

# TERMS & CONDITIONS BROADBAND & FIBRE

VERSION V2 02/18  
February 2018

By placing an Order with us you agree to the following Terms and Conditions.

### **1. Your Order**

Your Order sets out the Equipment and Services you have ordered and the amount we will charge you and includes all connection fees, line rental charges, and service charges together with any call bundles you may have ordered.

### **2. Cancellation**

You may cancel the order by giving notice in writing to Toople. Order cancellations incur a cancellation fee. If you cancel the Contract after the date your Services go live, Toople may charge you an Early Cancellation Fee as detailed on our Website.

Once we receive your cancellation request, we will issue you with a final invoice for any outstanding charges.

### **3. Your Contract**

Your minimum Contract period is stated on your Order.

At the end of this period the Contract shall continue on a monthly rolling basis until either you or we terminate the Contract by giving 30 days' notice in writing. At the end of your contract Toople may charge you a final disconnection fee.

### **4. Your Service**

If you have ordered Toople broadband we will provide this to you completely free once you have paid your connection fee and provided you pay for line rental for the life of the Contract.

If you have ordered Toople Fibre (Lite or XL) we will charge you a monthly fee for this as set out in your Order. Toople Broadband and Toople Fibre (Lite or XL) both include unlimited data per connection per month.

### **5. Charges**

We will charge you a fixed monthly fee to cover all Services and Equipment provided under this Contract. This will be charged monthly in advance and will not change during the period of your initial Contract. If we do increase our charges to you during your minimum Contract period, you may cancel your Contract and we will not charge you an early cancellation fee.

You must make all payments by direct debit within 14 days of the beginning of each month. Should your direct debit payments fail for any reason we will charge you an administration fee.

If you have not chosen a call bundle we will charge you monthly in arrears for calls at our standard rates which are published on our Website. These rates may change from time to time.

All charges are subject to VAT.

If you are late in paying any charges we may charge daily interest at 2% above the base rate of HSBC Bank Plc on any outstanding sums until payment in full is received.

## **6. Obtaining the Service**

If you require a telephone line to be installed, we may need to charge you if we need to arrange for a Network engineer to attend your premises to conduct a site survey.

We will arrange an appointment for delivery and (if necessary) line installation. Whilst we will endeavour to deliver the service on the agreed dates and times, this cannot be guaranteed. We will ask you to confirm when the Equipment has been delivered and any line successfully installed.

The Toople Broadband or Toople Fibre (Lite or XL) service can go live any time up to midnight on the installation date.

Any Equipment we supply to you will come with a manufacturer's warranty but we can offer no further warranty in excess of this. Any repairs or replacement beyond the manufacturer's warranty will be at your cost.

## **7. Supplying the Service**

We will use all reasonable skill and care to supply the Equipment and Services to you. If we are transferring an existing telephone line, we will use all reasonable efforts to ensure the existing telephone number is retained.

We cannot guarantee specific levels of performance for Internet access and speeds.

If we need to suspend the Services for repair, maintenance or improvement we will restore them as soon as is reasonably possible. If necessary you will need to allow us or a Network engineer to access your premises. Normally this work will be carried out by appointment and during normal working hours, but it may be necessary on occasions that you provide access to your premises at other times.

We cannot guarantee that the Equipment or Services, or any data generated, stored, transmitted or used via or in connection with the Services, will be uninterrupted, secure, error-free, complete, accurate or up to date. We do not provide a back-up or guarantee the integrity of your data for disaster recovery purposes.

We may withdraw or change any telephone number or IP address allocated to you for the purpose of providing the Services upon giving you reasonable notice and all intellectual property rights in any such number and IP address shall belong to us.

## **8. Use of Equipment & Services**

You agree not to use or allow others to use the Services for any purposes that are unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive, facilitate illegal activity, depict sexually explicit images, promote unlawful violence, are discriminatory based on race, gender, colour, religious belief, sexual orientation, disability or in a manner that is otherwise illegal or may cause damage or injury to any person or property.

We provide the Services for your use only. You may not re-sell, transfer, assign or sub-license the whole or any part of the Services to any third party. In using the Services, you will comply with the Legislation or any other relevant regulations or licences regarding the provision and use of the Services and you shall ensure that your telecommunications equipment shall at all times conform to the applicable standards. We may suspend the Services if your equipment does not comply with the Legislation or if we reasonably believe it is likely to cause death, personal injury or damage to property or to impair the quality of any Services provided by us or put us in breach of our obligations to any third party.

We may monitor and record all usage by you. If you exceed your agreed monthly call bundle (as set out in your Order) we will charge you monthly in arrears at our standard rates which are published on our Website. These rates may change from time to time.

If you have ordered an unlimited call bundle we may still charge you for excessive calls which we reasonably believe indicate improper or fraudulent use of the Service. We will inform you if we detect improper or fraudulent use. You will also be charged outside any agreed bundle for calls to service numbers starting 0844, 0845, 0870, 09xx and 118xxx at the rate specified on our Website.

To try to help protect your business, all outbound calls to premium rate lines or other known high risk numbers are barred. If you do need access to any of these numbers please contact us.

You shall be responsible for the cost of replacing any Equipment that is lost, stolen or damaged. At the end of your Contract you must return any Equipment to us.

## **9. Termination**

If you breach this Contract (for example if you fail to pay the Charges) we will notify you in writing and give you 14 days to remedy the breach. If you do not remedy the breach, we may terminate or suspend the Contract or some or all of the Services immediately.

We may also terminate or suspend the Contract or some or all of the Services if

- you are subject to a resolution for winding up or a petition for bankruptcy or liquidation or there is a proposal, or you enter into, any arrangement or composition with your or for your creditors, or a receiver or liquidator or trustee in bankruptcy is appointed over you or any of your assets or any similar circumstances; or
- if we are required to do so by OFCOM or other regulatory authority.

When this Contract is terminated or suspended:

- we may immediately stop supplying the relevant Services (and will not be responsible for any damage to or loss of data generated, stored, transmitted or used via or in connection with the Services);
- any Charges due from you shall remain payable by you and any Charges already paid by you will be non-refundable;
- all rights in and title to the Equipment shall revert to us.

## **10. Privacy**

We may store and process personal data provided by you as part of the Order for internal use and for the purposes of providing the Service.

We may also keep information about how you use the internet to help us understand and manage the Service, including IP addresses and other internet traffic data. By law we have to keep certain information about how you use the internet for 12 months. This information may be used by law enforcement agencies to prevent and detect crime and to protect national security.

Any personal data we do keep will be stored securely to prevent unauthorised access by third parties and we will not sell or otherwise disclose your personal information to third parties, unless required to do so by law or court order.

We may also pass your details to third parties in the event that we sell all or any part of our business, in order that you continue to receive the Services.

We may transfer your personal information to countries outside of the European Economic Area for the purposes of providing the Services.

You can request a copy of your personal information held by us.

## 11. Limitation of liability

We expressly exclude any warranty as to the suitability, quality or reliability of the Services or that they will be fit or suitable for your purposes.

We will not be not be liable to you for any loss arising from or in connection with loss of revenues, profits, contracts or business or failure to realise anticipated savings, any loss of or damage to data, any loss of goodwill or reputation or any indirect or consequential losses, suffered or incurred by you and arising in connection with this Contract.

Our aggregate liability to you for any loss or damage of whatsoever nature and howsoever caused, shall not exceed a sum equal to one month's billing for the Services by us to you based on the average billing for the Services over the previous 3 months.

We shall not be liable to you for the loss of the Services caused by any event beyond our reasonable control including but not limited to any fault in or suspension of the Network of any third party, any force majeure, fire, power failure or any loss or change to or loss of telecommunications equipment or any act of any authority or third party.

We shall not be liable in respect of any non-performance of our obligations under the Contract which arise out of your own acts, omissions, negligence or default.

Nothing in this Contract shall exclude or restrict our liability for death or personal injury resulting from our negligence or for fraud or fraudulent misrepresentation or for any other liability which cannot be excluded by law.

## 12. Other

**Indemnity** - you will indemnify us against any loss, liability, cost, expense or damage (including reasonable legal fees) arising directly or indirectly out of any claim, suit action or judgment brought against us by any third party relating to any content submitted, posted, or transmitted by you via the Services, or to your use of the Services, or to your connection to the Services, or to any act or omission by you in breach of this Contract or to any breach by you of any applicable laws or regulations or of any rights of another person or entity.

**Confidentiality** - neither we nor you shall during the term of the Contract or thereafter disclose any of the other's confidential information nor any details of the other's commercial or technical activities or policy except insofar as is strictly necessary for fulfilling its obligations hereunder and except for any disclosure required by statute or law and save for information which is or subsequently enters the public domain.

**Assignment and subcontracting** - we may assign the Contract or subcontract the whole or any part of the performance of the Services to any person, firm or company without your prior written consent. You shall not assign or delegate or otherwise deal with all or any of your rights or obligations under the Contract without our prior written consent.

**Notices** - any notice, invoice or other document which may be given by either you or us under these conditions shall be deemed to have been duly given if left at or sent by post to the nominated address, or the other's usual or last known place of abode or business and such notice shall be deemed to be served immediately if left at the above address for notice or 72 hours after posting if posted as aforesaid.

**Entire Contract** - the Contract represents the entire understanding between you and us in relation to the subject matter hereof and supersedes all other Contracts and representations made by either you or us, whether oral or written. No statement, description, information, warranty, condition or recommendation contained in any catalogue, price list, advertisement, or communication or made verbally by any of our agents or employees shall be construed to enlarge, vary or override in any way any of these conditions. We may revise these terms and conditions at any time in order to comply with regulatory or business requirements or otherwise. Any such changes will be published on the Website and your continued use such Equipment and / or Services after such change shall signify your irrevocable acceptance to any such change.

**No waiver** - Failure by us to exercise or enforce any right conferred by the Contract shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof of any other right on any later occasion.

**Severability** - If a court of competent jurisdiction holds any part of this Contract as unenforceable then the rest of the Contract shall remain in force to the maximum extent permissible by law.

**Governing Law and Jurisdiction** -the Contract shall be governed by and construed and interpreted in accordance with English law and the parties hereby submit to the exclusive jurisdiction of the English courts.

**13. What it all means:**

In these terms and conditions:

"Contract" means the contract between us and you for the supply of Equipment and Services, including any Order completed by you and these terms and conditions;

"Charges" means all charges we make for supplying you with Equipment and Services;

"Equipment" means such telecommunications equipment to be supplied by us pursuant to the Contract, as further specified in the Order;

"Group Company" means any holding company of a company or any subsidiary of such company

"Legislation" means the Telecommunications Act 1984 and any amendments, modifications, re-enactments or replacements of the Act that may be made from time to time and any other applicable legislation;

"Network" means any telecommunications network underlying the Services;

"Order" means your order for Equipment and Services (whether by completion by you of the online application process via the Website or your agreement to the quotation provided to you via the Website or your electronic signature accepting these terms and conditions as applicable);

"Services" means the broadband services to be supplied by us, as specified in the Order;

"Toople Broadband" means the ADSL broadband service provided by us.

"Toople Fibre" means the fibre optic broadband service (either the "Toople Fibre Lite" 40/10 service or the "Toople Fibre XL" 80/20 service as applicable) provided by us.

"VAT" means Value Added Tax at the prevailing rate.

"Website" means the website owned and operated by us and located at [www.Toople.com](http://www.Toople.com).

"You" and "your" means the party placing the Order for Equipment and / or Services.

## Toople.com

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