

Telephone Services Terms

1. Services and Defined Terms

The Services Virtual Graffiti Ltd. supply to you, the Customer are those Services which you have elected to receive as set out in the Master Service Agreement or which you have subsequently ordered in writing and we have agreed to supply, as outlined in the Customer Sales Order. These may include (but are not limited to):

- the ability to make or receive a Call (telephone service)
- the provision of a Line or Lines for a rental charge (line rental service)
- the provision of broadband internet access (broadband service)
- any other Services which we may offer for sale from time to time.

In providing the Services we promise to use the reasonable skill and care of a competent communications Virtual Graffiti Ltd.

1.1 **"Agreement"** means the contract between you and us which consists of the Service Agreement, these Conditions for Communications Services and any further conditions relating to specific Services;

1.2 **"BT"** means British Telecommunications plc;

1.3 **"Call"** means a signal, message or communication which is silent, spoken or visual on each line that we agree to provide to you under this agreement;

1.4 **"Commencement Date"** means the date upon which Virtual Graffiti Ltd. begins to provide a service, not the date on which the "Service Agreement" is signed;

1.5 **"Line"** means a connection to our network or that of our suppliers, whether direct or

indirect;

1.6 **"Minimum Period"** means the period of service as shown on the service agreement you have signed;

1.7 **"Service"** or **"Services"** means all or part of the Services explained in clause 1 or identified in the service agreement and any related services that we agree to provide to you under this agreement;

1.8 **"Customer Sales Order"** means the document you sign when you first become our customer detailing, amongst other things, the Services you wish to receive, the minimum period you wish to receive the services for and the tariff at which you will be charged and which forms part of this Agreement;

1.9 **"The Tariff"** means the Virtual Graffiti Ltd. tariff which forms part of the Service Agreement as signed by you for the services you require and as amended from time to time under clause 14.2 below;

1.10 **"we"** and **"us"** means Virtual Graffiti Ltd. Ltd;

1.11 **"you"** means the customer we make this Agreement with. It includes a person who we reasonably believe is acting with the customer's authority or knowledge. These Terms and Conditions apply to new and existing customers and are effective from 23rd May 2005 or the date of the Service Agreement, whichever is the earlier.

2. Changes and interruptions to the Services

2.1 We may have to do some things that could affect the Services. These things are listed in clause 2.2. If we have to interrupt the Services we will restore them as quickly as we can.

2.2 Occasionally we may have to:

- Change the code or phone number or the technical specification of the Services for operational reasons;
- Interrupt the Services for operational reasons or because of an emergency;
- Give you instructions that we believe are necessary for health or safety or for the quality of the Services that we supply to you or to our other customers.

3. Telephone numbers

You have no right to sell or to agree to transfer the number(s) provided to you for use with the Services and you must not try to do so.

4. Telephone books and directory enquiries

4.1. We will put your name, address, and the telephone number(s) for the Services in The phone book published by BT for your area and make your phone number available to BT's directory enquiries database, as soon as we can. However, we will not do so if you ask us not to.

4.2 If you want a special entry in the telephone book you must let us know. Where we agree to a special entry you must pay an extra charge and sign a separate agreement for that entry.

5. Call monitoring

We may occasionally monitor, and record calls made to or by us relating to customer services and telemarketing. We do this for training purposes and to improve the quality of our customer services, including complaint handling.

6. Use of your information

6.1 We will use the information we have about you and your use of the Services for marketing purposes. However, we will not do so if you ask us not to.

6.2 For your information we process your billing data and information about your use of Virtual Graffiti Ltd.' service (this includes information about your bill size, the numbers you call and the times you call) for marketing our own telecommunications products and services. This allows us to better inform you about products, services, pricing packages and special offers which we provide and which we believe may be of particular interest to you.

6.3 We need your consent to continue to give you all the benefits that this processing provides and will assume we have it, unless you tell us otherwise by writing to us at our Registered office, or any other address we give you.

7. **Commencement of the Services** We will use all reasonable endeavours to provide you with the Services by the date we agree with you and

to continue to do so until this Agreement is terminated. However, we will not be liable for any form of compensation should the Services not commence on the agreed date or should they be interrupted from time to time.

8. Repairing faults

8.1 We cannot guarantee that the Service will never be faulty.

8.2 We will work on any fault that is reported to us according to our fault procedures for the Service in question (which are available on request).

8.3 When we agree to work on a fault outside the hours covered by our fault procedures, you must pay us an extra charge according to our tariffs in force at the time.

8.4 If you tell us there is a fault in a Service and we find either that there is not or that someone at your premises has caused the fault, we may charge you for any work we have done to try to find the fault or to repair it.

Your Obligations

9. Paying our charges for the Services

9.1 **Charges:** You must pay the charges for the Services according to the tariff which we have agreed with you. This applies whether you use the Services or someone else does and whether the Services are used with your full knowledge and consent or otherwise. We can change the charges as explained in clause [14.2](#). This means by way of example but not by way of limitation that you are liable to pay for all calls made because of "Rogue Diallers" and unbarred premium rate numbers.)

9.2 **Invoices:** We will send you your first invoice at the beginning of the month after the Services commence and thereafter monthly, but we may send you an invoice at any time. We will include all charges on the next invoice where possible, and in any event as soon as we can. We will send all invoices and other correspondence to the address you ask us to.

9.3 **Rental and Call Charges:** You will incur

charges from the time any part of a Service is used or received except in the case of Services subject to a periodic rental, in which case you will incur charges from the date the Service is ordered. We will usually ask you to pay the rental in advance and your first invoice will include both one month's rental in advance and a charge for a part month's rental from when the services went live up to the beginning of the first complete month, where appropriate. Call and other charges will be invoiced in arrears. We will calculate the charges for Calls using the details recorded by our network.

9.4 Payments in advance and deposits

a) We may ask you for a payment before one is normally due. This will not be more than our best estimate of your following month's invoice.

b) We may ask for a deposit at any time, as security for payment of your invoices if it is reasonable for us to do so. Our procedures for deposits will be explained to you at the time.

9.5 Terms of payment: You must pay all charges and rental within the credit terms which we have agreed and deposits when we ask for them. Our standard credit terms are payment within 14 days of date of invoice by direct debit and these are the credit terms which will apply to this Agreement unless we have agreed otherwise in writing.

9.6 If Customer reasonably and in good faith disputes an invoice or part of it, Customer shall notify Virtual Graffiti Ltd. of such dispute within 14 days of receipt of the invoice, providing details of why the invoiced amount is incorrect and, if possible, how much Customer considers is due. All Charges not in dispute shall be paid by the Due Date.

9.7 Where Virtual Graffiti Ltd. has not received payment for undisputed Charges by the Due Date, Virtual Graffiti Ltd. shall: (i) contact Customer's Accounts Payable Department to request payment; (ii) be entitled to charge interest on the overdue Charges at the bank of England standard base rate, permitted by applicable law; and (iii) be entitled to charge any

administration fees or other similar charges levied by a bank in respect of any unpaid items returned by the bank. Where Virtual Graffiti Ltd. has not received payment within 16 calendar days of the Due Date, Virtual Graffiti Ltd. may take all or any of the following actions until such time as payment, including any interest due, has been received.

(a) withhold any sums owing to Customer by Virtual Graffiti Ltd. and offset it against any sums Customer owes to Virtual Graffiti Ltd. under this Agreement.

(b) suspend Customer's and/or End User's use of the Services in relation to which Charges are outstanding.

(c) withdraw any discount in relation to the relevant Equipment or Service and charge Customer Virtual Graffiti Ltd. Standard List Prices for that Equipment or Service; and

(d) subject to Virtual Graffiti Ltd. having first invoked at least one of the remedies as set out in (a) to (c), Virtual Graffiti Ltd. shall be entitled to terminate this Agreement in whole or in part.

9.8 Failure to make payment within the terms set may result in account suspension and you will incur an administrative charge of £75.00.

9.9 Customer shall not be entitled to offset any sums owed to it by Virtual Graffiti Ltd. under any Agreement or dispute between the Parties against any sums that Customer owes to Virtual Graffiti Ltd. under this Agreement.

9.10 Virtual Graffiti Ltd. may credit assess Customer from time to time as reasonably required to assess Virtual Graffiti Ltd. risk. Each credit assessment shall entitle Customer to have a credit limit on Customer's Virtual Graffiti Ltd. account (details of which are available on request).

9.11 If Virtual Graffiti Ltd. is not satisfied as to the creditworthiness of the Customer, it may:

9.11.1 notify the Customer that no further credit will be allowed.

9.11.2 require all Charges owing by the Customer to Virtual Graffiti Ltd. to be paid immediately in cash.

9.11.3 require the Customer to pay Charges in advance.

9.11.4 require the Customer to provide a guarantee as security for payment of future invoices; and/or

9.11.5 require the Customer to pay a deposit.

9.12 Where the Customer does not pay by direct debit, unless Virtual Graffiti Ltd. agrees otherwise, Virtual Graffiti Ltd. will:

9.12.1 charge a payment processing fee of £4.50 (or such other sum as set out in the Price List); and

9.12.2 deduct the payment processing fee from any money received before any payment is allocated against the Charges for the Service.

10. Your Responsibilities

10.1 Entry to your premises

a) If our engineers or sub-contractors have to enter your premises, you must let them do so within normal working hours or otherwise if agreed with you in advance. We will meet your reasonable requirements about the safety of people on your premises and you must do the same for us.

b) If we need someone else's permission to cross or put our equipment on their premises, you must get that agreement for us and make any necessary arrangements.

c) When our work is completed, you will also be responsible for putting items back and for any necessary redecorating.

10.2 Misuse of the Services

Nobody must use the Services:

a) to make abusive, defamatory, obscene, offensive, indecent, menacing, nuisance or hoax Calls or Calls in breach of privacy or any other rights;

b) to send, knowingly receive, upload, download, use or re-use material, which is abusive, defamatory, obscene, offensive, indecent or menacing or in breach of copyright, privacy or any other rights;

c) fraudulently or in connection with a criminal offence or in a way which does not comply with the terms of any legislation; and you must make sure that this does not happen. The action we can take if this happens is

explained in clause 13. If a claim is made against us because the Services are misused in this way, you must reimburse us in respect of any sums we are obliged to pay.

11. Indemnity

If you use the Services for business purposes, you must indemnify us against any claims that anyone (other than you) threatens or makes against us because the Services are faulty or cannot be used by them.

12. Line rentals

When we provide your Line rentals, Virtual Graffiti Ltd. will route your calls through our chosen network. No other Virtual Graffiti Ltd. may route these calls or attempt to, and if they do we reserve the right to bar these calls. The use of IDA (Indirect Dialling Access) codes or equipment is expressly prohibited.

13. **Breach of the Agreement** If we suspend the Services due to your breach of this Agreement, the Agreement will shall continue, and you shall be liable to pay any remaining rental sums due under the term of the contract.

14. Amendments to Services and this Agreement

14.1 **General:** If you ask us to make any change to the Services, we will ask you to confirm your request in writing. No action will be taken by us to carry out the change until we have received your written confirmation. If we agree to a change, this Agreement will be changed when we confirm the change to you in writing.

14.2 The provisions in this clause 14 are without prejudice to the respective rights of the parties as set out elsewhere in the Contract.

14.3 Virtual Graffiti Ltd. may amend the Contract (including the Charges) at any time by either:

14.3.1 publishing the amendment online at www.virtualgraffiti-uc.co.uk; and/or

14.3.2 by giving Notice to the Customer, for amendments that cause the Customer material detriment, at least 30 days before the change is to take effect and, in the case of any other

amendments, at least one day before the change is to take effect.

14.4 Where practicable, Virtual Graffiti Ltd. shall provide Customer with advance notice of such changes. If advance notice cannot be provided, Virtual Graffiti Ltd. shall advise Customer of the change as soon as practicable after it has been made. Virtual Graffiti Ltd. shall not be liable to Customer for any claims by Customer because of such changes.

14.5 Virtual Graffiti Ltd. may change the terms of this Agreement without Customer's consent where to the extent that such changes are required due to alterations to the Network or Service; the way Virtual Graffiti Ltd. operates; the way in which Virtual Graffiti Ltd. provides Services (including where, in Virtual Graffiti Ltd. reasonable opinion, it is no longer commercially viable to provide a particular Service), provided that such changes affect at least 90% of Virtual Graffiti Ltd. relevant customer base. In these circumstances, Virtual Graffiti Ltd. shall advise Customer of the change via an Amendment Notice, at least 30 days in advance of the change taking effect. If Customer is materially disadvantaged and objects to such change, Virtual Graffiti Ltd. shall not be liable to Customer for any claims by Customer because of such changes.

14.6 Virtual Graffiti Ltd. may amend the charges in April of each year, by introducing an increase to all or any Charges by a percentage up to or equal to the UK Consumer Prices Index (CPI) rate published by the Office for National Statistics (or by any other body to which the functions of that office may be transferred) in January of that year plus 3.9%. If the CPI rate is a negative, Charges will be increased no more than 3.9%. If the CPI is not published for the given month, the Company may use a substituted index or index figures published by that office for that month. For the avoidance of doubt, an increase to the Charges under this clause [14.6](#) shall not be an amendment to the Contract that causes the Customer material detriment.

14.7 Save as set out in Clauses [14.2](#) and [14.3](#),

[14.5](#) and [14.6](#) changes to this Agreement must be made by written agreement of the Parties.

15. Assignment

You may not assign this Agreement or any part of it to any third party.

16. Cancellation before services are provided

You may cancel the Services or an individual Service within 14 days of signing this Agreement or of ordering the Service. However, if you have ordered the Service(s) for business use you must pay for any work we have undertaken and reimburse us for expenditure incurred. Early termination fees will also apply.

17. Termination

17.1 This agreement or termination of individual services within the agreement can be ended by either party by giving the 90 days' notice in writing provided that the end of the notice period coincides with the end of the Minimum Period

17.2 If we give you notice you must pay rental up to the end of that notice. If you give us notice, you must pay rental until 90 days from the date we receive your notice, or until the end of the notice if that is later.

17.3 If you give notice that terminates the agreement or any part of the agreement prior to the end of the Minimum Period (other than because we have materially altered the conditions of this Agreement) then we will levy a cancellation charge in accordance with the following:

- Line rental/ADSL: number of months remaining on agreement multiplied by the monthly rental
- Call Spend: number of months remaining on agreement multiplied by the monthly minimum spend, or where there is no monthly minimum spend, the number of months remaining on the agreement multiplied by the average call spend of the last 3 full months immediately prior to the notice being given.

17.4 If you have paid any rental for a period after the end of the Agreement, we will either

repay it or put it towards any money you owe us.

17.5 You must pay all charges for the Services until the date on which we stop providing the Services to you.

18. Additional Termination Charges

18.1 If you fail to reach the annualised minimum monthly spend commitment as outlined in any agreed tariff plan or the service agreement, we reserve the right to raise an invoice for the difference between achieved and committed spend in the month following expiry of the agreed term.

18.2 If notice is given during the term of the agreement and free install of ADSL and or line rental was given as part of the tariff or otherwise, then we reserve the right to impose a termination charge equal to the install cost divided by the number of the months in the term, multiplied by the number of months remaining in the term.

19. Compliance with Ofcom General Conditions of Entitlement

19.1 Where the relevant Service is an Electronic Communications Service pursuant to the Applicable Law including the Ofcom General Conditions of Entitlement ('General Conditions'), this clause will apply. Where the relevant Electronic Communications Service is part of a Bundle, this clause will extend to the whole Bundle including, where applicable, any element of the Bundle that is not an Electronic Communications Service.

19.2 To comply with requirements set out in the General Conditions, Virtual Graffiti Ltd. may provide Customer with certain information, where applicable.

19.3 Customer may waive their right to certain protections under the General Conditions. If applicable, Waivers will be set out in the Commercial Terms and/or Order Form.