

Terms and Conditions

Customer Details:

Company Name/Business Name:

Contact Name:

Registered Office/Business Address:

Telephone:

Fax:

Email

These are the terms and Conditions which govern contracts into which Cloud Net Ltd, (Co. Reg No. 6602617) whose registered office is at 34 Green Lane, Walsall, WS2 8HB enters with it's Customers.

These terms and Conditions together with the service specification document form the entire agreement with the customer.

It as agreed as follows:

1. Definitions and Interpretation

1.1. In this agreement the following terms shall have the following meanings:

“Acceptable Use Policy” means the policy document contained in Schedule 2 of this Agreement or any future variation thereof

“Annual Minimum Call Spend” means

“Direct Debit Mandate” means an instruction to the Customer's bank or building society to pay Cloud Net by Direct Debit in the format attached to this Agreement.

“The Network Operator” means the company which operates the physical connections either to the Internet or PSTN or both.

“The Service” shall mean the services agreed in the Connect Application Form

“The Service Year” means a period of 12 months beginning on the Switchover Date or any subsequent 12 month period beginning on the yearly anniversary of the Switchover Date.

“The Site” the property belonging to the Customer where the Service is to be installed.

“The Switchover Date” means

- 1.2. In this agreement words expressed in any gender shall where the context so requires or permits include any other gender.
- 1.3. Words importing persons shall include bodies corporate and partnerships and other incorporated bodies and vice versa.
- 1.4. Words expressed in the singular shall where to context so requires or permits include the plural.
- 1.5. The headings to clauses are inserted for ease of reference only and shall not affect the construction of this agreement.
- 1.6. This agreement constitutes the entire agreement between the Customer and Cloud Net and replaces all previous documents and discussions.

2. Commencement and Term

- 2.1. This Agreement takes effect on and from the date of this agreement and shall continue until the expiry of the Term or until it is terminated by either party in accordance with the Agreement.
- 2.2. The minimum duration of this Agreement is 18 months (“the Term”).

3. Provision of the Service

- 3.1. Cloud Net will use reasonable endeavours to provide the Service during the Term.
- 3.2. The Service shall commence on the date of this Agreement and continues until terminated in accordance with this contract.
- 3.3. Cloud Net is a member of the Internet Telephony Service Providers Association (ITSPA) and subscribes to its Code of Practice. Cloud Net has its own code of practice which is compliant with the ITSPA code.
- 3.4. Entering this contract authorises Cloud Net to take over the Services from your current telecommunications service provider(s). The Customer agrees that a faxed or emailed copy of this form shall be a legally binding contract. Telephone number porting is carried out in accordance with the Cloud Net Code of Practice

4. Reliability and Faults

- 4.1. Cloud Net shall use reasonable endeavours to make telephone and data services requested available to the Customer at all times.
- 4.2. Cloud Net shall not be liable for any losses or consequential losses, which may be caused by any problem with or interruption to the service.

IMPORTANT INFORMATION: Cloud Net provides voice over Data Network services, and as such, it is dependent on the Customer's connection to the data network and the data network itself. Your Service may therefore cease to function if there is a power failure or a failure in the underlying data network.

999 Calls or 112 calls, are free, but will fail if you have a power cut or your broadband connection fails. It's always best to have a second means of contacting the emergency services such as a mobile phone or an analogue phone.

Significant differences in service reliability between the circuit switched public telephony networks and voice over data networks may exist because of the different technologies used. Circuit switched public telephony networks is reliant on analogue data streams which have no redundancy and are easily intercepted. Voice over data networks have multiple levels of redundancy built in and are encoded. If you do not understand the difference in technologies please ask us to explain before signing this Agreement.

If the Customer reports a fault in the Service due to the physical network Cloud Net will report the fault to the Network Operator as soon as is reasonably practicable so that the Network Operator can arrange for an engineer to be dispatched to repair the fault as soon as possible.

If the Customer reports a fault due to the Cloud Net network then Cloud Net will make every effort to correct this fault as soon as possible.

5. Wiring

- 5.1. Cloud Net does not carry out wiring that may be necessary for the customer to access the Service.
- 5.2. If the Customer makes a request for wiring then Cloud Net will, where possible, introduce the Customer to a cabling company.

- 5.3. The Customer is entitled to choose an appropriate cabling company of their own choice however Cloud Net does not offer any warranty or guarantee in relation to any cabling company that it may recommend or introduce to the Customer.

6. Installing Equipment

- 6.1. Where it is necessary for equipment to be installed to enable Cloud Net to satisfy this Agreement, the Customer shall allow Cloud Net or any agent or representative of Cloud Net sufficient access to the Site to enable the installation process to be performed.
- 6.2. The Customer at its own expense agrees to provide the following to Cloud Net in circumstances where installation of equipment is required:
- (a) A suitable location and conditions;
 - (b) Necessary equipment;
 - (c) Continuous mains electricity supply;
 - (d) Connecting points.
- 6.3. The Customer is responsible for obtaining all necessary consents, licenses and permissions to allow Cloud Net to carry out any work necessary.
- 6.4. The parties to this Agreement agree to comply with reasonable safety and security requirements when on the Site.
- 6.5. Cloud Net is no responsible for making the Site good after any work undertaken and any work necessary shall be the responsibility of the Customer.
- 6.6. Cloud Net's liability for damage to equipment directly connected to the equipment being installed is limited to the cost of that equipment.
- 6.7. Cloud Net is not liable for any losses or consequential losses that may arise as a result of the installation process.

7. Use of the Service

- 7.1. The Service may only be used by the Customer in accordance with Cloud Net's Acceptable Use Policy.
- 7.2. The Customer will fully and effectually indemnify Cloud Net against any loss, claims or legal proceedings which are brought or threatened by a third party as a result of the Service being used otherwise than in accordance with the Acceptable Use Policy.

8. Telephone Numbers

- 8.1. The Customer does not own or have any claim over any telephone number or have any right to sell or transfer any telephone number provided to it for use with the Service.
- 8.2. Cloud Net will use all reasonable endeavours to enable customers to transfer their telephone numbers to other members of ITSPA within the recommended guidelines however Cloud Net is not under any obligation to ensure that a telephone number is transferred.

9. Throttling Filtering and Limiting

- 9.1. Cloud Net does not deliberately filter Internet traffic.
- 9.2. Cloud Net does not deliberately operate bandwidth caps.

10. Prices

- 10.1. Cloud Net reserves the right to increase or decrease the prices agreed on the service specification document by giving the Customer 30 days notice of such changes in writing.
- 10.2. Cloud Net reserved the right to specify a minimum contract price which shall be detailed in the service specification document.

11. Payment

- 11.1. Payment of all monies due to Cloud Net shall be made by monthly Direct Debit only and the Customer shall complete a Direct Debit Mandate in favour of Cloud Net on completion of this Agreement.
- 11.2. Cloud Net shall provide an itemised bill for call charges and other itemised service charges by email in the week following the end of the month in which the Service was provided.
- 11.3. Cloud Net is not under any obligation to provide a hard copy of the bill or in any other format to the Customer.
- 11.4. Rental payment charges are collected monthly in advance and will be included in the monthly Direct Debit.
- 11.5. Payment for any sums due in accordance with clause 9 will be collected from the customer within 7 days of the bill being provided to the Customer by email.

- 11.6. Cloud Net may suspend or determine this agreement in accordance with Sub-Clauses 9.7 – 9.9 if the Customer fails to make payment of any sums lawfully due to Cloud Net or if sufficient funds are not immediately collectable.
- 11.7. Cloud Net will notify the customer immediately in writing upon it becoming apparent that payment has not been collectable.
- 11.8. If payment continues to be uncollectable 7 calendar days after the notification in Clause 9.7 then Cloud Net may suspend the Service until payment is made.
- 11.9. If payment is not received in accordance with this Agreement, Cloud Net may charge the Customer daily interest on late payments at a rate equal to 7% per annum above the base lending rate from time to time of the Bank of England for the period beginning on the date on which payment is due and ending on the date on which payment is cleared.
- 11.10. The Customer is required to ensure that the name of the account holder is the same as the name on the payment details provided.
- 11.11. In circumstances where the Customer has agreed to an Annual Minimum Call Spend and at the end of any Service Year the Customer has not incurred the Annual Minimum Call Spend, the Customer will be liable to pay 40% of the difference between the Charges incurred during that Service Year and the Annual Minimum Call Spend.
- 11.12. Cloud Net reserves the right to apply a monthly minimum call spend of £7.50 in respect of outbound calls for each invoiced account to keep the account operating at a viable level. In the event that the actual outbound calls billed amount does not reach the minimum spend of £7.50 the Customer agrees to pay the difference between the actual calls billed amount and the £7.50 minimum spend.
- 11.13. If the Customer makes a valid claim regarding excess invoice charges for any part of the Service which results in an overpayment by the Customer and such overpayment is as a result of an error by Cloud Net then the excess charge will be refunded by credit to the Customer's account. A maximum credit equivalent to three months average cost applies to this clause.
- 11.14. If the Customer intends to dispute any charge on an invoice the Customer must do so in writing to Cloud Net within 14 days of the date of the invoice and provide Cloud Net with all relevant information in support of the disputed charge.
- 11.15. Depending on the amount of the disputed charge(s) the following procedures apply: amount to:
 - (i) If the disputed charge is less than 5% of the total charges listed on the invoice, the Customer will pay the full amount of the invoice pending a final decision from Cloud Net; or

- (ii) if the disputed charge is more than 5% of the total charges listed on the invoice, the Customer must pay the remaining amount of the invoice that is not in dispute.

Any disputes will be resolved promptly and if it is established that any sums are due from Cloud Net to the Customer then these sums will be repaid immediately.

- 11.16. If it is established by Cloud Net that the disputed charges are lawful then the Customer shall immediately pay all amounts due to the Cloud Net.
- 11.17. Any further disputes relating to this clause or disputed charges shall be dealt with in accordance with Clause 15 of this Agreement.
- 11.18. If this Agreement comes to an end or is terminated Cloud Net will refund any sums due to the Customer, after first deducting any sums that the Customer owes to Cloud Net under this Agreement or any other agreement Cloud Net has with the Customer.

12. Telephone Equipment

- 12.1. Cloud Net shall offer for sale or rent to the Customer adequate telephone equipment ("the Telephones") on which to operate the Service.

Purchase of the Telephones

- 12.2. The Customer may agree to purchase the Telephones from Cloud Net at the price set from time to time by Cloud Net.
- 12.3. All Telephones or any other equipment being purchased by the Customer shall remain the property of Cloud Net until the full purchase price of them is paid to Cloud Net but the risk of the Telephones shall be borne by the Customer from the date that they are delivered by Cloud Net or its agents.

Rental of the Telephones

- 12.4. The Customer may agree to rent the Telephones from Cloud Net on agreed terms and conditions for the Term.
- 12.5. The Customer acknowledges that all Telephones and other equipment being rented remain the property of Cloud Net at all times during the Term and until such items are returned to Cloud Net.

13. VAT

- 13.1. All prices are exclusive of VAT which will be added at the appropriate rate if applicable.

14. Termination

- 14.1. This Agreement may be terminated with 30 days written notice by either party; however the Customer will be liable to pay Cloud Net Limited:
- (i) All line rental costs which would have been due between the cancellation date and the end of the Term agreed above;
 - (ii) All service charges due to Cloud Net;
 - (iii) All sums in respect of call charges already incurred;
 - (iv) Any other sums which have arisen for whatever reason that are lawfully due to Cloud Net.
- 14.2. Cloud Net may by written notice terminate this Agreement immediately and without liability for compensation or damages if the Customer:
- (a) fails or ceases to make payment for the Service;
 - (b) instructs their bank to stop the Direct Debit instruction in favour of Cloud Net;
 - (c) breaches any term or condition of this Agreement and fails to remedy such breach within a reasonable period in the absolute discretion of Cloud Net;
 - (c) dies, becomes bankrupt, has a receiving order made against him, makes any arrangement with his creditors generally or takes or suffers any similar action as a result of debt or being a company convenes a meeting of its creditors or suffers a petition to be presented or a meeting to be convened or other action to be taken with a view to its liquidation except (with the written approval of Cloud Net) for the purposes of and followed by amalgamation or reconstruction.

15. Complaints and Dispute Resolution

Cloud Net subscribes to the ITSPA complaints procedure which is reproduced in the Cloud Net Code of Practice below.

16. Confidentiality

- 16.1. Cloud Net and the Customer will keep in confidence any information, whether written or oral, of a confidential nature obtained under or in connection with this Agreement except to the extent any disclosure is required by law.
- 16.2. The Customer and Cloud Net will not, without the consent of the other, disclose such information to any person other than their employees or professional advisers who shall require the information in order for the Customer or Cloud Net to fulfil its obligations under this Agreement or in the case of the Customer, its users to the extent that they are required to use or access the Service.
- 16.3. Cloud Net will only use personal data (as defined within the Data Protection Act 1998) obtained from the Customer following provision of the Service for the following purposes:-
- (a) Administering the Customer's account;
 - (b) Notifying the Customer of changes to the Service;
 - (c) Enabling Cloud Net to supply the Service to the Customer; and

(d) For invoicing purposes.

16.4. Cloud Net will not pass personal data obtained from the Customer to any third parties for marketing purposes but may send the Customer information about Cloud Net's own products and services which it considers may be of interest to the Customer unless the Customer specifically requests in writing that Cloud Net does not.

17. Variations

17.1. Cloud Net may vary the terms of this Agreement by giving 30 days notice in writing to the Customer.

18. Business Contract & Legal Advice

18.1. This is a contract intended to create legal obligations between the parties named at the beginning of the document.

18.2. By signing the agreement you are agreeing to the terms and conditions contained herein. Please ensure that you have read and fully understand what you are signing.

18.3. If you do not completely understand the agreement you should seek independent legal advice before signing it.

18.4. This is a business contract and the Customer should ensure that they wish to enter into it. There is no cooling off period and the Agreement is in force once signed.

18.5. The Customer has all requisite power to enter into and perform this Agreement and has taken all necessary action to authorise the entry into and performance by it of its obligations in the Agreement.

19. Fraud Prevention and Credit Checking

19.1. Cloud Net may check the Customer's details with a fraud prevention agency. If the Customer provides information that Cloud Net reasonably believes to be false or incorrect and Cloud Net suspects fraud, Cloud Net may record this information with a fraud prevention agency. Cloud Net and other organisations may use and search this information.

19.2. As part of a Customer approval process Cloud Net may check the credit file of the Customer at any time prior to entering this Agreement or at any time thereafter.

20. Miscellaneous

- 20.1. Cloud Net shall not be liable for any failure in the performance of any of its obligations under this Agreement caused by factors out of its control.
- 20.2. This Agreement embodies the entire understanding of the parties in respect of the matters contained or referred to in it and there are no promises, terms, conditions or obligations oral or written express or implied other than those contained in this Agreement.
- 20.3. Except as expressly provided for in this Agreement, no variation or amendment of this Agreement or oral promise or commitment related to it shall be valid unless committed to writing and signed by or on behalf of both parties.
- 20.4. This Agreement shall be governed by English law and the Customer consents to the exclusive jurisdiction of the English courts in all matters regarding it except to the extent that Cloud Net invokes the jurisdiction of the courts of any other country.

21. Intellectual Property

- 21.1. Except as expressly set out in the Agreement the Customer and Cloud Net does not acquire any rights or licenses to the other's intellectual property rights.
- 21.2. If software, documentation or manuals are provided to enable the Customer to receive and use the Service, Cloud Net grants the Customer, for the duration of the Agreement, a nonexclusive, non-transferable licence to use such software, documentation or manuals for the Customer's own use.
- 21.3. Unless otherwise agreed in writing, any licence granted by Cloud Net under clause 19.2 will terminate when the Agreement is terminated.

22. Assignment of Rights and Obligations

- 22.1. The Customer and Cloud Net may not transfer any of their rights or obligations under the Agreement without the written consent of the other, except that:
 - (a) The Customer may transfer its rights or obligations or both to a Group Company with the written consent of Cloud Net, such consent not to be unreasonably withheld or delayed; and
 - (b) Cloud Net may transfer its rights or obligations or both to a Group Company without consent provided that it notifies the Customer that it has done so.

23. Severability

- 23.1. If any term of the Agreement is held invalid, illegal or unenforceable by any court of competent jurisdiction, it will be severed and the remaining terms will continue in full force as if the Agreement had been made without the invalid, illegal or unenforceable terms.

Schedule 1

Cloud Net Code of Practice

CLOUD NET CODE OF PRACTICE

Cloud Net Ltd has a registered office at and operates from 34 Green Lane, Walsall, West Midlands, WS2 8HB. Telephone 01922 213333. All contact can be made via Mr Charles Chance, Managing Director.

Cloud Net provides IT and communications specialising in “cloud” or “grid” based services on demand.

The purpose of this Code is to inform customers of their relationship with us.

Cloud Net is a member of the Internet Telephony Service Providers Association (ITSPA) and subscribes to it's Code of Practice.

IMPORTANT INFORMATION: Cloud Net provides voice over Data Network services, and as such, it is dependent on your connection to the data network and the data network itself. Your service may therefore cease to function if there is a power failure or a failure in the underlying data network.

Significant differences in service reliability between the circuit switched public telephony networks and voice over data networks may exist because of the different technologies used. Circuit switched public telephony networks is reliant on analogue data streams which have no redundancy and are easily intercepted. Voice over data networks have multiple levels of redundancy built in and are encoded. If you do not understand the difference in technologies please ask us to explain before entering into a contract.

Emergency calls may fail if you have a power cut or your broadband connection fails.

It's always best to have a second means of contacting the Emergency Services such as a mobile phone or an analogue phone.

Cloud Net will use all reasonable efforts to enable customers to transfer their numbers to other members of ITSPA within the following recommended guidelines:

1. We will not unreasonably refuse to transfer a number to another member.
2. We will take reasonable steps to ensure that number porting is a simple and efficient process for the customer. Normally a single number transfer should be achieved within 10 working days from the date of the customer's request. (More complex transactions may require longer).
3. Any charge to release a number is designed to cover only the reasonable costs of administration.

The ITSPA Code of Practice enables customers of ITSPA members to make complaints about a breach of the ITSPA code of practice directly to ITSPA. ITSPA cannot become involved in complaints regarding non-ITSPA members.

The following information should be read before making a complaint about an ITSPA member:-

1. The complaint against an ITSPA member should first be registered with the member in question.
2. The ITSPA member must respond to the complainant within 5 working days, copying the Secretariat into the response. If the member is unable to respond, they must contact the Secretariat to explain their position.
3. The ITSPA member must endeavour to resolve the complaint within 10 working days. The complainant should be informed via email, letter or telephone or in person.
4. If a complaint cannot be resolved, then the complainant should contact the Secretariat. The complaint should be set out in an email or letter, which the Secretariat will forward on to the member.
5. The ITSPA Council will review the complaint and decide on appropriate action within 3 months.

Further details are provided within the ITSPA Code of Practice itself, including the possible sanctions that the ITSPA Council can pursue, should a member contravene the Code of Practice. These details are provided below. The Code of Practice can be viewed in its entirety on the ITSPA website (<http://www.itspa.org.uk/cop.htm>).

Under section 54 of the Communications Act, all Communication providers must provide its customers with access to an independent dispute resolution procedure, should a customer be unable to resolve a dispute

with its Communication provider. Cloud Net would use the CISAS scheme (Communications and Internet Services Adjudication Scheme).

Customers must give the company a chance to settle their complaint before applying to CISAS. Customers can apply to use CISAS if their complaint has not been settled within three months of first complaining to the company, or if the company has referred the customer to the scheme. An application form must be sent to CISAS within nine months of first complaining to the company.

You may contact ITSPA at ITSPA Secretariat Email: admin@itspa.org.uk sip:info@itspa.org.uk Tel: 020 7340 8733 Fax: 020 7340 8747

You may contact OFCOM at Ofcom, Riverside House, 2a Southwark Bridge Road, London, SE1 9HA.

If you want to complain to Ofcom please call 020 7981 3040 or 0300 123 3333.

Signed,

Charles Chance Managing Director

Last Reviewed 5 May 2009

Schedule 2
Acceptable Use Policy

CLOUD NET ACCEPTABLE USE POLICY

Cloud Net Ltd has a registered office at and operates from 34 Green Lane, Walsall, West Midlands, WS2 8HE. Telephone 01922 213333. All contact can be made via Mr Charles Chance, Managing Director.

Cloud Net's goals are to:-

Provide a high quality, reliable service to our customers
Respect the privacy of our customers
Protect the security/integrity of our network and systems

To achieve these goals, we encourage responsible use of our network and ISPs' networks. Compliance with applicable laws is always a requirement.

Please read this Acceptable Use Policy carefully before using Cloud Net systems or services.

You may not use the Cloud Net systems and services for any purpose that is unlawful or otherwise prohibited by this Acceptable Use Policy.

Prohibited Uses

The Service must not be used:

in any way that is unlawful or in contravention of any instructions, licence, code of practice or guidelines issued by any regulatory authority, nor any third person's rights; nor

To make offensive, menacing, indecent, nuisance or hoax calls or to cause annoyance or inconvenience to any other person; nor

to deliberately send or knowingly receive, upload, download or use any material which is deemed offensive, abusive, indecent, defamatory, or obscene under international law; nor in any way deemed to be fraudulent, nor in connection with any criminal offence

Responsibility

Customers and users of the Cloud Net Network are responsible for restricting their own access to undesired content, sites, and services. Cloud Net cannot accept liability for harm that results from violations of this Policy by other users of the network.

A violation of this Policy by a Customer is a material breach of the contract and may result in termination or other consequences as specified in the contract

