

# DATASHARP NETWORK SERVICES

## Terms and Conditions for the Provision of Network Services

This agreement represents the entire agreement between Datasharp Network Services and the Subscriber named on the order form for the provision of Network Services. The Subscriber hereby confirms that the agreement cannot be modified by its own terms and conditions of business.

Datasharp Network Services is a part of Datasharp UK Ltd whose registered office is at Woodlands Court, Truro Business Park, Truro, Cornwall TR4 9NH, company number 1807741.

### 1. Definitions

- a) The meanings of various terms set out in the agreement are:
- b) "Act" the Telecommunications Act 1984 and any amendments to the Act which may be made from time to time.
- c) "Agreement" the agreement between Datasharp Network Services and the Subscriber for the provision of Network Services
- d) "Allowances" Refers to any bundled (either limited or unlimited) services included as part of the monthly service charge.
- e) "BT" British Telecommunications PLC
- f) "Connection Date" the date when the Service Provider agrees to commence the supply of Network Services
- g) "CPI" Consumer Prices Index as provided by Office of National Statistics
- h) "Network Carrier" the company supplying Network capacity to Datasharp Network Services
- i) "Network Services" the provision of fixed-landlines on BT's public switched telecommunications network, per minute access network capacity required for telephone calls and data transmission in the UK and internationally and Inbound Calls and Services as ordered on the order form.
- j) "Order Form" the attached Subscriber order form setting out details of the Network Services required
- k) "Service Provider" Datasharp Network Services, together with its employees and agents
- l) "Subscriber" the company, business or person specified on the order form
- m) "Subscriber Details" the service numbers of lines to be connected to the Network Services

### 2. Provision of Network Services

Datasharp Network Services shall provide Network Services from the connection date, subject to and on the terms and conditions set out in this agreement. Datasharp Network Services shall have the right to refuse to connect any Subscriber.

### 3. Duration

The agreement shall come into force from the Connection Date, the minimum term of the agreement is set out on the order form. The agreement shall continue beyond the minimum period until either party to the agreement terminates the agreement as set out in Clause 11 (a).

### 4. Conditions of Use of the Network Services

The Subscriber agrees to the following conditions of use:

- a) To comply with the "Act" and all other relevant legislation
- b) To use the Network Services in accordance with any terms and conditions notified by the Service Provider from time to time.
- c) Not to use the Network Services to communicate any material that is offensive, abusive, obscene, pornographic, menacing, or for hoax calls to the emergency services.
- d) To maintain all telephone equipment in good working order, which conforms to any standards for equipment set out in the "Act".
- e) The Service Provider has the right to disconnect any Subscriber apparatus, in particular where this may cause personal injury or death, or where it may damage or impair the operation of the Network Services.
- f) The Service Provider has the right to reasonable access to the Subscriber's premises where required for the performance of its duties.
- g) Any usage allowance provided as part of a bundle must be used in month; any unused allowance does not roll over into next month or billing period and any unused allowance shall be forfeit.

### 5. Support Cover

- a) Datasharp shall provide support at the installation address for the Network Services shown on this agreement
- b) Datasharp will use its reasonable endeavours to respond to faults received within normal working hours (8.00am to 5.30pm), Monday to Friday, except Bank Holidays, unless additional care levels have been purchased by the Subscriber, in which circumstance the extended levels of care will apply.
- c) Technical support for the service is available by telephoning 01872 266644 or by sending an email to [network.services@datasharp.co.uk](mailto:network.services@datasharp.co.uk).

### 6. Suspension of Service

The Service Provider has the right to suspend the provision of Network Services without notice and without compensation in the event of the following:

- a) The Subscriber is in serious breach of the terms of this agreement. Failure to pay the Service Provider by the due date is considered to be a serious breach of this agreement.
- b) The Service Provider reasonably believes that the Network Services are being used fraudulently.
- c) The Service Provider reasonably believes that the Network Services are being used for the purposes set out in section 4c above.
- d) The Service Provider is required to comply with an order, instruction or request from Central or Local Government, the emergency services or other relevant administrative body.

### 7. Invoicing, Pricing and Payment

- a) The Subscriber shall be invoiced monthly by the Service Provider.
- b) Service charges will be invoiced one month in advance of the service being provided; calls will be invoiced in arrears.
- c) The standard prices of Network Services are set out in the Service Provider's Standard price lists at [www.datasharp.co.uk/billing](http://www.datasharp.co.uk/billing).
- d) The Service Provider may increase the monthly service charge each fiscal year in line with the government preferred measure of inflation. The measure of inflation will be published on the Service Providers Standard Services price list at [www.datasharp.co.uk/billing](http://www.datasharp.co.uk/billing) and is also shown below.

Inflation Measure CPI Published by Office of National Statistics	December 2018 2.1%
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- e) The Service Provider has the right to amend the service charges from time to time, by giving no less than 30 days notice. In particular, the Service Provider may at any time amend the charges where its own suppliers have increased their charges. Any change will be published on the online billing platform at <http://www.datasharp.co.uk/billing> or notified in writing by email or letter.
- f) The Service Provider has the right to amend any and all call rates in the price list including minimum call charge or call connection charge from time to time, by giving no less than 30 days notice. Any changes will be published on the Service Providers Standard Call Price List at <http://www.datasharp.co.uk/billing> or notified in writing by email or letter.
- g) The charges for Network Services invoiced to the Subscriber shall be calculated by reference to data logged by or on behalf of the Service Provider, and not by reference to any data logged by the Subscriber.
- h) Value Added Tax (VAT) will be added to all charges at the applicable rate.
- i) The Subscriber can access its bills via the internet at [www.datasharp.co.uk](http://www.datasharp.co.uk), under special circumstances Datasharp Network Services can provide a printed bill at a cost of £5, as per our commitment to reducing paper usage and protecting our environment.
- j) Invoices must be paid within 14 days of the date of the invoice.
- k) At any time during this agreement, should the subscriber fail to settle an invoice by the date due, then the service provider reserves the right to restrict any and all services it provides to the subscriber. Should services be restricted in this way, the service provider will require the subscriber to immediately settle all outstanding invoices and to pay a bond equivalent of up to three months service charges and estimated call charges (including VAT) in order to remove any said restrictions. The call charges element of the bond will be calculated as an average of the last three months call charges invoiced to the subscriber's account. The service provider must be able to confirm receipt of payment for outstanding invoices and any applicable bond before service restrictions can be removed. Without payment of outstanding invoices as well as the bond, any restriction will not be removed.
- l) The Subscriber is advised to pay the invoices by Direct Debit, the Direct Debit will usually be taken between the 14th day and 30th day of each month.
- m) The Service Provider will charge a £30 administration charge each calendar month in which there is a late payment of an invoice. This is in addition to any late payment that attracts commercial debt interest or charges levied on any balances.
- n) The Service Provider shall be entitled to add debt collection charges and interest in accordance with Late Payment of Commercial Debts (Interest) Act 1998.
- o) The Subscriber agrees Payment of all invoices shall be made in full without the set off of any amounts.
- p) If the Subscriber disputes an invoice, it shall notify Datasharp UK Ltd in writing giving its reasons. The Subscriber agrees that it is not entitled to withhold payment:
  - i. Of any amount not in dispute;
  - ii. To Datasharp UK Ltd on the grounds that the Subscriber has a dispute with Datasharp UK Ltd.
  - iii. Of any amount which is the subject of fraud or suspected fraud by Subscribers end users or third parties.

- q) The Subscriber agrees that any dispute relating to an invoice (including the calculation of any amounts payable) must be notified to Datasharp UK Ltd within 6 months of the date of the invoice – the Subscriber shall not be entitled to any credit or refund relating to disputes raised after the expiry of this period. If any amounts remain in dispute, such amounts shall not be included in the calculation of progress against the minimum commitment or stretch commitment.
- r) Any promotional price agreed at the start of the contract for the provision of the service shall revert to the standard price list or as stipulated on the contract or as advertised once the promotional period has ended unless otherwise specified.

#### 8. Liability

- a) The Service Provider's liability in contract, tort or otherwise is limited to the sum of £5000 in any one incident and £5000 in total. This liability relates solely to the performance of the Service Provider's obligations in the agreement.
- b) The Service Provider shall not be liable to the Subscriber for any breach of any provision of this agreement caused by any reason outside of the control or responsibility of the Service Provider, including the failure of the Network Carrier to provide network capacity, or the failure of equipment supplied by any third party telecommunications operator to the Service Provider, on which it was reliant for the purposes of this agreement. The following are examples of reasons outside of the control of Datasharp Network Services; Act of God, failure or shortage of power supplies, internet failure, computer viruses, flood, drought, inclement weather, lightning strike, fire, strike or other labour dispute, any Act or omission of Central or Local Government.
- c) The Service Provider shall not in any event be liable to the Subscriber or any third party for any indirect, consequential or incidental loss or other damages howsoever arising, or for any loss of revenue, cost savings or profit. The Subscriber shall indemnify the Service Provider against any reasonable claims and expenses arising out of any situation.
- d) The Service Provider shall not be liable to the Subscriber for any delay in either providing a Connection Date to the Subscriber or any other reason for delay in connection. In the event that the Service Provider's service fails to operate and the Subscriber's traffic is diverted to another carrier, the Service Provider will not be responsible for that carrier's charges.
- e) Nothing in this agreement shall restrict the Service Provider's liability for death or personal injury resulting from the negligence of the Service Provider or of its employees while performing their duties on behalf of the Service Provider.
- f) The Subscriber shall indemnify the Service Provider against all reasonable liabilities, claims, damages, losses and expenses arising from the use by the Subscriber of the Network Services in breach of this agreement.

#### 9. Hacking

- a) Datasharp UK Ltd does not accept liability for breaches of the Subscribers' own telephone system, nor any call charges that might arise from such a breach.
- b) It is the Subscriber's responsibility to ensure the security of their telephone system and/or equipment.
- c) Where the Subscriber elects to rent a voice firewall from the Service Provider their responsibility for telephone system security is retained and the voice firewall provision shall not act as a warranty implying responsibility upon the Service Provider for unauthorized calls.

#### 10. Assignment

- a) The Service Provider may assign or delegate any rights under this agreement.
- b) The Subscriber may only assign or delegate its rights or obligations under this agreement with the prior written consent of the Service Provider, which shall not be unreasonably withheld.

#### 11. Termination

- a) Either party may terminate the agreement by providing a minimum of 30 days written notice for termination to occur no earlier than the end of the minimum term or at any stage thereafter. Where such notice is given it must be communicated by post or email correspondence to [network.services@datasharp.co.uk](mailto:network.services@datasharp.co.uk)
- b) This agreement may be terminated immediately by the Service Provider if there is a material or persistent breach of the terms of this agreement by the Subscriber, such notice of termination to be given in writing. In cases where the Service Provider believes that the breach is capable of remedy then a period of 7 days may be given to remedy the breach.
- c) Either party may terminate the agreement immediately in the event that a receiver, liquidator or trustee in bankruptcy is appointed in respect of either party for the whole or part of their business, or where either party enters into an arrangement with its creditors, or where any proceedings to wind up either parties business have commenced.
- d) The Service Provider may terminate the agreement immediately in the event that any license required to operate Network Services is revoked, significantly amended or ceases to be valid.
- e) The Subscriber may cancel this agreement prior to the Connection Date by giving written notice, but will be required to pay any reasonable charges that the Service Provider has incurred to date.
- f) Where the Subscriber terminates the fixed lines element of this agreement before the end of the minimum contract period or fails to provide notice of cancellation as at 11a, the Subscriber agrees to pay the Service Provider compensation equivalent to the whole of the line rental charge to the end of the minimum contract period or extension.
- g) Where the Subscriber terminates the call traffic element of this agreement before the end of the minimum contract period or fails to provide notice of cancellation as at 11a, the Subscriber agrees to pay the Service Provider compensation equivalent to 35% of the normal call charges up to the end of the minimum contract period or extension. The normal call charges shall be calculated using the average daily rate from the last three complete months call spend.
- h) The Subscriber may terminate the agreement immediately upon the giving of notice in writing if there is any material or persistent breach of the agreement by the Service Provider which is within the Service Provider's ability to control that has not within the period of seven working days from notification been rectified.
- i) Upon termination of this Agreement the Subscriber shall immediately stop using the Service and the Subscriber's right to use the Service shall immediately terminate.
- j) Upon termination of this agreement, the subscriber shall no longer be entitled to benefit from any bundled allowances contained within the service.
- k) Upon notice of termination or cancellation of this agreement, by either party, the Service Provider will invoice all services to the termination date including any applicable notice period. As per clause 7(j) invoices must be paid be settled within 14 days from the date of the invoice to ensure continuity of service.

#### 12. Legal

- a) This agreement shall be governed by and interpreted in accordance with English Law and the parties hereby submit to the jurisdiction of the English Courts.
- b) Implied Terms shall be excluded to the fullest extent permitted by law.
- c) The Service Provider reserves the right to vary the clauses of these terms & conditions, from time to time, via its online billing service at [www.datasharp.co.uk/billing](http://www.datasharp.co.uk/billing).
- d) Any Director or representative of the Subscriber will be deemed to be its authorised signatory.
- e) Failure of either party to exercise or enforce any right within this agreement shall not be deemed to be a waiver of such right.
- f) The contract will not become binding until the Subscriber becomes connected to Datasharp Network Services.



#### The Direct Debit Guarantee

This guarantee is offered by all banks and building societies that accept instructions to pay Direct Debits.

If there are any changes to the amount, date or frequency of your Direct Debit, Datasharp Network Services will notify you ten working days in advance of your account being debited or as otherwise agreed. If you request Datasharp Network Services to collect a payment, confirmation of the amount and date will be given to you at the time of the request.

If an error is made in the payment of your Direct Debit, by Datasharp Network Services or your bank or building society, you are entitled to a full and immediate refund from your bank or building society.

-if you receive a refund you are not entitled to, you must pay it back when Datasharp Network Services asks you to.

You can cancel a Direct Debit at any time by simply contacting your bank or building society. Written confirmation maybe required. Please also notify us.