

# Terms & Conditions of Service

## THE SCHEDULE for the ADSL Internet Service(s)

This Schedule and the Master Service Agreement for the provision of telephony services and the Order and the Price List together form the contract for the Service(s) to be supplied by the Supplier to the Customer.

**The definitions in the Master Service Agreement shall apply to this Schedule unless expressly stated otherwise.**

### 1. Description of the Service

- 1.1. If the Customer is subscribing for the ADSL Internet Services and the Customer needs to migrate from another ADSL provider the Customer will be required to request a MAC from the Customer's current ADSL provider and, provided that the MAC is compatible with the ADSL Internet Services, the Customer must provide the MAC to the Supplier who will then input the Customer's MAC into the Supplier's systems. If the Customer is unable to obtain a MAC from its current provider the Customer will need to ensure that the contracts which are valid and existing in relation to that service are validly terminated prior to subscribing for the Supplier's ADSL Internet Service. This may result in a delay to the provision of the Services. The Supplier cannot be held responsible for any fees or charges imposed by another ADSL provider and the Customer agrees to indemnify and hold the Supplier harmless against any claims, actions, proceedings, losses, damages, out of pocket expenses and costs suffered due to the Customer's failure to adhere to this clause.
- 1.2. Subject to the Customer complying with the provisions of clause 1.1 (if appropriate), the Customer agrees to the Supplier immediately starting work on the technical and operational elements required for the provision of the Services upon the issuance of the Accepted Order. At the time the Accepted Order is issued, the Supplier will provide the Customer with further details of when the Supplier expects to be able to connect you to the Internet.
- 1.3. Any Accepted Order will be issued on the condition that before the Supplier can be certain that it can provide the Customer with the Service, it needs to successfully complete a number of checks to include without limitation a credit check pursuant to the provisions of the Master Service Agreement, a geographical check, a line test and survey and an activation check. These tests may be carried out from the Supplier's offices to determine whether the Customer can receive the Service. These tests check the suitability of the lines in the Customer's premises or new available lines in the area of the Customer's premises.
- 1.4. If any of the geographical, activation or the line test and survey reveal that the Supplier cannot provide the Service to the Customer, the Supplier will notify the Customer as soon as possible and the Service will be cancelled immediately without liability to either party.
- 1.5. Before the Supplier can supply the Service, the Customer will need to procure that a BT enabled telephone line is available throughout the duration the Services are to be provided. This telephone line may be provided by the Supplier, BT or by another service provider of the Customer's telephone services. If the Customer changes its telephone line provider at any time the Customer may not be able to continue receiving the ADSL Internet Services. If this happens, the Customer will notwithstanding this may still be liable under the terms of this Agreement and the Supplier accepts no responsibility or liability for any claims, losses, damages, expenses and costs incurred by the Customer as a result of such failure to procure a BT enabled telephone line and/or loss or delay in the provision of the ADSL Internet Services.
- 1.6. The Company will apply DSL Equipment to this telephone line in order to provide the ADSL Internet Service.
- 1.7. The Customer needs to be the telephone line account holder or have the written authority from the telephone line account holder to use the telephone line for the Service.
- 1.8. The Customer will need to provide a suitable location (including adequate ventilation) at the Site for any Equipment and any Customer Equipment.
- 1.9. The Customer must access the Service via the Equipment.
- 1.10. The Customer must not attempt to circumvent any security measures in the ADSL Internet Service or access without authority, interfere with, damage or any Equipment or Network or Internet used in the provision of the ADSL Internet Services or any equipment or network or software owned or used by any third party.
- 1.11. The Customer acknowledges and accepts the following technical limits relating to the ADSL Internet Service:
  - 1.11.1. the ADSL Internet Service is not available to Sites where all or part of the Customer Access Connection is provided over fibre optic cable or radio systems
  - 1.11.2. that the ADSL Internet Service may also affect the performance of some PSTN customer premises equipment.
  - 1.11.3. that some technical limitations may not become apparent until after the Service has been installed and working for some time. In such circumstances the Service for some customers may in the sole discretion of the Supplier be withdrawn without liability to either party.
- 1.12. When connecting the Customer's phone line to the ADSL Internet Service, there may be a temporary loss of telephone services or other telecommunications services. The Supplier will do everything possible to keep this disruption to a minimum but will not be responsible for any resulting damage, loss, claims, actions or proceedings or costs caused.
- 1.13. The Supplier will endeavour to get the fastest DSL Internet connection possible for the ADSL Internet Service the Customer has ordered, but the actual speed will depend on the Customer's telephone line, the distance of the Site from the BT exchange, the quality of the Customer's copper line and environmental line noise will all impact your actual speeds), so the Supplier cannot warrant or guarantee that the connection will reach any specific speeds.



## 2. Equipment provided for the Service

- 2.1. The Supplier will provide and deliver to the Customer the Equipment in order to receive the ADSL Internet Services. Any delivery date specified for delivery of the Equipment shall be treated as an estimate only and whilst the Supplier will take all reasonable steps to deliver within the period specified, such date shall be treated as an estimate only and time for delivery shall not be made of the essence by notice.
- 2.2. The Equipment shall at all times remain the property of the Supplier and under no circumstances shall this be disputed by the Customer or any other third party. The Customer shall be solely responsible for the Equipment whilst it is in the Customer's custody, care and control and shall ensure that they are kept in satisfactory condition and subject to the provisions of clause 2.3, the Customer shall fully indemnify the Supplier against any losses and damage, expenses and costs incurred by the Supplier as a result of the Customer's failure to comply with this obligation caused due to any negligence.
- 2.3. The Customer shall not be responsible for any loss or damage to the Equipment which is attributable to the wilful act, fault or omission of the Supplier or as a result of its normal use.
- 2.4. It shall be the responsibility of the Customer to notify the Supplier immediately if any loss or damage to the Equipment has occurred.
- 2.5. Replacement items of Equipment for Customers who have purchased the Equipment outright are available on payment of the applicable replacement charges which can be supplied by the Supplier upon request.
- 2.6. Equipment supplied to you to provide the Service belong to us legally and beneficially unless you have purchased the Equipment outright and you have paid all our charges under this agreement in relation to that purchase, but the risk attached to them passes to you as soon as they are delivered into your possession or control.
- 2.7. Even though Equipment supplied continues to belong to us, we have the right to recover payment for them in respect of monthly rental or in respect of the fee in the case of an outright purchase. As long as the Equipment remains ours, and discrete from items which are not ours, we have the right (but not the obligation) to recover this Equipment.

## 3. Provisions of the Service

- 3.1. Except as otherwise expressly permitted under this Agreement, the Customer may not:
  - 3.1.1. modify the Service without the Supplier's prior written consent;
  - 3.1.2. redistribute copy or allow the use of the Service, by any third party;
  - 3.1.3. disclose details of the Service, to any third party without the Supplier's prior written consent.
- 3.2. The Supplier shall use its reasonable endeavours to comply with the Customer's reasonable requests in respect of installation of the Services but the Supplier's or the Supplier's Agent or Sub-Contractor's decision on the routing of cables and wires and the positioning of outlets and any other apparatus constituting the Equipment shall be final and binding.
- 3.3. The Customer accepts that the Service is Rate Adaptive and is delivered as a best efforts basis. NetLink Max will run at optimal speeds of up to 8Mbit/s download and up to 832Kbit/s upload. NetLink LLU will run at optimal speeds of up to 24Mbit/s download and up to 2.5Mbit/s upload speed. All ADSL Internet Services can be affected by external conditions such as the length of the wire that connects your premises with the BT exchange, the quality of the copper, and signal interference from other users or equipment.
- 3.4. Rate Adaptive DSL undergoes a 10 day "training period" after installation to determine the optimum speed.
- 3.5. The Customer accepts that throughput rates may be reduced at peak times by contention within the Customer's local area network and or the Suppliers Network.
- 3.6. As part of the Service the Customer will receive a number of static IP addresses. The Customer accepts that the quantity requested at the time the Customer submits the Order will be provided subject to availability and regulation. The Customer also accepts that the IP addresses will remain the property of the Supplier and can be re-assigned to the Supplier or another customer should the Customer terminate the Service for whatever reason or if the Supplier terminates the Customer's right to use the Service pursuant to the terms of this Agreement.
- 3.7. The Supplier recommends that, prior to the installation of the Service the Customer backs up any data stored on the Customer's computer or computer systems. The Supplier accepts no responsibility or liability whatsoever for any data that may be lost during installation or otherwise.
- 3.8. The Supplier may take action to manage Network performance during periods where there is high demand usage of the ADSL Internet Services which may include line speed reductions, application and protocol management.

## 4. Acceptable Use Policy

The Supplier has an Acceptable Use Policy, which can be found on our Website or provided upon request, and the Customer accepts that the Supplier can suspend or terminate the Customer's access to the Website or ADSL Internet Service immediately if it believes that the Customer is using the Website or ADSL Internet Service in a way that contravenes the principles of the Acceptable Use Policy.

## 5. Use of the Service

- 5.1. The Customer must not use the Service:
  - 5.1.1. in a way that does not comply with the Supplier's Acceptable Use Policy or the principles thereof or the terms of any legislation or any license applicable to the Customer or that is in any way unlawful or fraudulent or has any unlawful or fraudulent purpose or effect;
  - 5.1.2. in connection with the carrying out of a fraud or criminal offence against the Supplier, or any other public telecommunications operator or which is unlawful or fraudulent or has an unlawful or fraudulent effect generally;
  - 5.1.3. to send, knowingly receive, upload, download, use or re-use any material which is abusive, indecent, defamatory, obscene or menacing, or in breach of any copyright, confidence, privacy or any other rights;
  - 5.1.4. to send or procure the sending of any unsolicited advertising or promotional material other than in the case of the Customer to its own customers;
  - 5.1.5. in a way that does not comply with any instructions the Supplier or its supplier has given;
  - 5.1.6. in a way that in the Supplier's reasonable opinion could materially affect the quality of any service, including the Service, provided by the Supplier or its supplier
  - 5.1.7. in a way that in the Supplier's reasonable opinion could affect the experience of others on the Network
- 5.2. The Supplier will be entitled to suspend the Service or terminate the Agreement where the Supplier, in its absolute discretion, believes the Customer is in breach of any provisions of Clause 5.1.
- 5.3. In the circumstances referred to in Clause 5.1. the Company will have no liability to the Customer relating to the provision of the Service (or the Supplier's inability to provide the Service), the performance of the Service, its effect on other Services or Equipment or the withdrawal of the Service.
- 5.4. The Customer will co-operate with the Supplier's reasonable requests for information regarding the Customer's use of the Service and supply such information without delay.

## 6. Charges

- 6.1. The Customer shall pay the Supplier all Charges and other sums due under this Agreement without set off, deduction or counterclaim.
- 6.2. The Supplier may amend its Prices upon which Charges are based at any time during the Term by not less than thirty (30) days notice, such Prices to be published on the Website. The Supplier will only amend the Charges payable by you for valid reasons, such as an increase or decrease in tariff access rates or other new charges or changes in charges levied on the Supplier by the Network Operator or any other supplier of the Supplier, as a result of changing regulatory or legal requirements, market conditions, changes in technology or our systems capabilities or which in the Supplier's opinion are commercially necessary to enable us to provide the Services to you. This includes the ability to separately make a charge for Services that were at the time the Customer entered into this Agreement included in the Service as free. In the event that any increase in the Charges for the Services is in excess of 10 % of that originally proposed for the same Services, then the Customer may serve notice to terminate this Agreement within (14) days of such notice of increase in the Charges. Notwithstanding the aforementioned the Supplier shall be entitled to increase the Charges for whatever reason at the start of each Renewal Period upon thirty (30) days' prior notice to the Customer, such particulars of the increase being given via the Website. All amounts payable to the Supplier in respect of the Services are quoted exclusive of Value Added Tax or any other applicable taxes which may from time to time be levied and such Value Added Tax and any other such applicable taxes shall be itemised separately on all invoices and bills and be payable by the Customer in addition to, and at the same time as, any Charges.
- 6.3. The Supplier may in a separate invoice make claims for any Backdated Charges. Any such Backdated Charges must be made within six months of the date that the Backdated Charges arose.
- 6.4. The Supplier shall be entitled to levy a monthly rental fee for any Equipment provided by the Supplier, as agreed with the Customer.
- 6.5. The Supplier shall be entitled to levy the Installation Costs for any Equipment or the Services as outlined in the Service Order.

## 7. Termination

- 7.1. If you change your Telephone Line provider and the Supplier is unable to provide the Services to you on your new Telephone Line, then the Supplier shall be entitled to terminate this Agreement without liability and the Customer shall in addition to the Early Termination Charge pay the further charges referred to in clause 8.1 below.
- 7.2. Upon termination of this Agreement the Customer shall immediately stop using the Service and the Customer's right to use the Service shall immediately terminate.

## 8. Additional Termination Charges

- 8.1. The additional termination charges referred to in clause 7.1. of this Schedule are the remaining subscription, and any other recurring Charges (including inclusive usage Charges) for any remaining part of the Minimum Term or the Renewal Period whichever the Supplier in its sole discretion determines shall be applicable.
- 8.2. If the Customer ends the Contract after the expiry of the Minimum Term and does not request and use a Migration Access Code (MAC) or other recognized transfer process to move to another service provider, the Supplier reserves the right to make a transfer charge to cover its administrative costs in moving the Customer to an alternative supplier.
- 8.3. Upon termination any fees pre-paid by you for unused time remaining, less any charges outstanding on your account, will be calculated and returned to you either by the same method as they were paid or by cheque (at our discretion).

## 9. ADSL Throughput Guidelines

The chart below shows the expected download and upload speeds for the various xDSL services provided by the Supplier.

xDSL Service	Download	Upload	Contention**
NetLink 500*	512k	256k	50:1
NetLink 1000*	1Mb	256k	50:1
NetLink 2000*	2Mb	256k	50:1 to 1:1
NetLink Max	8Mb	448k	50:1 to 10:1
NetLink Max Premium	8Mb	860k	2.5:1
NetLink 2+*	16Mb	1.5	20:1 to 1:1
NetLink 2+ EBSA*	512k to 2Mb	512k to 2Mb	1:1
NetLink 2+ Annex M*	24Mb	3.5Mb	20:1 to 1:1
NetLink SDSL***	Up to 2Mb	Up to 2Mb	10:1 to 1:1

\*Local Loop Unbundling Only or Direct BT product through the Supplier

\*\* Contention ratios vary depending on the priority and proportion of bandwidth given to the LLU traffic across the network, a realistic contention comparison would be 10:1 contention. At Acuity we measure products by their guaranteed throughput, for LLU as follows: All products: Assured rate of 10% of connection speed up to a maximum of 400k Downstream and 100k upstream.

\*\*\* Requires dedicated telephone line for sole SDSL use.

### xDSL Broadband throughput allowances and excess charges

#### 20CN ADSL Max

Product	Peak Usage Download Cap	Off-Peak Download Cap	Download Speed (upto)	Upload Speed (upto)	Frequency
Business	2GB	2GB	8Mbps	832Kbps	Monthly
Business	2GB	100GB	8Mbps	832Kbps	Monthly
Business	5GB	100GB	8Mbps	832Kbps	Monthly
Business	10GB	100GB	8Mbps	832Kbps	Monthly
Business	20GB	100GB	8Mbps	832Kbps	Monthly
Business	50GB	100GB	8Mbps	832Kbps	Monthly
Business	100GB	100GB	8Mbps	832Kbps	Monthly

#### 21CN ADSL 2+

Product	Peak Usage Download Cap	Off-Peak Download Cap	Download Speed (upto)	Upload Speed (upto)	Frequency
Business	2GB	2GB	24Mbps	1.3Mbps	Monthly
Business	2GB	100GB	24Mbps	1.3Mbps	Monthly
Business	5GB	100GB	24Mbps	1.3Mbps	Monthly
Business	10GB	100GB	24Mbps	1.3Mbps	Monthly
Business	20GB	100GB	24Mbps	1.3Mbps	Monthly
Business	50GB	100GB	24Mbps	1.3Mbps	Monthly
Business	100GB	300GB	24Mbps	1.3Mbps	Monthly

Fibre to the cabinet (FTTC)

<b>Product</b>	<b>Peak Usage Download Cap</b>	<b>Off-Peak Download Cap</b>	<b>Download Speed (upto)</b>	<b>Upload Speed (upto)</b>	<b>Frequency</b>
Business	10GB	50GB	40Mbps	10Mbps	Monthly
Business	50GB	100GB	40Mbps	10Mbps	Monthly
Business	100GB	150GB	40Mbps	10Mbps	Monthly
Business	200GB	250GB	40Mbps	10Mbps	Monthly
Business	500GB	750GB	40Mbps	10Mbps	Monthly
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Enterprise	10GB	50GB	80Mbps	20Mbps	Monthly
Enterprise	50GB	100GB	80Mbps	20Mbps	Monthly
Enterprise	100GB	150GB	80Mbps	20Mbps	Monthly
Enterprise	200GB	250GB	80Mbps	20Mbps	Monthly
Enterprise	500GB	750GB	80Mbps	20Mbps	Monthly

Fibre to the Premises (FTTP)

<b>Product</b>	<b>Peak Usage Download Cap</b>	<b>Off-Peak Download Cap</b>	<b>Download Speed (upto)</b>	<b>Upload Speed (upto)</b>	<b>Frequency</b>
Business	100GB	100GB	100Mbps	15Mbps	Monthly
Business	500GB	500GB	100Mbps	15Mbps	Monthly
Business	100GB	100GB	100Mbps	30Mbps	Monthly
Business	500GB	500GB	100Mbps	30Mbps	Monthly

21CN Annex M

<b>Product</b>	<b>Peak Usage Download Cap</b>	<b>Off-Peak Download Cap</b>	<b>Download Speed (upto)</b>	<b>Upload Speed (upto)</b>	<b>Frequency</b>
Business	2GB	100GB	16Mbps	2.5Mbps	Monthly
Business	5GB	100GB	16Mbps	2.5Mbps	Monthly
Business	20GB	100GB	16Mbps	2.5Mbps	Monthly
Business	50GB	100GB	16Mbps	2.5Mbps	Monthly

Standard ADSL Charges

The following are standard charges which are applicable to broadband ADSL connections.

<b>Additional Data Transfer [1GB]</b>	<b>£3.00</b>	<b>Per Gb</b>
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All speeds are dependent on a variety of factors including but not limited to distance from the exchange and network contention. For a full detailed understanding of xDSL speeds customers should refer to their Acuity consultant.