantee as is given by the manufacturer of the SIM Card.
- 5.6 If you think the SIM Card is faulty, you should take the SIM Card to any Carphone Warehouse store or send it to us at: Direct Returns, CPW Logistics Centre, Units 4 & 5, Bilston Road, Wednesbury, West Midlands WS10 7JN by special delivery with your proof of purchase where it will be checked on another phone. If the SIM Card does not work on another phone the following provisions of this clause will apply. If a valid claim is made within twenty-eight (28) days of purchase of the SIM Card, we will replace or refund the SIM Card free of charge. After the expiry of this twenty-eight (28) day period, no replacement or refund will be given. We do not provide refunds for any Top-Up. In addition, other than where your SIM Card is faulty in the circumstances set out above, we shall be entitled to charge you if your SIM Card is replaced for any reason whatsoever.
- 5.7 We shall (at our or the manufacturer's option) have the right to fulfill our obligations under clause 5.6 by refunding you the price you paid (or a proportionate part thereof, depending upon age and condition). That will be the extent of our liability to you in respect of the SIM Card or your use of the Mobile Service.
- 5.8 Other than as set out above, we shall be under no other obligation to exchange, repair or replace the SIM Card or provide any refunds. You should note (and hereby acknowledge), that any data (including any ringtone, logo, phonebook contents, MMS, SMS, games and photographs) may be lost during a repair and will be lost if the SIM Card is exchanged. We are not liable for this and it is therefore your responsibility to back up any such data stored on your SIM Card.
- 5.9 We are not liable for any defect in the Mobile Phone, which you use to access the Mobile Service, or for any defect in: your SIM Card resulting from, as applicable:
- 5.9.1 fair wear and tear;
  - 5.9.2 rain, water or other liquid damage;
  - 5.9.3 accidental or wilful damage;
  - 5.9.4 negligence;
  - 5.9.5 abnormal working conditions;
  - 5.9.6 failure to follow the manufacturer's instructions (whether oral or in writing); or
  - 5.9.7 misuse or alteration or repair of the SIM Card (or Mobile Phone using a SIM Card) without the manufacturer's approval.

#### **Provision of the Mobile Service**

- 5.10 The Mobile Service will include providing you with access to, certain services including: emergency services using 999 or 112; operator assistance services and directory enquiries. We reserve the right to charge you for some of these services (other than calls to emergency services) and your Tariff Plan may change accordingly. If you instruct us to change the Mobile Service you require, we will try to implement your instructions as soon as possible but there may be delays in doing so for which we will not be liable unless such delay is due directly to our fault or negligence.
- 5.11 The Mobile Service, may not be available in all parts of the United Kingdom and is not automatically available abroad. In addition, it will not include the following services which are available at extra Charge:
- 5.11.1 access to or use of international Roaming (as defined below);
  - 5.11.2 the ability to make calls to the following countries: Ascension Is, Christmas Is, Comoros, Cook Is, Cuba, Diego Garcia, Guinea-Bissau, Kiribati, Marshall Is, Micronesia, Nauru, New Caledonia, Norfolk Is, Northern Mariana Is, Palau, Sao Tome / Principe, Solomon Is, Somalia, St. Helena, Tonga, Tuvalu, Vanuatu and Wallis & Futuna Is. This list may change;
  - 5.11.3 the ability to make calls to any satellite phone Networks including: all Inmarsat (+871, +872, +873, +874), Iridium (+8816, +8817), Thuraya (+88216), Globalstar (+8818, +8819), ICO Global (+8810, +8811), Ellipso (+8812, +8813) and Emsat (+88213); and
  - 5.11.4 access or use of GPRS, MMS or the ability to make or receive premium rate calls.

### ***Voicemail***

- 5.12 In the interest of other users, the number and duration of messages that can be left on your voicemail service will be limited. Please note that your confidentiality of messages cannot be guaranteed. You must not record an abusive greeting message. You may not be able to use the voicemail service while abroad.

### ***Roaming***

- 5.13 Subject to the provisions of clause 5.14, if you are connected to the GSM Network then we will use reasonable efforts to enable you to obtain access to the GSM Networks in other countries. We call this "**Roaming**" (and "Roam" shall be construed accordingly). You should bear in mind that overseas Networks may also be limited in quality and coverage. Access to overseas Networks will depend upon the arrangements between the foreign Network Operators and us.
- 5.14 The ability to use our international Roaming service or to make international calls is subject to status. If you use the Mobile Service abroad, you will be charged for the calls, MMS and SMS messages that you receive as well as for those that you make. Charges incurred using your Roaming service may take longer to be billed than normal Charges. When the Mobile Service is connected, it may have been programmed so that you may be barred from using overseas Networks and from making international calls, MMS or SMS messages or premium rate calls. If you want to have the Mobile Service unbarred, then you should call Customer Services. We may agree to remove this bar after making credit checks and we may, pursuant to clause 9, ask you to pay a non-interest bearing deposit as security against any monies you may owe in the future. Any such deposit will be reasonable and will be assessed in the light of your previous TalkTalk bills and credit history.
- 5.15 Subject to you not exceeding the usage or Credit Limits, if any, we will use reasonable endeavours to provide the Mobile Service by the date we have agreed with you, but we do not guarantee to do so. If you place an Order for an additional service (i.e. Roaming) or otherwise instruct us to change the Mobile Service (i.e. to bar calls) we will use reasonable endeavours to complete your Order as soon as possible, but there may be a short delay in doing so. We will not be liable to you for any costs, expenses or claims arising directly or indirectly out of such delay unless it is due directly to our fault or negligence.
- 5.16 We may at any time require you to pay a non-interest bearing deposit in respect of the provision of the Mobile Service, against which any Charges incurred by you may be offset. Any such deposit will not guarantee your right to receive additional services (i.e. Roaming) and a further deposit may be required before you can access any such additional service. Any deposit we require will be reasonable and will be assessed in the light of your previous TalkTalk bills and credit history.

### ***Inclusive Calls***

- 5.17 In addition to the provisions of clause 3.4 in regard to Inclusive Calls, the following provisions shall apply to any Inclusive Calls that may form part of the Mobile Service. You will only be able to make Inclusive Calls if the payments due from you have been successfully received from your TalkTalk Call Service account. We reserve the right to withdraw Inclusive Calls from any Customer but we will always act reasonably towards you when exercising our discretion in this area.

### ***Things we may have to do***

- 5.18 For operational reasons, we may have to:
- 5.18.1 alter the number of any SIM Card or any other code or number or technical specification associated with the Mobile Service;
  - 5.18.2 give you instructions which we believe are necessary for reasons of health, safety or the quality of the Mobile Service to you or any other Customer;
  - 5.18.3 suspend the Mobile Service because of an emergency or for your security;
  - 5.18.4 record telephone calls you make to us to facilitate improvements to our Mobile Service and to provide evidence of telephone Orders and instructions you may give to us; and
  - 5.18.5 monitor the contents of any SMS or MMS you send from time to time.
  - 5.18.6 If we believe that we may be unable to continue to provide the Mobile Service on a particular Network for any reason then, if we tell you, we may transfer the number to another Network. On transfer we will continue to make available to you the Mobile Service, or a similar service, and you will not be required to pay an increased amount for the Mobile Service.

### ***Barring or Disconnecting Your SIM Card***

- 5.19 We reserve the right at our discretion to bar your SIM Card from making or receiving calls, MMS and/or SMS and using GPRS, but we will always act reasonably towards you when exercising our discretion. In addition we reserve the right to disconnect any SIM Card from the Network if you are in breach of these conditions.
- 5.20 You must pay a reconnection charge of £10.00 and any outstanding Charges if your SIM Card is disconnected from the Network. If your SIM is barred it will not be unbarred until your account is at least £10.00 in credit.

### ***Your Responsibilities in Using the Mobile Service***

- 5.21 You agree to use the SIM Card and the Mobile Service in the way described in any user guide or other instructions issued by us. You acknowledge that the SIM Card remains the property of the relevant Network Operator and that you cannot sell your SIM Card or any associated number or agree to transfer them to anyone else without our consent.

5.22 You must only use a Mobile Phone, which is lawfully approved for connection to make and receive mobile calls (whether data or voice). You must not use the Services for any improper or unlawful purpose. You must comply with any instructions we give you about the Services. You agree:

5.22.1 that all factual information you provide to us is correct;

5.22.2 to take adequate precautions to prevent damage to or loss or theft of your SIM Card; and

5.22.3 to inform Customer Services as soon as possible on 08700 870 100 if the SIM Card is lost, stolen, damaged, destroyed or likely to be used in an unauthorised manner and to co-operate with us in our reasonable security and other checks.

5.23 You must tell us immediately if anyone makes or threatens to make any claim or issues legal proceedings against you relating to your use of the Service or the Content and you will, at our request, immediately stop the act or acts complained of. If we ask you to, you must confirm the details of the claim(s) in writing.

5.24 For your own protection, you must keep confidential, the electronic serial number of your SIM Card, any lock code(s) associated with your SIM Card, your voice mail access number, and any other personal identification password or security number. When choosing a password, you must not use words that are obscene or likely to cause offence. In addition when you use your SIM Card, the identity of your Mobile Phone number may be sent through the Networks so as to be identified to the phone being called. The identity of your Mobile Phone number will always be sent if calling 999 or 112.

### **Internet Access**

5.25 If you have a SIM Card, which enables access to the internet the following terms in addition to the relevant provisions of clause 4, will also apply to you:

5.25.1 we, or our contractual partners, may provide links to other web sites or resources. We do not endorse, nor do we make any warranty as to the accuracy, completeness, reliability or continuous supply of the Content contained on any third party sites or resources accessed via the Service;

5.25.2 we will not be responsible for any loss or damage you may suffer from any dealings with third parties. Any dealings with products or services provided by third parties which are located by using the Service or via our website are solely between you and that third party, unless we specifically state otherwise;

5.25.3 all the visual, textual or other information published or otherwise made available (directly or indirectly) on the internet using the Mobile Service ("**Information**") whether publicly posted or privately transmitted, is the sole responsibility of the person from which such Information originated. This means that you, and not us, are entirely responsible for all Information that you upload, e-mail or otherwise transmit via internet access;

5.25.4 we may vary the technical specification of the Mobile Service from time to time for example if this is necessary to provide you with the benefit of being able to access new services such as GPRS;

5.25.5 we will not be responsible for any harm you suffer from a virus which infiltrates your Mobile Phone whether it was transmitted via the Mobile Service or otherwise unless such harm was due directly to our fault or negligence. You remain responsible for all Charges applied to your account for the use of any services activated by such virus;

5.25.6 you may only use the Content in a way that does not infringe the rights of others ("**Approved Use**") and you must comply with all other instructions issued by us regarding use of Content. You shall not store, modify, transmit, distribute, broadcast, or publish any part of Content other than for an Approved Use. The re-selling, copying or incorporation into any other work of part or all of the Content in any form is prohibited save that you may print or download extracts of the Content for your personal use only; and

5.25.7 your ability to access a secure internet environment will be dependant on the make and model of your Mobile Phone and the third party supplier of Content.

5.26 If you use the Mobile Service to link into websites, resources and/or Networks worldwide we accept no responsibility or liability for the Content, services or otherwise in respect of these and you agree to conform to the acceptable use policies of such websites, resources and/or Networks.

### **Charges**

5.27 It is important that you pay your Charges on time, if you do not we can suspend or terminate your Mobile Service. If you reverse the charges on any call or accept a reversed charge call, you will be liable to pay for these Charges.

5.28 In addition to the provisions of clause 9, the following provisions will apply to the Mobile Service. For each SIM Card we have supplied you with which has not been cancelled, we will collect a minimum of £10.00 per month by direct debit. This amount will be deducted from the bank account which you have authorised us to deduct all other payments under the Contract for the Call Service which is connected to your Contract for the Mobile Service. This £10.00 charge for each SIM Card will appear as an item on your bill for the TalkTalk Call Service. This charge will be offset against the calls you make to, or if appropriate receive from, other landline or mobile numbers. For the avoidance of doubt the £10.00 credit will not be offset against any Inclusive Calls you may make pursuant to clause 5.17. Any Customer who wishes to make further use of the Service, in addition to the usage they have acquired by paying the initial monthly fee of £10.00 referred to above, may acquire further airtime by the normal Pre Pay methods (which may include, without limitation, Top-Ups, a swipe of a Customer's Credit or Debit Card at an appropriate terminal or calling the appropriate telephone number to enable further credit to be added to the Customer's TalkTalk mobile account). Please call Customer Services for further details. In the

event that you do not use up any, or all, of the £10.00 credit in the month in which it was first charged, we will roll it over and add it to the £10.00 credit which we charge in respect of the next month. If any such credit is not used up within 60 days of the date on which it was first charged it will no longer be available for you to use. No refunds, whether of any unused credits or otherwise, will be given.

- 5.29 All the Charges are payable to us by Top-Up, Credit or Debit Card (including Electron and certain cards issued overseas) or through such other means as we may agree in writing from time to time.
- 5.30 If we advise you of the amount in credit or the amount due on your account this is an estimate only and is based on the information we have received from the Network Operators.
- 5.31 If the SIM Card is lost, stolen, damaged, destroyed or used in an unauthorised manner we may charge you the amount specified in the Tariff for reconnection. You will be responsible for any Charges incurred as a result of unauthorised use of the SIM Card, or the information contained within the SIM Card, until we have suspended the Service unless there is a delay in suspending the Service, which is due directly to our fault or negligence. Please contact us immediately so that we can prevent further Charges being incurred. You will be required to pay for all call Charges up to the time you notify us and you will be liable for the Charges thereafter until this Contract has ended.

### **Directory enquiries**

- 5.32 If you tell us, we will include your details in a national directory and/or directory enquiry service. Please call or write to us (please see our website for contact details) if you would like us to do so. There may be a reasonable charge for this service.

## **6 Your Use of the Services**

- 6.1 You agree not to use the Services:
- 6.1.1 for business purposes or to sell on or supply the Services to anyone on a commercial basis;
  - 6.1.2 for making calls, sending data, publishing, knowingly receiving, uploading or downloading any data or material which are or may be reasonably deemed to be a nuisance, a hoax, abusive, obscene, racist, defamatory, menacing, indecent (including to the Customer Services operators who deal with enquiries concerning the Service), in breach of confidence, in breach of any intellectual property right (including copyright) or which is otherwise objectionable or unlawful, or you allow others to do these things or is of a nature which if transmitted would constitute a criminal offence;
  - 6.1.3 to do anything (or allow anything to be done) which we think (acting reasonably) may damage or affect the operation of any Network;
  - 6.1.4 to cause annoyance, inconvenience or needless anxiety to any other person, company or organisation;
  - 6.1.5 to send or procure the sending of any unsolicited advertising or promotional material;
  - 6.1.6 for any purpose which we may reasonably notify you of, from time to time, due to the introduction of new legislation or applicable regulations;
  - 6.1.7 as a means of communication, the purpose of which is other than that for which the Service is provided (including without limitation abusive or malicious calls), or which is carried out in an unauthorised way or for fraud or criminal activities;
  - 6.1.8 for purposes of intrusion, or attempts to intrude, into the equipment and systems of any third party, or the mounting of any harassment campaign including Denial of Service Attacks;
  - 6.1.9 in any way which does not comply with instructions given to you by us, our agents or our authorized contractors;
  - 6.1.10 other than in accordance with the acceptable use policies of the Network and (if appropriate) any relevant internet standards; or
  - 6.1.11 via a GSM Gateway.
- 6.2 You must comply with any instructions we give you about the Service and you acknowledge that we and our agents (including if applicable your Line Rental Provider) may give you instructions from time to time which we (or they) believe are necessary for health, safety or the quality of other telecommunications services provided to you by us or your Line Rental Provider.
- 6.3 You acknowledge that the Service is provided to other users and we owe a duty to them as a whole to preserve our Network integrity and to avoid Network degradation. If, in our reasonable opinion, we consider it necessary to maintain our Network integrity or prevent Network degradation we may change your Services, (including without limitation, your Transmission Speed if you are a Broadband Service Customer) or manage your use of, or access to our Broadband Service as we see fit in the circumstances. These reasons include but are not limited to, any circumstances where you are running an application or program that places excessive bandwidth demands on the Broadband Service for continued periods. For the reasons set out above we have also applied a fixed limit or a cap (which is currently 40 'gigabytes') to the amount of data that you may download and/or upload. We may, at any time and at our sole discretion, amend this limit and/or, impose a further limit on your usage capacity if your usage is affecting or may affect, other users' enjoyment of the Service. We may amend this limit in accordance with the terms of our Fair Use Policy and we will always endeavour to act reasonably when exercising our discretion in this regard.

6.4 In addition to the provisions of clause 6.3, you accept that we may apply limits to your use of any Service, which we provide. We may do this for various reasons including, without limitation, if your use of the Services is not appropriate or fair or affects (or may affect) other users' enjoyment of the Service or is significantly different from the usage that we would expect from a typical consumer user. Other than as set out in clause 6.3, we will not apply a limit without giving you prior notice but if we do so, you should be aware that this could result in us imposing on you:

6.4.1 limits of access to the Services; and/or

6.4.2 charges at the normal rates for calls which we regard as being beyond a 'fair' use of the Services. We refer to this as our 'Fair Use' policy. You can obtain full details of this from Customer Services or by accessing our Website.

Furthermore, if the circumstances occur under which we could impose a limit, we may also, at our sole discretion, suspend or terminate your ability to access the Services but we will only do this if it is reasonable in all the circumstances.

6.5 In addition to the provisions of clauses 6.3 and 6.4, we reserve the right, at any time, to give priority to certain other users of our Network in preference to you. We may do this for various reasons and in various circumstances, which may include, without limitation, times when we offer new technology or products, such as voice over internet protocol ("VOIP") which increase the demand on our Network.

6.6 If you have registered your account with us, you must tell us promptly in writing if you change your name and address or there are any changes to your payment card arrangements, which may affect your payment of the Charges.

## **7. Suspension of the Service(s) by Us**

7.1 We may suspend immediately the provision of the Services to you until further notice without compensation if:

7.1.1 we reasonably suspect that you are in breach of these Conditions; or

7.1.2 you are in breach of your obligation to pay the Charges and have not remedied the breach within seven (7) days of you being reminded to pay your bill. You should also note that if you have subscribed for our Call Service and / or our LR Service and fail to meet your payment obligations, your line may be blocked and you will not be able to make incoming and outgoing calls (including emergency calls) and if you are on our LLU Network you will not be able to use the Broadband Service; or

7.1.3 we are obliged to comply with an order or request of the UK Government, the emergency services organisation or other competent authority; or

7.1.4 if you owe us any money whether under your Contract for the Mobile Service, the Call Service, the Broadband Service or otherwise; or

7.1.5 exceed your Credit Limit; or

7.1.6 your SIM Card is lost or stolen; or

7.1.7 we have reasonable cause to suspect fraudulent use of a payment card, whether a Credit or Debit Card or otherwise, or any SIM Card.

7.2 If we suspend the Services under this clause, your Contract will still continue and you shall reimburse us our costs and expenses reasonably incurred in suspending the Services and/or recommencing them. In addition, you must pay all Charges due from you under your Contract incurred prior to the time when your Contract is properly terminated. If we suspend any Service, we will not provide it again until you confirm that you will use the Service only as agreed in this Contract.

7.3 If we exercise the right to suspend (or bar your access to) the Services this shall not affect our right to terminate your Contract under clause 10.

## **8 Liability**

8.1 Nothing in these terms shall exclude or limit our liability for death or personal injury caused by our negligence or that of our agents, or for any liability arising under Part I of the Consumer Protection Act 1987.

8.2 We shall not be liable for any loss that is not reasonably foreseeable nor for any loss calculated by reference to profits, income, or business or loss of such profits, income, or business or for any loss of data or goodwill.

8.3 In transferring you onto our Services and in providing the Services to you thereafter, we have to rely on other Network Operators and other providers of telecommunications services. Accordingly, we do not accept liability for the acts or omissions of Network Operators or other providers of telecommunication services.

8.4 Our aggregate liability, whether in contract or for negligence or breach of statutory duty or otherwise, to you for any loss or damage of whatsoever nature and howsoever caused shall be limited to and in no circumstances shall exceed £5,000 for any one incident or series of related incidents.

8.5 The limitations of liability set out in this clause 8, are in addition to any other provisions limiting our liability set out elsewhere in these Conditions.

8.6 Nothing in these Conditions shall impose any liability on us in respect of non-performance of the Service where the performance claimed is outside the terms of your Contract or where such non-performance is directly due to your acts, omissions, negligence or default.

- 8.7 The Broadband Service and, if applicable the Mobile Service, allows you to access the internet and you agree that your use of the internet through the Broadband Service or the Mobile Service is at your own risk and subject to all applicable laws. We recommend that you install security software on your PC before accessing the internet but in any event, we shall not be liable if you do not and shall not be liable for any damage caused to or by your PC whether from any or for any viruses that may affect your PC or equipment attached to it or otherwise. We may offer you anti virus software and shall be entitled to charge you for its use. In addition, we shall not be liable for any loss or corruption of data or any losses you may suffer arising from your use of (or failure to use) any anti virus software. You agree that it is your responsibility to protect your PC against viruses and to back up all data to protect against loss or corruption of such data. We shall have no responsibility for any goods, services, information, software or other materials that you use or obtain when using your PC whether offline or online for accessing the internet (including e-mail).
- 8.8 We do not warrant or guarantee the accuracy or completeness of any Content provided with the Broadband Service or the Mobile Service, including without limitation, any information, sound, data, software or other materials (in whatever form). You agree that any use that you make of any such Content is at your sole risk and is subject to any third party terms and conditions applicable to that Content.
- 8.9 Although alarm signals can be carried across a Network, we are not responsible for lack of service or failure to deliver an alarm signal due to:
- 8.9.1 your use of the Services;
  - 8.9.2 a Network going down;
  - 8.9.3 suspension of your account under clause 7;
  - 8.9.4 failure arising from any misuse of the phone line or telephone equipment;
  - 8.9.5 your telephone line being migrated to our LLU Network pursuant to clause 1.20; or
  - 8.9.6 for reasons outside our control (including, without limitation, if there is a technical failure of a Network, because a Network is being tested, modified or maintained or if access to any Network is denied to us).

## 9 **Charges and Payment**

- 9.1 Our Charges for providing the Services shall be effective from the Commencement Date applicable for each Service and will be calculated in accordance with your Tariff Plan.
- 9.2 You must pay all the Charges incurred by you, or any person using any Service, even when such Charges exceed any Credit Limit imposed upon your account.

### ***Your Bill***

- 9.3 Within thirty (30) days of the Commencement Date, we shall prepare and send to you a bill for the Services you have used. Thereafter we shall prepare and send to you a bill at the end of every Billing Period.
- 9.4 You may choose to receive your bills in paper or electronic form (including accessing your bills online). If you choose to receive your bill in paper format we reserve the right to charge you an additional amount for providing you with this service.
- 9.5 The LR Service, the Broadband Service (if applicable) and certain charges for the Call Service and/or Mobile Service will be billed monthly in advance. Monthly charges incurred for periods of less than one month will be calculated on a pro rata basis. Calls made using any Service will be billed in arrear.
- 9.6 All bills shall be payable within fourteen (14) days of receipt and shall be paid by way of direct debit to the Carphone Warehouse acting as agent for us or such other entity as we shall notify you from time to time. Unless we expressly agree otherwise any and all Charges are inclusive of VAT.

### ***Direct Debit Payment***

- 9.7 We reserve the right to request that you pay for the Services by Direct Debit and you accept that your Charges may increase if you do not use this payment method. If a direct debit is dishonoured or cancelled we shall be entitled to pass on to you any third party charges we incur and in addition, we may lower your Credit Limit, suspend or terminate your Service. We shall also be entitled to charge you a monthly administration fee for each month in which your direct debit is dishonoured or not reinstated following cancellation.
- 9.8 Unless you have requested itemised billing (for which we may charge you extra), you will only be advised of the total amount of Charges.

### ***Interest***

- 9.9 We may charge you interest both before and after judgement at a rate equal to the greater of 2% above base rate from time to time of Barclays Bank plc or the statutory minimum allowable on the late payment of our bill. Interest is charged on a per annum basis, calculated daily.

### ***Credit Limits***

- 9.10 Where you have entered a Contract to receive any Service from us, your account is limited in any one month to an amount which may either have been set at the time of your application or at any time thereafter while you have a Contract with us ("**Credit Limit**"). This Credit Limit is subject to the following provisions:
- 9.10.1 we may, depending on your payment history with us, lower your Credit Limit. On request we may agree to raise your Credit Limit. If you wish to vary your Credit Limit you should telephone Customer Services;
- 9.10.2 as our billing system is not instantly updated each time you make a call, it is possible to exceed your Credit Limit. The Credit Limit does not act as a bar and you may be able to incur Charges that result in you exceeding your Credit Limit. You will be liable for all Charges, including any in excess of your Credit Limit. You will be asked to pay any Charges in excess of your Credit Limit before Services are reinstated; and
- 9.10.3 we may suspend your service if your Credit Limit is exceeded and if you exceed your Credit Limit in respect of the Call Service or the Mobile Service, all of your outgoing calls may be diverted to our Customer Services department.

#### **Deposits**

- 9.11 In addition to setting a Credit Limit, we may ask you to pay a non-interest bearing deposit which we will be able, at any time, to use to pay off any Charges you owe. Any such deposit will be reasonable and will be assessed in the light of your previous TalkTalk bills and credit history. At any time, you may ask for a refund of your deposit but this may result in us reducing your Credit Limit.

#### **Call Charges**

- 9.12 Charges for calls you make using any Service will be calculated using details logged and recorded by us. Calls are charged based on the rate applicable when the call was initiated. Calls will be charged and inclusive allowances deducted in one minute increments (with any part minutes rounded up to the nearest minute) individual charges will then be rounded up to the nearest whole penny. In addition, and notwithstanding the preceding sentence, there is a per call connection charge and the details of these call connection charges appear in our price list which is available on our Website. The call connection charges will include without limitation, any calls made as part of a 'calling circle' but do not include any Mobile Service calls for which there is minimum charge per call (the details of which appear in our price list available on our Website).
- 9.13 You should also be aware that we may allocate Call Data Records ("**CDR's**") which have been received late, whether from other Network Operators or otherwise, into the bill for your current Billing Period. Further details of late arriving CDR's are available from Customer Services.
- 9.14 If your Tariff Plan includes 'inclusive' minutes, which apply to all call types up to a monthly limit, unused inclusive call minutes cannot be carried forward from one month to the next. In this context "monthly" or "month" means your monthly Billing Period, which may not equate to a calendar month.

#### **Charges for the Mobile Service**

- 9.15 If you are a Customer of the Mobile Service the following additional provisions will apply to you:
- 9.15.1 you may be charged to make or receive certain calls, MMS and SMS messages, data or messages ("**Calls**") if you are abroad and/or these are premium rated. Such Calls made and/or received may be charged other than in whole penny increments (provided that total Charges will always be rounded up to the nearest whole penny);
- 9.15.2 Mobile Service Calls which are eligible will generally be set against any 'inclusive' allowances you may have in the order in which such Calls are made, except that Roaming Calls, will be set against 'inclusive' allowances in the month in which the Calls are recorded by us following receipt of the relevant Call records from the foreign Network Operator or clearing house; and
- 9.15.3 if we advise you of the amount on your Mobile Service account from time to time this is an estimate based on the information we have received from the Network Operator. We are not liable for, and you must pay, the estimated Charges and any Charges that exceed the estimate.

#### **Changing Our Charges**

- 9.16 We shall be entitled to amend our Charges or change the Tariff Plan you are on from time to time and we will notify you of such changes by making the amended list of Charges available in Carphone Warehouse stores or on our Website. If Charges are decreased this will be reflected in your next bill. Should we increase the Charges we shall provide you with thirty (30) days notice of such increase and the increase will take effect from the end of that period. In this instance you may, in accordance with and subject to the provisions of clause 15.1, be entitled to terminate our Services made available under these Conditions.

#### **Other Charges**

- 9.17 Upon termination of any Service for whatever reason all sums outstanding and any cancellation Charges arising as a result shall be treated as a debt and shall become immediately due and payable. For clarity, this includes any charge that we incur from a third party for disconnecting you from a Service.

## **10**      **Ending Your Contract**

- 10.1      If you no longer want to receive one or several of our Services, you must tell us a certain number of days in advance. How many days will depend on which Service(s) you currently take from us. If you receive more than one service (for instance Calls and Broadband), you must also tell us which Services you no longer want.
- 10.2      Some of our Services have a Minimum Period. This means that you are legally obliged to keep receiving our Service until the end of that term. If you leave before the end of the Minimum Period, you accept that you have to pay us an additional charge. Please see clause 10.8 about this charge.

### ***Term***

- 10.3      For the LR Service and the Broadband Service, unless we otherwise tell you, the Minimum Period is 12 months. However, if you have taken both of these Services, the Minimum Period may be 18 months. We will tell you when you sign up if that applies to you. Please see the definition of Minimum Period if you would like more information.

### ***Termination by You***

- 10.4      If **you** wish to cancel a Service, the following will apply:
- 10.4.1      to end the Call Service, you must tell us in writing 15 days in advance of leaving us.
- 10.4.2      to end the Broadband Service or the Mobile Service, you must tell us in writing 30 days in advance of leaving us;
- 10.4.3      to end the LR Service, you must tell us in writing 30 days in advance of leaving us. However, if you are leaving us to go to another telephone company, we will consider that you have given appropriate notice as soon as when we receive notice from your new provider. In other words, you will not be required to give us 30 days written notice in this instance.
- 10.5      If you wish to end this Contract, you must either call Customer Services or write to us at TalkTalk Telecom Limited, Stanford House, Garrett Field, Birchwood, Warrington, Cheshire, WA3 7BH stating your name, address and TalkTalk CPS Telephone number, or Mobile Phone number as appropriate. Any legal proceedings that may be issued by you can only be served by sending them to: The Company Secretary, The Group Legal Department, TalkTalk Telecom Limited, 1 Portal Way, London, W3 6RS.

### ***Termination by Us***

- 10.6      If **we** wish to cancel a Service, the following will apply:
- 10.6.1      to end the Call Service, we can stop supplying you with our Service if we tell you in writing 7 days in advance.
- 10.6.2      to end the LR Service or the Broadband Service, we can stop supplying you with our Service if we tell you in writing 30 days in advance.
- 10.6.3      to end the Mobile Service, we can stop supplying you with our Service if we tell you in writing 2 days in advance.

### ***Ending the Mobile Service***

- 10.7      We may also cancel or terminate your Contract for the Mobile Service in the following circumstances:
- 10.7.1      you do not use the SIM Card in any continuous 60 day period in which case we will have the right to disconnect your SIM Card; or
- 10.7.2      you are in breach of these Conditions; or
- 10.7.3      there is an emergency or for your security; or
- 10.7.4      any agreement, giving us access to any part of, or the ability to provide, the Service is suspended or terminated.

### ***Payments Due on Termination***

- 10.8      If your Contract has a Minimum Period and you terminate the Service before the end of that Minimum Period you must pay us, as compensation for our losses the lower of the following:
- 10.8.1      an amount equal to any costs that we incur in disconnecting you from the Service; or
- 10.8.2      an amount equal to the total monthly fees which you would have had to pay under your Contract up to the end of the Minimum Period.
- 10.9      We will not charge you anything if you cancel your LR or Call Service within 10 working days from the date on which you agreed to take those services.
- 10.10      If you wish to cancel an Order before the Commencement Date, you accept that we may charge you a disconnection fee (which for example for the Broadband Service is currently up to £55) for any work that may have been done at your local exchange.

### **Other instances when we can end your Contract**

- 10.11 If you cancel or terminate any Service or change Tariff Plan you accept that we can cancel any other Service that we supply to you by giving you thirty (30) days' notice.
- 10.12 If you breach your Contract, and we ignore your breach, or if the Service is suspended, we can still end your Contract if you breach it again or if the Service is suspended.
- 10.13 If at any time BT ceases to provide services to us such that we are unable to continue to provide any of the Services, to you, we may immediately terminate our Contract with you.
- 10.14 We may terminate your Contract by giving you notice in writing, if: you are in material breach of these Conditions or you give us false credit information; or you are or become insolvent.

### **Other provisions**

- 10.15 If we end your Contract for Call Services under this clause 10, and you are not on our LLU Network, you accept that we can transfer your service either to BT, or back to your original provider without your consent.
- 10.16 If you end your Service with us, you will be responsible for transferring to another service provider. If you do not do this, you may be left without any telecommunications service.
- 10.17 If you have accepted any Service on the basis of it being offered by us 'forever', you acknowledge and accept that this can only apply providing that you stay as a Customer and we continue to offer the Service on our Network.
- 10.18 If at any time either you or us end your Service with us for any reason and you have made any cash, debit or credit card payments in advance for that Service or paid any deposit under clause 9.11, we shall only refund the excess of such payments that remains after settlement of all charges on your TalkTalk account. If we have awarded you any goodwill credits during your Contract, we shall apply those first to any outstanding charges on your account before we send your final bill. However, if your Service is cancelled by you or us and any goodwill credits or any part of them remain after we have accounted for all outstanding charges on your account for that Service, those credits will be cancelled when your Service ends and you will not be paid or be entitled to claim the cash value of any such credits, or to otherwise redeem them or transfer them to any other TalkTalk account holder or to any third party.

## **11 Use of Your Information**

- 11.1 We respect your personal information and undertake to comply with applicable Data Protection legislation in place from time to time. We may hold information that you provide to us (such as by telephone on an application or Order form or registration form) or that we may obtain from another source (such as our suppliers, marketing organisations or credit reference agencies). This information ("**Your Information**") may include your name, address, date of birth, gender, telephone numbers, email address, bank and Credit or Debit Card information, occupation and employment data, lifestyle information and details of how you use the Services, which may include for example and without limitation, traffic data related to your use of the Mobile Service or the Call Services including, without limitation, the numbers you call, the type, date, time, location, duration, and cost of calls, messages or other communications, the addresses you send messages to, or your use of the Broadband Service, such as how long you are on-line, your browsing activities and other general information about the way you pay and manage your account.
- 11.2 We may share Your Information with: companies within the CPW Group and any company or other entity in which CPW Group owns (directly or indirectly) more than 15% of the issued share capital for the purposes described in these Conditions including, without limitation, its insurance companies); and, in the event that we undergo a re-organisation or are sold to a third party, you agree that Your Information may be transferred to that re-organised entity or third party for the purposes and subject to the terms of these Conditions.

### **How Your Information May be Used**

- 11.3 Your information may be held and used by us for a number of purposes and we may use third parties to support us with purposes which include, without limitation:
  - 11.3.1 processing your Orders or applications; administering your account and billing; settling accounts with those who provide related services to us; disclosing your data to banks and debit and credit card companies to validate your Credit or Debit Card details; dealing with requests, enquiries or complaints and other Customer care related activities; debt recovery (also using recovery agents and agents facilitating contact with you) and legal actions and all other general administrative and business purposes;
  - 11.3.2 carrying out market and product analysis of Your Information to develop and improve and to tell you about CPW Group's products and services, new developments, special offers, discounts and awards which we believe may be of personal interest to you. We may tell you about these by post or telephone. We may also tell you by email, fax, SMS, MMS, automated telephone call and via world wide web, WAP and similar sites, subject to any preferences indicated by you at the time you apply to enter into this Contract or subsequently;
  - 11.3.3 contacting you about the products and services of carefully selected third parties and allowing you to receive advertising and marketing information from those selected third parties but without passing control of Your Information to the third party concerned;
  - 11.3.4 passing on data to organisations from which you have ordered any products and services; registering your details and allocating or offering you rewards, discounts or other benefits and fulfilling any requests or

requirements you may have in respect of our and CPW Group's loyalty or reward programmes and other similar schemes;

- 11.3.5 inclusion in a telephone directory in printed/electronic format, a telephone directory available on the internet or world wide web and a directory enquiry service operated by us or by a third party but only where you have consented to this;
- 11.3.6 carrying out any activity or disclosure in connection with a legal, governmental or regulatory requirement on us or in connection with national security, legal proceedings and for the prevention and detection of crime or fraud and the prosecution of offenders or suspected offenders; and/or
- 11.3.7 carrying out activities connected with the running of our business such as personnel training, quality control, Network monitoring, testing and maintenance of computer and other systems and in connection with the transfer of any part of our business in respect of which you are a Customer or a potential Customer.

#### **Credit Checking and Account Collections**

- 11.4 You agree to the disclosure by us of the following information to any telecommunications company, debt collection agency, credit reference agency, credit or fraud monitoring scheme, credit provider or security agency:
  - 11.4.1 any information relating to your Contract with us including details of how you conduct your account and your obligations to us and your personal financial information;
  - 11.4.2 any information which is covered by our registration under the Data Protection Act 1998 as amended from time to time; and
  - 11.4.3 any information which we are required by an order of any court of competent jurisdiction or by statutory authority to disclose.
  - 11.4.4 We may also use the information you supply to carry out credit checks to help decide whether to accept your application or future applications, and to verify your identity and to protect our legitimate interests. This may involve searching information held about you by licensed credit reference agencies who will record details of the search and your application.
  - 11.4.5 We may use a combination of credit scoring and/or automated decision making systems when assessing your application.
  - 11.4.6 If you proceed with an application we may subsequently disclose details to credit reference agencies of your Contract, the payments you make under it, account balances and information about any default, dispute, queries and debts. We may also disclose details of any reported change of address or changes of which we become aware. We may also check and share your details with fraud prevention agencies who will record details of any false or inaccurate information provided by you or where we suspect fraud.
  - 11.4.7 The information may also be used by us, credit reference agencies and other organisations to:
    - 11.4.7.1 help make decisions about other credit applications by you or other members of your household with whom you are linked financially; and
    - 11.4.7.2 trace debtors, recover debts, prevent money laundering and to prevent and detect fraud.
  - 11.4.8 Information held about you by the Credit Reference Agencies may be linked to records relating to your partner. Under certain circumstances, you may be entitled to request that you and your partner are financially independent and your application may then be assessed without reference to any "associated" records, although you recognise that this may adversely affect the outcome of your application. You believe that there is no information relating to your partner that is likely to affect our willingness to offer financial services to you. You authorise us to check the validity of this declaration with credit reference agencies and if we discover any associated records, which would affect the accuracy of this declaration we may decide not to proceed with the application on this basis.
  - 11.4.9 Records held by fraud prevention agencies may also be shared with other organisations to help them make decisions on motor, household, credit, life and other insurance proposals and insurance claims, for you and members of your household.
  - 11.4.10 If you do not become our Customer or if your application is declined we will continue to hold information about you for such period as we determine for the purposes of dealing with enquiries, complying with any legal obligation and for crime and fraud prevention and detection.
  - 11.4.11 You can ask us at any time for details of the credit reference and fraud prevention agencies to whom your information is disclosed and from whom it was obtained however we will not be able to provide you with any information relating to reasons for your failure to pass the credit scoring or automated decision making systems operated by these agencies or other information held by such agencies. If requested we may be able to give you details of the sorts of information we take into account when assessing an application.

#### **Records**

- 11.5 We may also pass your information for any specific purpose to certain third parties (some of which may be based outside of the European Union) where this is necessary or otherwise required or allowed to those who provide

products or services that support the Services that we provide, such as our dealers and suppliers; credit reference agencies (unless we have agreed otherwise) who may share your information with other credit and insurance organisations and who may keep a record of the searches we make against your name; if someone else pays your bill, such as your employer, that person; those agencies and organisations involved in the prevention or detection of fraud or crime or the apprehension or prosecution of offenders, including the operators and participants of crime prevention schemes in which we participate who may compare Your Information with information collected from other sources and who may keep a record of the searches we make against your name; and anyone we transfer our business to in respect of which you are a Customer or a potential Customer and they may use and disclose Your Information for the same purposes as us.

- 11.6 If you wish to use our Services abroad, for example, if you wish to Roam on a Network abroad, it may be necessary to transfer your information outside of the European Union to that country. In addition, our web, WAP and similar sites may be based on servers located outside of the European Union. Please note that the data protection and other laws of countries outside the European Union may not protect you as well as those within the European Union.
- 11.7 You should be aware that if we are requested by the police or any regulatory government authority investigating suspected illegal activities to provide your user information or information concerning your activities whilst using the Service we shall do so. We also reserve the right to disclose individually identifiable information to third parties where a complaint arises concerning your use that is deemed by us to be inconsistent with these terms.
- 11.8 We may disclose to third parties aggregated data related to the use of the Service provided that a single individual is not identifiable in such data.

### ***The Information Commissioner***

- 11.9 A comprehensive description of how we use personal information is publicly available from the Information Commissioner - please see: [www.dataprotection.gov.uk](http://www.dataprotection.gov.uk)
- 11.10 If you would like us to tell you what information we hold about you, please write to us c/o The Data Protection Office, TalkTalk Telecom Limited, 1 Portal Way, London, W3 6RS. We may charge a £10.00 administration fee; please quote your full name, address, fixed line or Mobile Phone number (as appropriate) and account number on all requests. You can also call Customer Services or speak to an employee in any Carphone Warehouse store to correct or update any inaccurate or incomplete information and to advise us of any preferences you may have concerning how you can be contacted for marketing purposes or to indicate your preferences for directory entries.

### ***Opting Out***

- 11.11 If you do not wish your details to be used for the purposes described in clauses 11.3.2, 11.3.3 and 11.3.4 please write to us at the above address stating your full name, address, account number and phone number. Please note: this will not affect any marketing consent which you have already given to any of the companies referred to in this clause in respect of agreements relating to other products and/or services.
- 11.12 If you provide us with any information about any other individual, such as another user of our services, it is your responsibility to ensure that that other individual consents to, and is made aware of, the use of their information by us for the purposes set out in this clause.
- 11.13 Subject to your rights of objection set out in this clause, and your right of objection in the registration process, you agree that you consent to us, CPW Group or third parties contacting you for any of the above purposes whether by telephone, email, MMS, SMS or in writing and you confirm that you do not consider any of the above as being a breach of any of your rights under The Privacy and Electronic Communications (EC Directive) Regulations 2003.
- 11.14 If you have registered your Mobile Service account with us, we will pass your information to the Mobile Equipment National Database (“**MEND**”) and the Stolen Equipment National Database (“**SEND**”) (organisations operated by Recipero Limited, a company registered in England and Wales under Company No. 3794898 and with its registered office at Lawrence House, Lower Bristol Road, Bath BA2 9ET). Passing this information will enable MEND or SEND to contact you in the event that you lose your SIM Card or it is stolen from you. Please contact us at the above address if you do not want your information to be passed to MEND and/or SEND. PLEASE NOTE: Once you have been registered with MEND and SEND, it is your responsibility to ensure that you notify any change of Mobile Phone to MEND and SEND to ensure that there is no interruption of their service to you.
- 11.15 We may use “cookies” and other software so as to be able to build up a profile of your interests and preferences and this may be used by us to develop and operate the Service.

## **12 Matters Beyond Reasonable Control**

- 12.1 Sometimes we are unable to do what we have agreed due to something beyond our reasonable control. If this happens we do not accept responsibility for what has occurred.

## **13 Transfer**

- 13.1 You may not transfer the whole or any part of the Contract without our prior written consent.
- 13.2 Your Contract may be administered in whole or part by another company within the CPW Group.

## **14 Disputes**

- 14.1 If you have a complaint or query regarding any aspect of the Services including your bill, please contact us by calling Customer Services or by writing to us at TalkTalk Telecom Limited, PO Box 156, Birchwood, Warrington WA3 7WR.

Please include your both your phone (or Mobile Phone number if appropriate) and customer account numbers in any correspondence.

- 14.2 If you are not happy with our response to any complaint or query that you make, you may refer your complaint to the Telecoms Ombudsman at [www.otelo.org.uk](http://www.otelo.org.uk) or on 0845 050 1614.
- 14.3 We aim to fully resolve all email queries within 5 working days of receipt and all written queries within 7 working days of receipt. In the unlikely event we are unable to fully resolve a complaint, you may refer your case to the Telecommunications Ombudsman, Otelo via Telephone on 0845 050 1614, or e-mail: [enquiries@otelo.org.uk](mailto:enquiries@otelo.org.uk).

## **15 General**

### ***Changing these Conditions***

- 15.1 We may change these Conditions at any time for legal, regulatory or commercial reasons. We will notify you of all such changes in writing and/or by publishing them on our Website ([www.talktalk.co.uk](http://www.talktalk.co.uk)). To the extent that such changes are to your material detriment or relate to an increase in the charges, we will give you at least thirty (30) days notice of such changes by writing to you and/or publishing them on our Website, or in the 'Buyer's Guide' available in any Carphone Warehouse stores, or providing them on our Customer Services telephone line by way of a recorded message, or for changes to the Mobile Service sending you an SMS or by posting them on our website for the Mobile Service located at: [www.talktalkmobile.com](http://www.talktalkmobile.com). If you object to such changes you may be able to terminate your Contract at any time in accordance with the provisions of clause 10 by giving us not less than 10 days' notice.
- 15.2 The Contract sets out the whole agreement between you and us for the provision of the Services and supersedes all prior agreements between you and us. Neither of us has relied on any representation arrangement understanding or agreement (whether written or oral) not expressly set out in these Conditions. These Conditions also apply if you lend or give your SIM Card to someone else.
- 15.3 If any particular clause of these Conditions shall be, or be held to be, invalid or shall not apply to the Contract, the other clauses hereof shall continue in full force and effect.

### ***How We Can Notify Each Other***

- 15.4 Any notice which has to be given under these Conditions shall be in writing and shall be deemed to have been given by us if, left at or sent by post to you at the address stated in your application or any other UK address you supply to us for this purpose, or by you to us at the address given on your last monthly bill. Any notice or document shall be deemed to have been delivered immediately (if delivered by hand) or 48 hours after posting (if sent by first class post). References in these Conditions to notices given to you by us "in writing" also include by SMS (which must be sent to your Mobile Phone number) and by email, which must be sent to your email address stated in your application or any other email address that you supply to us for the purpose. Notices given by us by SMS or e-mail shall be deemed to have been delivered the day after the day the notice is sent. For the avoidance of doubt you shall not be entitled to serve any notice on us pursuant to these Conditions by sending an SMS.

### ***Call Monitoring***

- 15.5 Monitoring or recording of your calls may take place for our business purposes, such as quality control and training, to prevent unauthorised use of our telecommunications systems and to ensure effective systems operation and in order to prevent or detect crime.
- 15.6 We make every effort to ensure the security of your communications. You are however advised that for reasons beyond our control, there is a risk that your communications may be unlawfully intercepted or accessed by those other than the intended recipient. For example, your communications may pass over third party Networks over which we have no control and if you are connected to an analogue Network, there is no protection for your communications over the air interface. If you are connected to the digital Network, your communications over the air interface with our systems are encrypted providing a greater level of protection, but even this cannot be guaranteed. For Customers of our Mobile Service, please also read carefully the instructions provided with your SIM Card. Depending upon the manufacturer and model, your Mobile Phone may send information stored on it and receive information to and from certain third parties without your knowledge. If you use your SIM Card to access the internet, please note that the internet is not a secure environment. Unwanted programs or material may be downloaded without your knowledge, which may give unauthorised persons access to your SIM Card or Mobile Phone and the information stored on your SIM Card or Mobile Phone. These programs may perform actions that you have not authorised, possibly without your knowledge.
- 15.7 Any calls you make using the Service, whether to Customer Services or otherwise, may be recorded and so you hereby grant us, or our agents, the right to monitor or record your calls, emails or SMS for our lawful business purposes, such as quality control and training, to prevent unauthorised use of our telecommunications systems, to ensure effective systems operation and in order to prevent or detect crime.
- 15.8 Failure by either you or us to exercise or enforce any right conferred by statute or the Contract shall not be deemed as a waiver of any such rights nor prevent the exercise or enforcement of such rights at a later date.
- 15.9 Except in the case of any permitted assignment of the Contract, a person who is not a party to the Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise to enforce any clause of the Contract.

15.10 These Conditions, and all other legal relationships between us shall be governed by English Law, unless you live in Scotland in which case Scottish Law will govern, and are subject to the exclusive courts of England and Wales, Scotland or Northern Ireland.

## Schedule 1

### DEFINITIONS AND INTERPRETATION

1.1 In these Conditions (unless the context otherwise requires):

“**Access Code**” means the prefix 18418. TalkTalk may alter the Access Code at any time, at our sole discretion or as required by any government agency;

“**Billing Period**” means any period in respect of which we bill you from time to time for your use of any of the Services provided to you;

“**Broadband Service**” means the high speed ‘always on’ Network access to the internet provided in accordance with the particular type of Tariff Plan chosen by you and supplied to your Premises via either our Network or your BT landline and which is provided in accordance with the terms of your Contract;

“**BT**” means British Telecommunications Plc, 81 Newgate Street, London EC1A 7AJ and may as the context requires include without limitation ‘Open Reach’ or any other trading division of BT from time to time;

“**Call Service**” means the service that we provide to you that allows you ability to make telephone calls in accordance with the terms of your Contract and which, for the avoidance of doubt, may include without limitation International Access. We may provide the Call Service to you using CPS, LLU, WCLI or any other service delivery method available to us from time to time;

“**Carphone Warehouse**” means The Carphone Warehouse Limited (registered in England under Company Number 2142673) of 1 Portal Way, London, W3 6RS;

“**Charges**” means our published list of prices as amended from time to time applicable both to our Services in general and your particular Tariff Plan. To obtain a copy please call in at your local Carphone Warehouse store, or telephone Customer Services or visit our Website;

“**Commencement Date**” means the date upon which our supply to you of any Service commences, and the relevant Commencement Date for each Service will be as communicated to you by us. This date is not guaranteed but a Customer of the Call Services shall be deemed to be ‘active’ from 12 midnight on the day before such a Customer’s Commencement Date;

“**Conditions**” means these terms and conditions as amended by us from time to time in accordance with clause 15.1;

“**Content**” means textual, visual or other information, software, photos, video, graphics, music, sound and other material appearing on or available through the Broadband Service or the Mobile Service including all information supplied by content providers from time to time;

“**Contract**” means the contract between you and us to pay for and receive the Service set out in these Conditions (together with such changes and/or other terms as may be notified to you from time to time) and your current Tariff Plan as amended from time to time;

“**CPE**” means customer premises equipment;

“**CPS**” means ‘Carrier Pre Selection’, which is the Network access mechanism that occurs when a particular telecommunications operator, automatically programmes your local telephone exchange to route your calls or traffic over a particular carrier’s Network without your CPE having to be reconfigured or you having to dial additional (prefix) codes on your telephone prior to making a call or using any other telecommunications service;

“**CPW Group**” means The Carphone Warehouse Group Plc (company no: 3253714), and any other company or entity in which CPW Group owns (directly or indirectly) more than 15% of the issued share capital including, without limitation, its insurance companies, Carphone Warehouse, Opal Telecom, Talk Talk and TalkTalk Direct;

“**Credit or Debit Card**” means your nominated credit or debit card, details of which you have provided to us by any means;

“**Credit Limit**” means any credit limit, which is applied to your account either when you apply for any Service or at any time thereafter and described more fully in clause 9;

“**Customer**” means any customer who enters a Contract;

“**Customer Services**” means the customer services facility provided by us for you to report any faults with any Service or make general or account enquiries via **0870 444 1820** (or such other number as may be advised to you by us from time to time) or by emailing: [customerservices@talktalk.co.uk](mailto:customerservices@talktalk.co.uk). Customer Services help-line facilities are available in respect of both the Call and Broadband Service between the hours of 8am to 8pm Monday to Friday, 9am to 6pm on Saturdays and 10am to 5pm on Sundays. If you call Customer Services from your Call Service fixed line telephone number, which is registered with TalkTalk, such calls will be free, all calls made to Customer Services from other numbers will be charged at national rates. Calls to Customer Services may be monitored;

“**Denial of Service Attacks**” means any attacks to the Network on which the Broadband Service is provided or any other third party’s Network, the purpose of which are to attempt to prevent legitimate users from using or enjoying the benefit of the Broadband Service or any other similar service (as the case may be), including but not limited to, attempts to ‘flood’ the Network or to disrupt users from connecting to, accessing or using the Broadband Service;

“**GPRS**” means general packet radio service;

“**GSM**” means the Network known as the Global System for Mobile Communications;

“**GSM Gateway**” means a fixed device containing one or more SIM Cards which enables a call from a fixed phone to a Mobile Phone to be routed directly into a mobile Network as if it were from a Mobile Phone and thereby attract a different call rate;

“**IDA**” means indirect access which is a fixed line telephony product which allows a customer to access special call rates by first dialling a prefix immediately before making a call;

“**Inclusive Calls**” means those calls, which are made: in the United Kingdom only; by Customers who have been notified that they are eligible to benefit from Inclusive Calls; and are either:

- between Customers of our Call Services from their fixed line telephone number which is registered with us; or
- to a TalkTalk mobile SIM Card number from a registered number of a Customer of our Call Service; or
- from a TalkTalk mobile SIM Card number to registered number of a Customer of our Call Service;

and which, if made in accordance with clauses 3.4 or 5.17 as applicable, will not cause you to incur Charges. For the avoidance of doubt, Inclusive Calls do not include any calls between customers using Mobile Phones whether such calls are made on the TalkTalk mobile Network or any other mobile Network;

“**International Access**” means calls to international telephone numbers via our Network which may be made by dialling the Access Code prior to dialling the international telephone number that you wish to call. A list of the countries which may be called via the Access Code and the charges (if any) applicable to such calls is listed on our website at: [www.talktalk.co.uk](http://www.talktalk.co.uk) or is available from Customer Services or by emailing: [customerservices@talktalk.co.uk](mailto:customerservices@talktalk.co.uk) ;

“**internet**” means shall mean the global data Network comprising numerous interconnected Networks communicating via telecommunications system as defined in Section 4(1) of the Telecommunications Act 1984 or by such other methods as may hereafter be developed, invented or discovered, commonly known as the internet;

“**Line Rental Provider**” means the service provider, such as us or BT, who rents to you the fixed telephone line that you use to receive the Services;

“**LLU**” means Local Loop Unbundling which is a technology that allows alternative telecommunications companies to put their own equipment onto the end of a consumer’s copper local loop and own the connections for the local exchange instead of BT, so as to offer services in competition with BT;

“**LR**” means line rental;

“**LR Service**” means the LR service provided to you by us, which allows you to obtain from us the telephone line(s) on which you make your calls or connect to the internet. We may provide the LR service to you using either wholesale line rental or LLU;

“**Minimum Period**” means either (and subject always to paragraph ii. below):

- i.* for any Customer who:
  - a.* transfers their existing telephone line to our LR Service,;
  - b.* enters a Contract for the Broadband Service only; or
  - c.* enters a Contract for a new line installed for the LR Service;

the period of twelve (12) months from the Commencement Date of any such Service. If the Broadband Service or LR Service is provided using LLU you may be subject to a longer minimum period (specified in your Contract) being at least eighteen (18) months from the relevant Commencement Date;

- ii.* notwithstanding the provisions of paragraph i. above, if you enter a Contract (or upgrade an existing Contract) for certain products that we offer (which may include, without limitation, our combined products i.e. any product under which you receive our LR Service, our Call Service and our Broadband Service), your Contract will have a Minimum Period of eighteen (18) months, unless a shorter period is agreed by us during the registration process. This period will start from the Commencement Date of your connection to the Call Service element of that product or from the date of your upgrade. We will tell you if this applies to you;

“**MMS**” means Multimedia Messaging Service that allows a user to send limited volume multimedia messages to other mobile users;

“**Mobile Extra**” means a discount which may be up to twenty five percent (25%) off all calls made by you to Mobile Phones, excluding calls made to foreign Mobile Phones in or outside the UK, subject to payment of the applicable one-off advance charge and the conditions set out in clause 3;

“**Mobile Phone**” means a cellular telephone or similar communication equipment which can be used for making and/or receiving calls;

“**Mobile Service**” means airtime service enabling you to make or receive calls and to send and receive data by means of the Network, including, without limitation, the ability to access information from the internet and any additional services we agree to provide to you pursuant your Contract;

**“Modem”** means the high-speed modem or wireless router and any ancillary equipment (which may include microfilters, wireless USB adapters and other peripheral equipment) that we, or our authorised distributors, may sell or supply to you when you subscribe to the Broadband Service that enables you to connect your personal computer (“**PC**”) to any Network;

**“Network”** means as the context requires either the public switched telecommunications, internet protocol packet Network and/or a wireless telegraphy link by means of a cellular radio system operated by a Network Operator;

**“Network Operator”** means, as the context requires T-Mobile, Opal Telecom, BT or such other company or companies from time to time that operate a fixed line or mobile Network or ‘virtual’ Network, which can be accessed for communication purposes;

**“Order”** means any order that you submit to us for any of the Services;

**“Ofcom”** means the Office of Communications;

**“Opal Telecom”** means Opal Telecom Limited (registered in England under company number 3849133) of Northbank Industrial Estate, Irlam, Manchester M44 5BL;

**“Premises”** means the UK premises where we agree we shall provide you with the Broadband Service and/or the LR Service;

**“Pre Pay”** means where a Customer pays for their use of the Service in advance;

**“Service(s)”** means, as the context requires, any of: the LR Service; the TalkTalk Plus Service, the Call Service; the Broadband Service; the Mobile Service or any other telecommunications services that we may provide to you pursuant your Contract;

**“SIM Card”** means the subscriber identity module card being a unique chip card, which you need to access and use the Mobile Service;

**“SMS”** means short messaging service that allows a user to send short text messages to other mobile users;

**“T Mobile”** means T-Mobile (UK) Limited trading as T-Mobile;

**“TalkTalk”, “we”, “us”, “our”** means TalkTalk Telecom Limited (trading as TalkTalk™) (registered in England under Company Number 4633015) of 1 Portal Way, London, W3 6RS;

**“TalkTalk Direct”** means TalkTalk Direct Limited (registered in England under Company Number 5303195) of 1 Portal Way London, W3 6RS;

**“TalkTalk Plus Customer”** means any customer of TalkTalk who has been notified of the TalkTalk Plus Service either before or when they agree to become a customer of the TalkTalk Plus Service or who has asked us to become a TalkTalk Plus Customer and who enters a Contract with us to receive the TalkTalk Plus Service;

**“TalkTalk Plus Service”** means a TalkTalk service that offers both the Call Service and, when it becomes available, the LR Service;

**“Tariff”** means the tariff setting out our list of Charges for any of the Services we offer from time to time, copies of which are available at our Website or by contacting Customer Services. Although we are able to launch new TalkTalk products and/or alter our Tariffs at any time, if we make an alteration to your existing Tariff (but not if we simply launch a new Tariff), which has a material detrimental effect on you, the provisions of clause 15.1 may apply;

**“Tariff Plan”** means the monthly Tariff (that may include some elements which are not chargeable) which you select for the Services at the time you place your Order and which you may change from time to time by agreement with us and where we agree, such change to take effect at the start of your next Billing Period;

**“Technical Support Helpline”** means the Broadband Service technical support telephone helpline available via **09067 112 211** (or such other number as we may advise from time to time) between the hours of 8am and 10pm, Monday to Sunday (except certain public holidays). Calls to the Technical Support Helpline are charged at premium rate (as specified from time to time on our Website). All calls may be monitored. This technical support help line is specific for the Broadband Service only;

**“Top-Up”** means an increase by a Customer in the amount of access they can receive to the airtime provided by the relevant Network Operator. A Customer may ‘Top Up’ their ability to access and use the Service by all the usual methods, including without limitation, swiping a Credit or Debit Card at an appropriate terminal or by calling an appropriate telephone number the details of which are available from Customer Services. You should call Customer Services on 08700 870 100 if you require any further information;

**“Transmission Speed”** means the rate in either thousands of bits per second (“**Kbps**”) or millions of bits per second (“**Mbps**”) that data is transferred between two modems. Your transmission speed is that specified in your Tariff Plan;

**“WCLI”** means the method of delivering our Call Service known as ‘Wholesale Calls Line Independent’, which involves the use of third party networks to deliver calls made by you through the Call Service;

**“WAP”** means wireless application protocol;

**“Website”** means the website for the TalkTalk business currently located at url: [www.talktalk.co.uk](http://www.talktalk.co.uk); and

**“you”** and **“your”** means the person named in the application process and/or, where the context requires, it includes a person we reasonably believe is acting on that person’s authority.

- 1.2 Words in the singular shall include the plural and vice versa and references to legal persons shall include natural persons and vice versa.
- 1.3 The headings in these conditions are intended for reference only and shall not affect their construction.