

TERMS & CONDITIONS

1. DEFINITIONS

“us” “we” “our”	Digital Communication Systems Limited
“you” “Customer”	you the Customer named overleaf
“Business Hours”	hours between 9.00 am and 5.15pm, Monday to Friday, excluding public holidays, the date set out overleaf
“Commencement Date”	
“Equipment”	means Equipment described in the order form and as supplied by us
“Installation Address”	as detailed in the order form
“Network”	means the public telecommunications network
“Order Form”	means our order form supplied to you
“Services”	the provision of the Network service or both as applicable in accordance with the your requirements as set out in the order form
“Supplementary Order form”	our supplementary order for additional or amended requirements

2. EQUIPMENT, PURCHASE RENTAL AND SERVICES

2.1 Network Service

2.1.1 Network Service is the provision of the network telecommunications service to be provided to your lines by us with the originating number so described in the order form. Details of the Network Service (other than outbound services) are set out in the Supplementary Order Form the contents of which are incorporated into these terms and conditions.

2.2 General Provisions and Acceptance

- 2.2.1 You shall be responsible to us for ensuring the accuracy of the details in the order form, and for giving us any necessary information within a sufficient time to enable us to provide the Network Service and the Equipment (if any) in accordance with this Agreement. If you have requested an additional service which requires your information you agree to supply all such information, in a true accurate and complete form to us and if you fail to do so, we shall have no liability to you whatsoever for any failure to deliver such additional services
- 2.2.2 You allow our servants, agents and sub-contractors, full access to the Equipment during Business Hours and outside Business Hours if we shall require such continued access to complete any repair to enable maintenance of the Equipment to be carried out;
- 2.2.3 We shall be entitled at any time to repossess Equipment which remains our property and you hereby grant to us, our agents and servants a licence to enter upon any premises where it reasonably believes such Equipment are stored for the time being for the purposes of repossessing the Equipment and agrees to give us such assistance as we may require.
- 2.2.4 You shall not pledge or in any way charge by way of security for any indebtedness any of the Equipment which remains our property.
- 2.2.5 You will keep all Equipment supplied at the Installation Address and ensure that it is not moved, altered, adjusted or interfered with in any way whatsoever except by us or our servants or agents;
- 2.2.6 You shall pay to us our charges from time to time for reprogramming the Equipment required as a result of an error by any person other than the our servants, agents, or sub-contractors.
- 2.2.7 No order shall be accepted by us until we have acknowledged acceptance of the order
- 2.2.8 No order for Network Service, which has been accepted by us, may be cancelled by you except with the agreement in writing of us and on terms that you shall indemnify us in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages charges (including any cancellation charges levied on us by any of our suppliers) and expenses incurred by us as a result of cancellation.
- 2.2.9 You agree that we shall be able to disconnect and order any services for you that are required from BT (in your name) so that we may fulfil the terms of the Services to you

3. DELIVERY AND RISK

3.1 All delivery dates or periods quoted by us are our best estimates and time shall not be of the essence in relation to such dates or periods.

4. CHARGES AND PRICES

4.1 Network Service

- 4.1.1 The fee for the Network Service shall be calculated according to the prices applicable at the time that the Network Service was in use. A price list for the Network Service is available on request. If no product code is completed overleaf then we will automatically charge you Digital - 1
- 4.1.2 Payment is usually invoiced to you in arrears. All amounts payable for the Network Service are payable in full within 14 days of the date of our invoice.
- 4.1.3 We may increase the price of the Network Service to reflect any increase which is as a result of any factor beyond our control such as, without limitation any foreign exchange fluctuation, currency regulation, variations in duties and taxes, increases in costs, or any changes in instructions or specifications for the Network Service which are requested by you or any delay suspension or alteration of the Network Service caused by any of your instructions or your failure to give us adequate information or instructions, or any change in your network telecommunications or other supplier.
- 4.1.4 If you request that we change the network telecommunications supplier used in connection with the Service, we shall be entitled to be reimbursed by you for all and any reasonable costs, charges, expenses or other costs incurred by us in this respect.

4.2 Charges and Prices - General

- 4.2.1 All payments due to us from you shall be paid by you without set-off, counterclaim and free and clear of all deductions and withholding. The sums payable by you in accordance with the terms of this Agreement are, unless otherwise stated, exclusive of Value Added Tax which shall be payable by you in addition to the relevant amounts at the rate and in the manner from time to time being prescribed by law.
- 4.2.2 If you fail to make any payment on the due date then in addition to any other right or remedy available to us we may:
- 4.2.2.1 demand immediate payment of all invoices then outstanding;
- 4.2.2.2 cancel our obligations under this Agreement; and
- 4.2.2.3 interest shall be due on all overdue payments both before and after judgement at the rate of 2% above the base rate from time to time of Barclays Bank Plc until such time as payment in full is received by us.
- 4.3 If you have agreed to payment by direct debit or other type of payment approved by us, by completion of a direct debit mandate, we may deduct any monies due to us howsoever incurred by you by such direct debit.

5. WARRANTY

5.1 We make no representations as to the compatibility of the Equipment with any equipment additionally supplied by us, which has not been verified as to its compatibility

5.2 We do not warrant that the Network Service will be continuous or fault free.

6. EXCLUSIONS & LIABILITY

- 6.1 Nothing in this Agreement excludes or limits out liability for death or personal injury caused by our negligence or fraudulent misrepresentation. We shall not be liable whether in contract, tort (including negligence or breach of statutory duty) misrepresentation, restitution or otherwise under or in connection with this Agreement for:-
- 6.1.1 any delay in the execution of any repair of the Equipment;
- 6.1.2 remedying defects in electricity or network supply;
- 6.1.3 repairs to Equipment required as a result of failures or surges of electrical power or due to your or your employees or agents actions in your use repair or modification of the Equipment;
- 6.1.4 failure of the Equipment due to changes in the electrical supply service or the public network;
- 6.1.5 failure of Network Service or performance where such failure is due to any services provided by third parties; or
- 6.1.6 any event of force majeure set out in clause 8.3 If notwithstanding the provisions of this clause where any valid claim in respect of the Services or the Equipment (if any) which is based on any defect in the quality or condition of the Service or the Equipment (if any) is notified to us in writing then we shall at our own expense remedy the defect or error in question provided that you have complied with your obligations hereunder but we shall have no further liability to you whatsoever, save as set out in 6.1 above
- 6.2 We shall have no liability to you in respect of any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with this Agreement save that we shall be liable in respect of direct or indirect consequential loss or economic loss where it has been proved that such loss is due to our direct negligence.
- 6.3 You shall indemnify us and keep us fully and effectively indemnified on demand against any loss of or damage to our property or injury to or death of any of our employees or sub-contractors or agents caused by a negligent act or omission or wilful misconduct by you, your employees, agents or sub-contractors.

7. DURATION AND TERMINATION

7.1 Network Service

- 7.1.1 The term for Network Service shall continue for an initial minimum term as stated (“Fixed Period”) unless otherwise agreed in writing in advance by us and shall continue thereafter unless terminated by either party giving to the other at least 3 months written notice which shall expire no earlier than the end of the Fixed Period.
- 7.1.2 We shall be entitled, without prejudice to any other of our rights or remedy, to terminate this Agreement forthwith if any licence under which you have the right to run our telecommunication system and connect it to the Network Service is revoked, amended or otherwise ceases to be valid.
- 7.1.3 If you, for whatever reason, divert the Network Service to some other telecommunications supplier or carrier, we will not be responsible for that telecommunications supplier or carrier’s charges and shall be entitled to terminate this Agreement for Network Service forthwith on written notice to you.
- 7.2 Without prejudice to any other right or remedy, we shall be entitled to terminate our obligations under this agreement if you immediately:
- 7.2.1 fail to make any payment in full on the due date as set out in the schedule of payments as agreed between you and us at the commencement of this contract; or
- 7.2.2 commit any material breach of any term of this Agreement and (in the case of a breach capable of being remedied) shall have failed, within 28 days after the receipt of a request in writing to do so, to remedy the breach; or
- 7.2.3 cease or threaten to cease to carry on business; or
- 7.2.4 any material information you have supplied to us is found to be misleading
- 7.2.5 have a petition for bankruptcy order presented or has a receiver or administrative receiver appointed over you or over any party of your undertaking or assets or shall pass a resolution for winding up (otherwise than for the purpose of bona fide scheme or solvent amalgamation or reconstruction) or a court or competent jurisdiction shall make an order to that effect or if you shall enter into or propose to enter into any voluntary arrangement with your creditors or shall become subject to an administrative order.
- 7.3 Any termination hereof (howsoever occasioned) shall not affect any accrued rights or liabilities of either party.

8. GENERAL

- 8.1 All notices shall be sent by recorded delivery post.
- 8.2 These terms, incorporated documents and details overleaf represent the entire agreement between us and no variation by you shall be binding unless signed by one of our directors. We may assign or otherwise transfer our obligations and liabilities under this Agreement in whole or in part, we may assign this contract with our written consent such consent not to be unreasonably withheld. 8.3 We shall have no liability to you for any delay, failure in performance where such failure or delay arises from causes beyond our control including but not limited to, power cuts, fire, storms, floods, acts of god, acts or regulations of any governmental or supranational authority, war, riot, strikes, lock outs and industrial disputes.
- 8.4 This Agreement shall be governed by the laws of England.
- 8.5 Notwithstanding that the whole or any part of any provisions of this Agreement may prove to be unenforceable the remaining provisions of this Agreement and the remainder of any provision in question shall remain in full effect.
- 8.6 No waiver by either party of any provision of this Agreement shall restrict or prejudice any of the parties’ rights under this Agreement .
- 8.7 We reserve the right to make any changes in the Service or the Equipment (if any) which are required to conform with any applicable statutory or EC requirements or telecommunication authorities or other competent authorities’ requirements
- 8.8 The Contracts (Third Party Rights) Act 1999 shall be excluded to the greatest extent permitted by law.
- 8.9 When the services are provided under a consumer transaction (as defined by the Consumer Transaction (restrictions or statements) Order 1978) the statutory rights of the consumer are not affected by this Agreement
- 8.10 All warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade, usage, course of dealing or otherwise arising out of or in connection with the supply of the Service and the Equipment (if any) or their use by you are excluded to the fullest extent permitted by law provided that nothing in this Agreement shall exclude or restrict our liability for death or personal injury (resulting from our negligence or of our employees whilst acting in the course of their employment) or fraudulent misrepresentation