

**Mainstream Digital Ltd**  
**General Terms & Conditions**  
**for Service**  
**Version 23.0b**  
**20<sup>th</sup> February 2019**

This Agreement applies to the provision to you, (the "Customer"), by us, Mainstream Digital Limited, a company incorporated in England and Wales with Company Number 02742235 whose registered office is at 701 Stonehouse Park, Sperry Way, Stonehouse, Gloucestershire, GL10 3UT ("Mainstream") of those services which have been selected by you (the "Service").

Definitions of the terms used in this Agreement are detailed in the Definition's document and specific terms and conditions for Mainstream Products and Service can be found at [www.msdigital.com](http://www.msdigital.com)

#### **1. What the Service Is**

Mainstream will provide the Service to the Customer with the reasonable degree of skill and care of a competent telecommunications network service provider. The Services do not include any equipment or services that we may supply to you in this or under separate agreement(s).

#### **2. Things We May Have To Do**

2.1 We may have to do some things that could affect the Service. These things are listed in paragraph 2.2. If we have to interrupt the Service we will restore it as quickly as we can.  
2.2 Occasionally we may have to:  
(a) change the code or phone number or the technical specification of the Service for operational reasons;  
(b) interrupt the Service for operational reasons or because of an emergency;  
(c) give you instructions that we believe are necessary for health or safety or for the quality of the Service that we supply to you or to our other customers.  
2.3 Clause 2.2(a) will apply only if Mainstream are required under HMG/OFCOM statute to make changes.

#### **3. Phone Numbers**

3.1 You have no right to sell or to agree to transfer the number provided to you for use with the Service.

#### **4. Monitoring of Services**

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.

#### **5. Use of Your Information**

5.1 We will use the information we have about you and your use of the Service for marketing purposes. However, we will not do so if you ask us not to.  
5.2 For your information we process your billing data and information about your use of Mainstream's 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. For example, we are able to help you benefit from discounts to frequently called numbers and destinations. We do not disclose this information to anyone else. 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 **Mainstream Digital Ltd, Freeport SWC1208, Cirencester, GL7 1BF** or any other address we give you.

#### **6. When We Will Provide the Service**

We will provide you with the Service by the date we agree with you in writing mail or fax.

#### **7. Repairing Faults**

7.1 We will work on any fault that is reported to us according to the repair service we have agreed to provide to you.  
7.2 When we agree to work on a fault outside the hours covered by the repair service that we provide to you, you must pay us any extra charges incurred.  
7.3 If you tell us there is a fault in the Service and we find either that there is not, the fault is caused by Your Equipment or that someone at your premises has caused the fault, we may charge you for the work we do, to try to find the fault or to repair it.

#### **What You Agree To Do**

##### **8. Paying Our Charges for the Service**

###### **8.1 Charges**

(a) You must pay the charges for the Service as set out in the Order Form. This applies whether you use the Service or someone else does. We can change the charges as explained in paragraph 14.2.

###### **(b) Abortive Visit Charges**

Failed engineer appointments will incur an abortive visit charge. Whether the appointment is for installation or due to a fault, where an appointment has been made, you must ensure that you, or someone acting on your behalf, is available at the premises to meet the engineer

###### **8.2 Bills**

8.2.1 Mainstream billing is paperless. We will send you an e-mail shortly after we provide the Service advising your bill can be viewed online at the website we specify (if you have registered with us for online billing). We will send you a further e-mail approximately every month advising the latest bill can be viewed online, but we may send you a bill at any time including any charges for the Service and Calls in arrears. We will send the billing notification to the valid e-mail address provided.

8.2.2 You may require Mainstream to send a full detail paper bill there will be an additional charge per invoice.

###### **8.3 Payments in Advance, Deposits and Call Levels**

(a) We may ask you for a payment before one is normally due. This will not be more than the connection charge(s) and rental(s) for the first quarter  
(b) We may ask for a deposit at any time, as security for payment of your bills if it is reasonable for us to do so.  
(c) We may use the services of a credit reference agency in order to approve your application for services. We reserve the right to decline any application for Service that does not meet our criteria.

###### **8.4 When You Must Pay**

You must pay all charges and rental within 14 days of you receiving your bill and deposits when we ask for them. Payments must be made by direct debit only unless agreed otherwise in writing by Mainstream.

8.4.1 If Mainstream does not receive payment by the due date; Mainstream may charge the User without further notice:

(a) a late payment fee of £5 per invoice where payment has not been received by the due date

(b) daily interest on late payments at a per annum rate equal to 7% above the base lending rate of the European Central Bank for the period beginning on the date on which payment is due and ending on the date on which payment is made.

If you do not pay a bill, Mainstream may instruct a debt collection agency to collect payment (including any interest, and / or late payment charges) on its behalf. If Mainstream instructs an agency, you must pay Mainstream an additional sum. This will not exceed the reasonable costs Mainstream has to pay to the agency, who will add the sum to the User's outstanding debt on Mainstream's behalf. If any sum owed by the User to Mainstream under this Agreement or any contract with Mainstream is not paid by the due date, Mainstream may deduct this sum from any payment or credit due to the User under this Agreement or any other contract with Mainstream.

(c) for calls at our standard rates on subsequent invoices where discounted or preferential rates have been previously applied.

8.4.2 The title of goods/equipment supplied by Mainstream Digital Limited remains with Mainstream Digital Limited until full payment has been received.

##### **8.5 Minimum Requirement for Service**

In return for Mainstream to provide any line services, all voice and data traffic, must be routed and billed by Mainstream unless agreed in writing by Mainstream. Failure to do so may result in a levy being imposed upon the Service concerned.

#### **9. Your Other Responsibilities**

##### **9.1 Connecting and Using Your Equipment with the Network**

You may only connect Your Equipment (phones, extension wiring, sockets or other equipment) to The Network using a Main Telephone Socket that Openreach has fitted, unless we agree otherwise. We may end any such agreement after giving you reasonable notice.

(b) Equipment must only be used with our network in a way that meets the Relevant Standards. If Your Equipment does not meet those standards, you must immediately disconnect it, or allow us to do so at your expense. If you ask us to test Your Equipment to make sure that it meets those standards you must pay us the charges agreed for the testing.

(c) You are liable for all charges for Calls that arise from faulty equipment, incorrectly installed software, software bugs, viruses, fraudulently made calls and incorrectly configured hardware that fails to disconnect from the network or repeatedly redials.

##### **9.2 Supplying a Place and Electricity for our Equipment**

We will have to place equipment on your premises to provide you with the Service. You must provide a suitable place and conditions for our equipment. If we have to supply equipment that needs a continuous mains electricity supply and connection points, you must provide them where we need them at your own expense.

##### **9.3 Preparing Your Premises**

You must prepare your premises before we arrive according to any instructions that we give you. When our work is completed, you will also be responsible for putting items back and for any necessary redecorating.

#### **9.4 Entry to Your Premises**

(a) If engineers have to enter your premises you must let them do so as long as they show their Openreach or Mainstream identity card. 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.

##### **9.5 Damage**

Nobody must tamper with our equipment that is on your premises. If anyone does and there is any damage to or loss of our equipment, you must pay the charge for any necessary repair or replacement.

##### **9.6 Misuse of the Service**

Nobody must use the Service:

(a) to make offensive, indecent, menacing, nuisance or hoax Calls;  
(b) fraudulently or in connection with a criminal offence; and you must make sure that this does not happen.  
(c) nobody must advertise the phone number for the Service in or on a phone box without our consent, and you must make sure that this does not happen.

The action we can take if this happens is explained in paragraphs 12.1 and 12.2. If a claim is made against us because the Service is misused in this way, you must reimburse us in respect of any sums we are obliged to pay.

##### **9.7 Indemnity**

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

#### **If Things Go Wrong**

##### **10. If We Break This Agreement**

10.1 If we accept liability for being late in providing the Service or repairing a Failure of the Service, or for failing to keep an appointment, unless for a reason covered by paragraph 12 our liability is limited as set out in this paragraph 10.

10.2 If we accept liability if you are injured or die as a result of our negligence, we do not limit that liability and paragraphs 10.3, 10.4 and 10.5 do not apply to that liability.

10.3 We have no liability under this agreement for a failure in provision of the Service or the Service itself. This does not affect our liability if we are negligent.

10.4 We have no liability for any loss that is not reasonably foreseeable, nor any loss of business, revenue, profit, or savings you expected to make, wasted expense, financial loss or data being lost or harmed.

10.5 Any liability we have of any sort (including any liability because of our negligence) is limited to £1 million for any one event or any series of related events, and in any 12 month period to £2 million in total.

10.6 Each part of this Agreement that excludes or limits our liability operates separately. If any part is disallowed or is not effective, the other parts will continue to apply.

##### **11. Force Majeure**

If we cannot do what we have promised in this agreement because of something beyond our reasonable control such as lightning, flood, or exceptionally severe weather, fire or explosion, civil disorder, war, or military operations, national or local emergency, anything done by government or other competent authority or industrial disputes of any kind, (including those involving our

**all charges exclude VAT**

employees), we will not be liable for this.

#### **12. If You Break This Agreement**

12.1 We can suspend the Service or end the agreement (or both) at any time without telling you if:

(a) you break this agreement or any other agreement you have with us for Services and fail to remedy the breach within a reasonable time of being asked to do so;

(b) we believe that the Service is being used in a way forbidden by paragraph 9.6. This applies even if you do not know that the Calls are being made or the Service is being used in such a way;

(c) bankruptcy or insolvency proceedings are brought against you, or if you do not make any payment under a judgement of a Court on time, or you make an arrangement with your creditors, or a receiver or administrator is appointed over any of your assets, or you go into liquidation.

12.2 If any agreed Credit Level is reached before your next monthly bill is sent to you, we will inform you of the amount you have spent and agree any necessary action. If you have a limited payment history for the Service (less than 3 bills received and paid in full) we may also restrict your ability to make outgoing calls pending payment of charges accrued on our billing system.

12.3 If you miss a payment, we will not suspend the Service or end the agreement until 7 days after the payment was due. However, if we suspend the Service and you miss another payment during the 12 months after we provide the Service again, we may then suspend the Service or end the agreement (or both) 7 days after the payment was due. In the case of a bill for Call charges only we may suspend the Service or end the agreement (or both) 7 days after payment was due.

12.4 If we suspend the Service, there will be a charge to reinstate the Service and we will not provide it again until you do what you have agreed, or satisfy us that you will do so in future or that the Service will not be used in a way that is forbidden by paragraph 9.6.

12.5 If we suspend the Service because you break this agreement, the agreement will still continue. You must pay us rental until we end the agreement by giving notice under paragraph 12.1 or you or we end the agreement by giving notice under paragraph 17.1.

#### **13. Arbitration**

If we cannot resolve any dispute with you, you can refer the dispute to The Ombudsman Service Limited. Communication is under the simple procedure as detailed on our website (at the bottom of the Home Page under Complaints Code).

#### **14. Changing the Agreement**

##### **14.1 In General**

If you ask us to make any change to the Service we may ask you to confirm your request in writing. If we agree to a change, this agreement will be changed when we confirm the change to you in writing.

##### **14.2 Conditions**

Mainstream can change the Agreement (including the charges) at any time and will publish any change in line with clause 14.3.

14.3 Unless otherwise stated Mainstream will publish any changes to the Agreement (including the charges) online at [www.msdigital.com](http://www.msdigital.com) or any other online address that Mainstream may advise, via e-mail or via a postal

communication, giving at least 2 weeks notice of any change.

#### **15. Transferring the Agreement**

You cannot transfer or try to transfer this agreement or any part of it to anyone else without written consent from Mainstream.

#### **16. Cancelling the Service Before it is Provided**

16.1 You may cancel the Service at any time. However, after the contract has been signed and received by us, you will be liable for the Administration charges.

16.2 You may also be liable for any abortive call out charges, work we have carried out or money we have spent on your behalf prior to the Service being installed.

#### **17. Ending the Agreement After the Service is Provided**

17.1 This agreement, or the supply of the Service, can be ended by:

(a) 28 days notice from us to you; or  
(b) 90 days notice in writing from you to us.

17.2 If we give you notice, you must pay charges up to the end of that notice. If you give us notice, your rental payments will continue for a minimum of 90 days from receipt of your written notice, or until the end of the calendar month in which this 90 day period falls, if that is later.

17.3 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.

17.4 You must pay all call and data usage charges for the Service until the date on which we stop providing the Service to you.

17.5 We can end this agreement at any time without telling you if paragraph 12.1 applies.

17.6 Once the customer's initial contract has expired all contracts will be subject to a new rolling 12 month minimum contract period, unless the customer notifies Mainstream Digital that they wish to terminate the contract, in writing within 90 days of the end of the preceding contract period.

17.7 Cancellation fees for all lines services, PSTN, ISDN & SIP are 100% of the contract if cancelled within the first 12 months. After the initial 12 months period, cancellation fees are 50%. Broadband Service cancellations are also subject to this condition.

17.8 Cancellation fees for iNET services are subject to fees of 100% of remainder of the contract.

17.9 In respect of 17.1, Mainstream will adhere to any requirements laid down by UK regulatory authorities.

#### **18. How to Give Notice**

Any notice given under this agreement must be sent on your company headed paper or by e-mail from Your company e-mail address as follows:

(a) to us at the address shown on the order form or on your last bill, or at any other address we give you;

(b) by e-mail to [customerservices@msdigital.com](mailto:customerservices@msdigital.com) or any other e-mail address we give you

#### **19. Service Level Agreement**

Mainstream's default Service Level Agreement – unless otherwise stated – is Monday to Friday, 08:00 to 18:00, excepting English Public Holidays.

#### **20. Other Documents**

These Conditions, along with associated documentation set out the whole agreement between you and us for the Service. Documents covering Terms, Conditions, Agreements,

Charges, Policy and Disclaimers are accessible on [www.msdigital.com](http://www.msdigital.com)

#### **21. Third Party Rights**

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

#### **22. Governing Law**

22.1 This Agreement shall be governed by and construed in accordance with English law and English shall be the appropriate language and translation of this Agreement.

22.2 The parties hereto hereby irrevocably submit to the exclusive jurisdiction of English courts for the purpose of hearing and determining any dispute arising out of this Agreement and for the purpose of enforcement of any judgment. The current Conditions for Service, plus all or any addendums applicable to the Goods/Equipment/Services ordered are available on our website at [www.msdigital.com](http://www.msdigital.com) and should be checked before any change or cancellation of this contract in order to view the latest terms applicable. All equipment supplied is covered by 90 days warranty unless otherwise stated.

#### **Annex 1 – Systems Security**

A1.1 Mainstream expects all customers to adhere to the Computer Misuse Act 1990.

A1.2 Access to computer systems and their data must be via a secure authorisation process. Passwords and usernames must be secured and not divulged to anyone other than the username owner(s).

A1.3 Where unauthorised access has been detected or suspected, all relevant actions are to be taken to prevent further unauthorised access.

A1.4 Where unauthorised modifications have been made to programs or data the changes must be notified to relevant authorities and Mainstream.

A1.5 In as far as your responsibilities towards Mainstream services, you are required to ensure only authorised activities take place within your network and within any computer system.

A1.6 Examples of computer systems are, PBX systems, VoIP services, Computer Servers, Computer Clients, Firewalls, Routers, Gateways, WiFi systems. This list is not exhaustive.

A1.7 Mainstream reserves the right to take corrective action(s) and/or apply charges when it is deemed the customer has been negligent in the management of computer systems.

A1.8 The Computer Misuse Act details can be found on [www.legislation.co.uk](http://www.legislation.co.uk)

#### **Annex 2 – PBX System Support**

A2.1 Customers with a Mainstream Digital PBX service maintenance agreement must ensure that they meet the conditions of each service, and acknowledge that additional charges may apply.

A2.2 Customers who have purchased PBX Administration Maintenance are required to provide a remote access connection to the PBX. This service is for remote administration only. Any on-site activity will incur visit charges.

A2.3 Customers who have purchased PBX Maintenance are required to provide remote access to ensure that Mainstream can perform initial diagnostics. If a site visit is required for initial diagnostics a charge will be levied.