

we also use the information we collect from our services to help us improve our services and to provide you with personalised services. We also use the information we collect from our services to help us improve our services and to provide you with personalised services. We also use the information we collect from our services to help us improve our services and to provide you with personalised services.

## 1. Definitions and Interpretation

The following definitions apply to the Telephone Service to which you subscribe under this Contract (unless the context requires otherwise):  
Access Code" means the indirect access code detailed in the User Guide that allows you to access the Calls Service; "Calls Service" means the fixed line residential calls service provided to you from time to time by XL under these terms and conditions, enabling you to make calls over the Fixed Line Network using the Access Code or Select and to use any related services including our directory enquiries service; "Charges" means the charges for the Telephone Service as set out in the Price List; "Code of Practice" means our code of practice governing how we will provide the service and deal with your complaints as may be amended from time to time; "Contract" means the contract application which you agreed with us, these terms and conditions and the Price List; "Fixed Line Network" means the telecommunications network(s) over which we provide the Telephone Service; "Inclusive Call Plan" means any of our Call Service plans that entitle residential customers to make free, inclusive or reduced cost calls from your home telephone(s) to any geographic telephone number in the UK as such plans may be amended from time to time; "Line Rental Extras" means any other facilities that we agree to provide to you under this agreement that are additions to the Line Rental Service (such as call divert); "Line Rental Service" means the service we may agree to provide to you to allow you to rent access to the main telephone line and shall include Line Rental Extras where we agree to provide these to you; "Price List" means the list(s) of Charges current at the time you use the Telephone Service as published on our website and which we will send to you with our User Guide when you first receive the Telephone Service; "Select" means our carrier pre-selection access method, which allows you to access the Calls Service without dialling the Access Code; "Telephone Services" means the Line Rental Service and/or the Calls Service that we agree to provide to you; Third Party Operator" means the operator of any telecommunications network or system over which we provide the Telephone Service; "User Guide" means any guide or guides published by us, which give(s) instructions about and information on the Telephone Service; "we" and "us" means XL Networks Limited and/or our agent(s).

## 2. When this Contract begins

2.1 The Contract begins when we confirm to you our acceptance of your application. Upon acceptance of your application, we will send you a User Guide (including a copy of these Terms and Conditions and the then current Price List).  
2.2 You must: (i) be at least 18 years old to enter into this Contract; (ii) be the owner of the main telephone line, or authorised by such owner to use the main telephone line, over or in respect of which we will provide the Telephone Service to you; and (iii) agree to use us for all of your voice calls from your home telephone number in order to be able to receive the Line Rental Service at our normal rates.

## 3. Customers' Right to Cancel the Contract

3.1 You may cancel your Contract for the Telephone Service within 7 working days of receiving these terms and conditions for the Telephone Service (the "Cooling Off Period").  
3.2 If you want to cancel your Contract, you must call our Customer Services Team (please see the User Guide for details) to confirm cancellation before the Cooling Off Period expires. If you do not call our Customer Services Team to confirm your cancellation, we may not be able to recognise or process your cancellation.  
3.3 If you have used the Telephone Service during the Cooling Off Period, you may still cancel your Contract but you must pay any Charges that you have incurred.  
3.4 If you are a Line Rental Services 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 indirect access codes; (ii) charge you a higher fee for your use of the Line Rental Service or (iii) disconnect the Line Rental Service.

## 4. The Services we provide

4.1 We shall provide the Telephone Services to you in accordance with this Contract and as described in the User Guide and any other instructions we give you from the date you are connected to the Telephone Services.  
4.2 We will notify you when you will be connected to the Telephone Service. If you elect to apply for the Line Rental Service and already receive line rental services from another provider, this other service will continue until the transfer to our service is complete unless your other provider advises you otherwise.  
4.3 The Telephone Services are made available to you on the condition that you do not: (i) re-supply, resell or otherwise make either of the Telephone Services available to any person on a commercial basis; or (ii) use the Telephone Services or allow the Telephone Services to be used for any purposes outlined in clause 5.3 below.  
4.4 We may select and at any time change any carrier or other service provider for the purposes of providing the Telephone Service, and you authorise us to give all notices, nominations and other authorisations that are necessary for us to provide, the Telephone Service to you.  
4.5 In which we provide the Telephone Services to you, you authorise us to act on your behalf in all dealings with any Third Party Operator in connection with any matter that enables us to provide or to continue to provide you with the Telephone Services.  
4.6 We cannot guarantee that the Telephone Services will be free of faults or interruptions, timely or secure to the extent the Telephone Services may be affected by things we cannot control, such as lack of network capacity, physical obstructions or atmospheric conditions.  
4.7 We shall provide the Telephone Services with reasonable skill and care. If you do experience a problem or suspect a fault you should first telephone our Customer Services Team. Unless you receive the Line Rental Service, we shall not in any circumstances be responsible for any all-out or other charges you incur to BT or any other third party network operator as a result of any problem or fault with the Calls Service. If you are receiving our Line Rental Service then the provisions of clause 12 will apply.

4.8 If you have a complaint regarding the Telephone Services you may contact our Customer Services Team. Further details of our complaints process are set out in the Code of Practice.

4.9 It is your responsibility to ensure the compatibility of the Telephone Services with any monitored alarm system you may have and you should check this with your monitored alarm system provider. If there is an interruption to the provision of either of the Telephone Services under this Contract this will affect the operation of your monitored alarm system if you are a Select customer. We do not accept any liability in connection with your use of a monitored alarm system with the Telephone Services, except for liability for death or personal injury caused by our negligence or that of our agents.

4.10 Certain services which are provided by Third Party Operators may not be compatible with the Telephone Service eg BT Surfline. You should be aware that such services may be automatically removed from your line during set up and may no longer be available to you.

## 5. Your Use of the Telephone Services

5.1 You must: (i) use the Telephone Services; and (ii) ensure that anyone who uses the Telephone Services we provide to you does so in accordance with this Contract, the User Guide and any other instructions we give to you from time to time which may include giving us access to your premises.  
5.2 You must at all times keep the password or any PIN number for your account confidential and secure, and you must tell us immediately if the password or PIN number is disclosed to any unauthorised person. You acknowledge that: (i) we may at our sole discretion, amend, add services to, or disclose any information in connection with, your account upon request from anyone who correctly quotes your password; and (ii) our automated billing reminder/information announcements and/or other information will be heard by anyone accessing the Telephone Service.  
5.3 You shall not use, nor allow any other(s) to use, the Telephone Services:  
a) for any improper, immoral or unlawful purpose;  
b) to send a communication which is, or is intended to be, a hoax call or which is spiteful, indecent, defamatory, offensive, abusive, obscene or menacing;  
c) to violate or infringe any rights of, or to cause unwarranted inconvenience or anxiety to, any other person;  
d) in such a way that may damage or affect the operation or quality of the Telephone Services, the Fixed Line Network or any telecommunications system used to provide the Telephone Service; or  
e) fraudulently or illegally.

5.4 If you do not or any other person using the Telephone Services with your permission does not comply with any provision of this clause 5, you will indemnify us for any claims, losses, damages, costs, liabilities and expenses (including, without limitation, any legal costs and expenses) which we may suffer or incur as a result of any such non-compliance and the Telephone Services may be suspended or disconnected if you continue to breach the provisions of this clause 5. If you discover that someone else has used the Telephone Services supplied to you without your or our permission, you should notify our Customer Services Team and the Police at the first possible opportunity. You may be held liable by us for any losses that you suffer or incur as a result of such unauthorized use.

5.5 If you want to connect equipment to the Fixed Line Network other than using a main phone socket, you must obtain our permission and you agree that we may request permission from a Third Party Operator in order for us to make any decision.  
5.6 You agree that you will not connect any equipment to the Fixed Line Network that may harm the Fixed Line Network or the equipment of other users of the Fixed Line Network. If you do connect such equipment, you must disconnect it immediately or allow us to do so at your expense.

5.7 You agree that any telephone number supplied to you is personal to you but that you do not own that telephone number. You may not sell or agree to transfer any number supplied to you. You also agree that you will not advertise your telephone number in any phone box and that if you do so, we may suspend or disconnect the Line Rental Service.

5.8 If it is necessary for a Third Party Operator to supply you with equipment in order to access the Telephone Services then:  
5.8.1 such equipment will remain the sole property of that Third Party Operator;  
5.8.2 you agree that you will prepare your premises in accordance with our or the Third Party Operator's reasonable instructions;  
5.8.3 you agree to obtain all necessary consents, including for example, consents for any necessary alterations to buildings, permission to cross other people's land or permission to put any Third Party Operator equipment on their property; and  
5.8.4 you agree to provide a suitable place and conditions for the Third Party Operator's equipment including connection points to the Fixed Line Network and electricity.

5.8.5 you will not alter or modify in any way any Third Party Operator's equipment and you agree to indemnify us for any losses or damages which we may suffer or incur as a result of any loss or damage affecting the Third Party Operator's equipment unless any such loss or damage is caused by fair wear and tear.

5.9 For operational reasons, we or Third Party Operators may need to change your phone number or the codes used for the Line Extra Services. We will give you as much notice as possible of this.

## 6. Charges and Payment

6.1 We will bill you for the Telephone Services in accordance with the relevant terms, tariffs, rules and Charges applying at the time the telephone Services are used. For the avoidance of doubt our Inclusive Call Plans are only available to residential customers. If, at any time, our usage of the Telephone Services does not accord with that reasonably expected of a residential customer, you will: (i) no longer be considered a residential customer; (ii) have your access to any Inclusive Call Plans suspended in accordance with the terms of this Contract; and (iii) be charged and billed in accordance with our then applicable standard tariff to the extent your usage of the Telephone Services exceeds that reasonably expected of a residential customer. We will inform you before we start charging you in accordance with our then applicable standard tariff under this Clause 6.1.

6.2 We may vary any Charges or rates, and/or charge to you any taxes or duties imposed in relation to the Telephone Services, at any time by posting the resulting price changes on our website or otherwise giving you notice. You can contact our Customer Services Team and request details of our prices or any price change at any time. We will endeavour to make available to you details of any price changes at least 5 calendar days' notice before they take effect.

6.3 All Charges are subject to any applicable UK tax or duty, including Value Added Tax, at the prevailing rate.  
6.4 Subject to clause 6.5 below, we will bill you for and you must pay the Charges incurred for Telephone Services supplied to the service number(s) nominated by you. You may be charged a connection fee or a minimum call charge in respect of any call made using the Calls Service. Please see our Price List for details. Please also see our Price List for details of how you will be charged for each minute of your calls.

6.5 You accept that: (i) any use of the Calls Service by any person to make telephone calls from any service number nominated by you is deemed to be authorised by you; and (ii) we will bill you for and you are responsible for payment of any Charges arising from any such use.  
6.6 We will normally send you bills for the Telephone Services on a monthly basis. We will charge you for the Line Rental Service and Line Rental Extras in advance at the rates set out in our Price List. We may vary billing frequency or demand payment at any other time by giving you prior written notice. We will endeavour to bill you for use of the Telephone Services supplied by XL to the service number(s) nominated by you within 6 months of such use. If you require a duplicated bill, you agree to pay us an administration fee of £5 for each requested duplicate bill.

6.7 Unless we have agreed otherwise, payment is due in full for use of the Telephone Services on the service number(s) nominated by you and you must pay any bill for Charges arising from such use by the due date specified in the bill.  
6.8 You may elect to have your bills paid by way of a direct debit from (i) a bank account held by you at an approved financial institution or (ii) a valid credit card held with an approved financial institution and nominated by you. If you do not elect to have bills paid by way of direct debit, you agree to pay a monthly billing administration fee (which may include a charge for the bank charges and/or approved financial institution fees that we incur as a result). If you change your direct debit details, any such change(s) may take up to 30 calendar days to take effect.

6.9 If you pay the Charges (i) by cheque, credit card, debit card or direct debit and your bank or credit card company refuses to make payment or (ii) in a currency other than pounds sterling, we will charge you for any bank charges, approved financial institution fees and/or any other extra administration costs that we incur as a result.

6.10 If you do not pay any amount due, we may, at our discretion, instruct our debt collection agency to recover the amount due. We may charge you interest on the overdue amount(s) at the rate of 3% per annum above Barclays Bank plc base rate. Interest is calculated and accrues daily. We may charge an administrative fee of £5 (which we may vary from time to time in accordance with clause 9 below) to cover costs that we incur as a result of payment(s) being received after the due date.

6.11 If we decide it becomes necessary to contact a debt collection agency regarding unpaid bills we reserve the right to charge you our reasonable administrative costs in connection with this.

## 7. Credit Limit / Security Payment

7.1 We may, at our sole discretion and at any time, impose a credit limit on your account and/or require payment of a security deposit or interim payment by you.

7.2 Any credit limit imposed can be amended without prior notice. If you exceed any such credit limit: (i) we may demand immediate payment of the Charges and/or suspend the Telephone Services; and (ii) you will still be responsible for all Charges incurred including those exceeding the credit limit.

7.3 If at any time we require you to pay a security deposit under clause 7.1 above, we may: (i) suspend provision of Telephone Services until we receive payment of the security deposit; and (ii) at any time apply the security deposit (once paid) to meet any cost, loss or liability incurred as a result of any failure by you to comply with these terms or to pay any amount you owe to us.

## 8. Our Rights to Suspend or Disconnect the Telephone Services

8.1 We can at our discretion suspend or disconnect your access to the Telephone Services:  
a) if we are entitled to under clause 3.4, 5.4, 5.7, 6.1, 6.10, 7.2 or 7.3 above;

b) if we are required to do so by the Government, an emergency service organisation or any other competent body or authority;  
c) for repairs, maintenance or improvement; or  
d) if we have good reason to suspect fraudulent activity or misuse of the Calls Service or any other breach by you of this Contract.

8.2 We will normally inform you first if we are going to suspend or disconnect your access to the Telephone Services.

## 9. Changing the Contract

9.1 This clause 9 applies to all changes to this Contract, except changes to Charges which are dealt with in clause 6.2 above.

9.2 Subject to clause 9.1 above, we may vary these terms and conditions at any time by posting the changes on our website and, where reasonably practicable, giving you prior notice. We will only do this if we have a valid reason, for example to reflect changing arrangements with any Third Party Operator or changing legal, regulatory or business requirements. If any variation of these terms and conditions is likely to cause material detriment to you: (i) we will also notify you of the variation in writing or by your chosen method of contact; and (ii) you shall have the right to terminate this Contract with immediate effect by giving us written notice. You agree that, if you decide to use the Telephone Services after any variation(s) to these terms and conditions have been posted on our website or, in the case of a variation which is likely to cause material detriment, notified to you, you will be bound by the terms and conditions as varied.

## 10. Ending the Contract

10.1 You may end this Contract for the Telephone Services by giving us 7 calendar days' prior notice.

10.2 We may end this Contract for the Calls Service and/or the Line Rental Service (i) by giving you at least 30 calendar days' notice; or (ii) immediately if: a) you do not pay any Charges on time or you breach a materially important term or condition of this Contract (including, without limitation, any provision of clause 5 above);  
b) you breach any term or condition of this Contract that does not fall within sub-clause 10.2(a) above and do not put it right within 7 calendar days of being asked to do so;

c) you fail any credit or fraud prevention check referred to in clause 13.3 below or we have good reason to suspect fraud or money laundering as set out in clause 13.4 below;  
d) we have good reason for believing that any information you have given us is false or misleading;  
e) you are the subject of any bankruptcy or insolvency proceedings; or  
f) despite our reasonable efforts the Telephone Services are no longer available to us.

10.3 If this Contract ends for any reason: (i) we will terminate your access to the Telephone Services; (ii) we will send you a bill for all unbilled Charges for the Line Rental Service and for telephone calls made from the service number(s) nominated by you using the Calls Service prior to such termination and, subject to clause 6.5 above, you must pay the bill by its due date; and (iii) neither you nor XL shall lose any rights accrued under this Contract prior to it ending.

10.4 If we disconnect the Line Rental Service pursuant to clause 8 or this Contract ends pursuant to this clause 10 then you will no longer have access to our Line Rental Service or any home telephone service and you will need to make alternative arrangements with another telephone services provider.

## 11. Our Responsibilities to you

11.1 We do not in any way exclude or limit: (i) our liability for death or personal injury caused by our negligence or that of our agents; (ii) any liability under Part 1 of the Consumer Protection Act 1987; or (iii) any liability that cannot by law be excluded or limited.

11.2 (Subject to clause 5.4 above and this clause 11) you suffer any other loss or damage under or in relation to this Contract, our liability will be limited to £100,000 per incident or series of connected incidents and £500,000 in any 12-month period.

11.3 We will not in any event be responsible or liable for: (i) any faults, damage or maintenance to your telephone line unless you are being provided with the Line Rental Service; (ii) any economic loss (including any loss of profit, revenue, business, contract, anticipated savings, goodwill or data or any other financial loss); or (iii) any indirect or consequential loss or damage.

11.4 Subject to clause 11.1 above, we: (i) make no warranties, conditions, guarantees or representations as to quality or fitness for a particular purpose of the Telephone Services or any other warranties, conditions, guarantees or representations whether express or implied, oral or in writing, except as expressly stated in this Contract; and (ii) exclude all liability for the accuracy (or inaccuracy) of any material or other information provided or made available by us or any third party in relation to the Telephone Services.

11.5 Each provision of this clause 11 operates separately. If any such provision is disallowed or found to be ineffective by any Court, regulatory body or other competent authority the other provisions will continue to apply.

## 12. Faults with the Line Rental Service

12.1 If you suffer or suspect a fault with the Line Rental Service then you should contact our Customer Services Team. If you try and contact any Third Party Operator it is likely they will ask you to contact us.

12.2 You agree that you will be responsible for all charges that you incur or we incur on your behalf in repairing any fault with the Line Rental Service unless the fault is the result of any act or omission of us or a Third Party Operator or is due to fair wear and tear.

12.3 If we decide that an engineer should be sent to your premises in connection with a fault and that engineer arrives within an agreed appointment time, you will incur an administration fee if you are not available at the agreed time.

12.4 If an engineer attends a fault and decides that the fault is with equipment owned by you then you will be charged for any work carried out and the engineer may disconnect the equipment.

12.5 Any charges incurred by you in dealing with faults with the Line Rental Service shall be at the rates published in the User Guide or on our website.

## 13. Events Beyond our Control

We shall not be responsible for any delay or failure to carry out our responsibilities under this Contract for reasons beyond our reasonable control, including for example acts of God, exceptionally severe weather, industrial disputes, failure or shortage of power supplies, act of terrorism or riot, war, default or failure of a third party (including any network operator or service provider) or their telecommunications systems or government actions.

## 14. Using personal information

14.1 Information you provide or we hold about you (whether or not under our contract (or contracts) with you) may be used by us or our agents to:  
a. identify you when you contact us;  
b. help identify accounts, services and products which you could have from us from time to time (we may do this using an automatic scoring system, which uses the information you have provided, any information we hold about you and information from other agencies, including credit-reference agencies);  
c. help run, and contact you about the improved running of, any accounts, services and products we have provided before, or provide now or in the future;  
d. carry out marketing analysis and customer profiling (including with transactional information) and create statistical and testing information;  
e. help to prevent and detect fraud or loss; and  
f. contact you in any way (including mail, e-mail, phone, visit, text or multimedia messages) about products and services offered by us and selected partners.

14.2 We will only contact you in this way if you have previously shown your consent.  
14.3 We may allow other people and organisations to use information we hold about you:  
- to provide services you have asked for;  
- as part of the process of selling one or more of our businesses;  
- if we have been asked to provide information for legal or regulatory purposes; or  
- as part of current or future legal proceedings.

From time to time, these other people and organisations may be outside the European Economic Area in countries that do not have the same standards of protection for personal data as the UK.

## 14.3 We may also allow your information to be used by other XL Group companies.

14.4 We may monitor and record communications with you (including phone conversations and e-mails) for quality assurance and to make sure that we are meeting our legal and regulatory requirements.

14.5 We will hold information on your phone use, including the numbers called, date, time, duration and cost of calls, together with information about your location. We will use this information to manage the phone service and provide you with any other services you may ask for. Where you have previously shown your consent, we may use this information to provide you with information about other products and services that we believe will be of value or interest to you. We will keep information for as long as is necessary to provide services you have asked for and until charges for the service cannot be lawfully collected.

14.6 We may check your details with one or more licensed credit-reference and fraud-prevention agencies. We and they may keep a record of this search and the payment details from your account, and share it with other organisations. If a person provides false or inaccurate information and we suspect fraud, this is also recorded. This information may be used by us, and other organisations may search these records to:  
a. help make decisions about credit and credit-related services for you and members of your household;  
b. help make decisions on motor, household, credit, life and other insurance proposals and insurance claims for you and members of your household;  
c. trace debts, recover debt, prevent fraud, and manage your accounts or insurance policies;

d. check your identity to prevent money laundering, unless you give us our satisfactory proof of your identity; and  
e. carry out statistical analysis about credit, insurance and fraud.  
14.7 And other credit and insurance organisations, may also use technology to detect and prevent fraud.

14.8 If you need details of those credit agencies and fraud-prevention agencies from which we get, and with which we record, information about you, please write to us at the address contained in the User Guide.

14.9 If you give us information on behalf of someone else, you confirm that you have given them the information set out in this document, and that they have not objected to their personal information being used in the way described in it. If you give us sensitive information about yourself or others (such as health details or details of any criminal convictions of members of your household), you agree (and confirm that the relevant subject of the information has agreed) to us processing this information in the way set out in this document.

14.9 If you are making a joint application or you have told us about some other financial association with someone else, a "financial association" between you and that other person (or people) will be made at all credit-reference agencies. This will link your financial records with that other person (or people) so that both (or all) your records will be taken into account in all future applications by either or both (or all) of you. This will continue until one of you successfully files a notice with the credit-reference agencies asking that you are no longer financially associated with that person.

15. Third Party Rights  
A person who is not a party to this Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract, but this does not affect any right or remedy of a third party which exists or is available apart from under that Act.

## 16. Assignment

16.1 You may not assign any of your rights or obligations under this Contract without our prior written consent.  
16.2 We may, at any time, obtain an alternative provider to provide the Telephone Service to you. You agree to the assignment of our rights and obligations under this Contract to that alternative provider, provided that the level of service that you experience is not significantly reduced as a result, and authorise us to execute on your behalf any documents necessary to give effect to any such assignment.

## 17. Waiver

If at any time we do not require you to comply with any part of this Contract, this will not prevent us from doing so in the future.  
18. Enforceability  
If any part of this Contract (including any provision in which we exclude or limit our liability to you) is deemed unenforceable by any Court or other competent body or authority, the enforceability of any other part of this Contract will not be affected.

## 19. Notices and Communications

Any notice under this Contract, whether required to be written or otherwise, may be given by us to you by post, personal service, e-mail or SMS messaging to any address, e-mail address or phone number you have given us to correspond with you, or by posting it on our website. You must give notices to us by post, personal service or e-mail to the relevant address set out in the User Guide.

## 20. Entire Agreement

This Contract represents the entire agreement between you and us in relation to the Telephone Service and shall supersede all previous agreements.  
21. Law  
The laws of England and Wales apply to this Contract, unless you live in Scotland in which case the laws of Scotland apply.

## (WLR) (AS) v13.092005