

## Terms & Conditions of Service

### THE SCHEDULE for the supply of Mobile Services for Business customers

#### 1. Description of the Service

This Schedule and the MASTER SERVICES AGREEMENT FOR THE PROVISION OF TELEPHONY, COMMUNICATIONS, INFRASTRUCTURE SERVICES and INFORMATION TECHNOLOGY SERVICES and the Order together form the Contract for the Service(s) to be supplied by the Supplier to the Customer.

This Agreement is made between the Supplier (X.Communications Limited registered in England & Wales under number 02139995) and the Customer, as specified on the Supplier's Order form.

The Supplier agrees to provide Mobile Services for Business Customers as specified under this Schedule.

Where a conflict exists between this Schedule and the Master Services Agreement, the Master Service Agreement will take precedence

#### 2. Definitions

In this Agreement the following terms shall have the following meanings:

**Additional Services:** additional, optional or extra services which Customer chooses to use which are not services that are part of Customer's service or Outside of Allowance Services. For example, they may include (but they're not limited to) Add-Ons, Premium Services, international services, services Users use whilst roaming abroad, directory enquiry services, any other additional services listed in the Price Guide, calls to non-geographic numbers (such as calls to 084, 087), content or applications you may buy and/or any third-party services;

**Add-on:** an additional credit which Customer can buy for specific supplemental Xcomm Mobile Services (as detailed in the Price Guide);

**Age Restricted Services:** any Xcomm Mobile Services which are for use only by customers 18 or over;

**Annual Price Change:** an increase to the Monthly Charge of up to 5% as described in Section 6.;

**Business Order:** means a summary of the details of the Xcomm Mobile Services and Packages Customer has requested and Xcomm has offered to provide as provided by Xcomm to Customer as detailed on the Customer Order Form;

**Cancellation Fee:** means a fee charged if Xcomm ends the Agreement due to Customer or User(s) conduct or if Customer ends this Agreement (or any individual User's access to Xcomm Mobile Services) within the Minimum Term. The fee is set out in the Price Guide and is calculated as a lump sum equivalent to the total of the Monthly Charges remaining during the Minimum Term of this Agreement;

**Charges:** charges for access to, and use of, Xcomm Mobile Services as set out in the Price Guide. These charges may cover (but are not limited to) fixed periodic charges, including Customer's Monthly Charge, usage charges (for example, charges for Outside of Allowance Services or Additional Services), account administration fees, fees for Connection and re-Connection and any costs incurred in collecting outstanding payments from Customer.

**Commencement Date:** the date Customer or a User first Connects to the Xcomm Network or as otherwise agreed by the Parties;

**Communications Data:** information about the routing of services, calls and messages Customer and/or Users make and receive, the date, time, duration and cost of these, and information about the identity of a User's Device and SIM;

**Connection:** the procedure by which Xcomm gives Customer access to Xcomm Mobile Services. 'Connect', 'Connecting', and 're-Connection' have corresponding meanings;

**Device:** any device Users use to connect to Xcomm Mobile Services, including a Phone, Dongle, Mobile Wi-Fi, Tablet or Laptop that is authorised by Xcomm for Connection to the Xcomm Network;

**Disconnection:** the procedure by which Xcomm stop Customer's access to Xcomm Mobile Services. 'Disconnect', 'Disconnected' and 'Disconnecting' have corresponding meanings;

**Dongle:** the USB modem that's authorised by Xcomm for Connection to the Xcomm Network which is used to access Xcomm Mobile Services;



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**Equipment:** any Devices or other hardware equipment items provided by Xcomm for use in connection with the Services;

**Location Data:** data indicating the geographical location of a User's Device when using Xcomm Mobile Services or when a User's Device is switched on;

**Messaging Services:** any email, voicemail, text (SMS) and multimedia messaging services (MMS), personal information management and other message or communication facilities which let Users communicate with others;

**Minimum Term:** the minimum fixed term for the supply of Xcomm Mobile Services as set out in the Agreement and shown on the Customer Order Form;

**Mobile Wi-Fi:** the wireless mobile device which is authorised by Xcomm for connection to the Xcomm Network and is used to access Xcomm Mobile Services;

**Monthly Charge:** is the monthly fixed charge payable by Customer for Customer's Package (as set out in the Price Guide) and identified on the Customer Order Form, including any Annual Price Change;

**Outside of Allowance Services:** any standard Xcomm Mobile Services (i.e. calls and texts to standard UK mobiles and UK landlines Users use when a User has used up the monthly allowance (whether voice minutes or text messages or data, as applicable) which may be included in the Package (if any) or, if User doesn't have any inclusive allowances with its Package, any standard Services Users may use;

**PAC:** a Porting Authorisation Code;

**Packages:** Xcomm's current services available for Customer to select that are set out in the Price Guide as well as any other services Xcomm may introduce in the future;

**Package:** means the Package Customer has chosen, details of which are set out in the Business Proposal as identified on the Customer Order Form including Customer's Minimum Term. There may be more than one Package available for Customer to choose from and if so, Customer will need to select one before Customer is Connected to Xcomm. The Packages Xcomm offer may be changed or withdrawn from time to time, and can be viewed at Xcomm.co.uk or details requested from Xcomm Customer Services;

**Phone:** a mobile phone that Users use to access Xcomm Mobile Services using their SIM;

**Premium Services:** any Xcomm Mobile Services which are charged at premium rates. Customer can only access these Xcomm Mobile Services, such as international calling and international roaming, with Xcomm's approval;

**Price Guide:** the document that sets out the Packages available to Customer, Xcomm's current Charges and relevant terms (including any Minimum Term and payment commitments).

**Recurring Payment Method:** a means of automated payment, preauthorised by Customer, such as by Direct Debit or a recurring credit or debit card payment, details of which are available in the applicable Price Guide.

**SIM:** means Subscriber Identity/Identification Module which contains the Xcomm phone number and enables Customer to access Xcomm Mobile Services;

**Storage Services:** any Xcomm Mobile Services which offer Customer storage capacity on the Xcomm Network for storage of content which Customer accesses from Xcomm Mobile Services;

**Suspension:** the procedure by which Xcomm temporarily Disconnect Customer or User's access to the Xcomm Mobile Services. 'Suspend' and 'Suspended' have a corresponding meaning;

**Tablet:** a tablet personal computer which is authorised for connection to the Xcomm Network and is used to access Xcomm Mobile Services;

**Terms:** This Schedule and the Master Services Agreement Terms and Conditions for using the Xcomm Network and Xcomm Mobile Services;

**Xcomm:** means X.communications Limited

**Xcomm Network:** means the public telecommunications network used by Xcomm;

**Xcomm Mobile Services:** the services offered by Xcomm, including, but not limited to, call services, internet access, Messaging Services, Storage Services, Age Restricted Services and Premium Services, which Xcomm have agreed to provide to Customer;



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**User(s):** an individual end user of the Xcomm Mobile Services, who is approved by Customer to use the Xcomm Mobile Services, or an individual who is authorised by Customer to manage the delivery of the Xcomm Mobile Services in accordance with the terms of this Agreement and who is an employee or contractor of Customer or Customer's Group;

### 3. Basis of Agreement

**Minimum Commitment:** Customer agrees to receive the Xcomm Mobile Services for the Minimum Term.

**Minimum price for Xcomm Mobile Services provided under this Agreement:** is the Monthly Charge for the Minimum Term.

**Annual increase:** Each April, Customer's Monthly Charge will increase by up to 5%.

**Service availability:** The Customer accepts that service availability may be disrupted in areas of low or no coverage or in circumstances where a mobile signal cannot connect to a mobile cellular tower e.g. when in a Tunnel or underground etc or during periods of Xcomm undertaking maintenance.

### 4. Agreement

- 4.1 Xcomm agrees to provide Customer with the Xcomm Mobile Services as set out in the Customer Order Form subject to the terms of this Agreement. The Customer confirms that they are entering into this Agreement as a business and not as a consumer.
- 4.2 This Agreement is made up of:
- (a) the Customer Order Form;
  - (b) Customer's Package;
  - (c) Terms and Conditions within this Schedule forming part of the Master Services Agreement; and
  - (d) any other terms provided in respect of additional Xcomm Mobile Services, promotions or special offers.
  - (e) A Device if shown on the Customer Order Form
- 4.3 This Agreement does not cover:
- (a) any products or services Users buy while using Xcomm Mobile Services; or
  - (b) Any Device that has not been shown on the Customer Order Form and supplied by Xcomm.

### 5. Term of this Agreement

- 5.1 This Agreement starts on the Commencement Date. Where there is a Minimum Term, the Minimum Term shall commence on the Commencement Date. Where Customer has upgraded with Xcomm by signing up to a new agreement for a new Minimum Term, the new Minimum Term will start on the day Xcomm accepts Customer's new request for Xcomm Mobile Services, unless Xcomm agrees an alternative date with Customer.
- 5.2 If Customer's Order has a Minimum Term, Customer agrees to remain Connected to Xcomm for that Minimum Term. If Customer's Order doesn't have a Minimum Term, or the Minimum Term has ended, Xcomm will continue to supply Customer with Xcomm Mobile Services until either Customer or Xcomm chooses to end the Agreement in any of the ways set out in Section 10.

### 6. Changes to the Agreement or prices

- 6.1 Customer's Monthly Charge will be subject to an annual increase of up to 5%. The annual increase will first appear on Customer's April bill.
- 6.2 Xcomm may change any of the terms of this Agreement, including its Packages or prices, on the following basis:
- (a) Xcomm will notify Customer at least one month in advance if Xcomm decides to:
    - (i) discontinue Customer's Package; or
    - (ii) make any changes to the Agreement which are (in Xcomm's reasonable opinion) likely to be of material detriment to Customer. Customer can end the Agreement for such changes as explained in Section 10;
  - (b) Xcomm may need to change or introduce new Charges in respect of Outside of Allowance Services. Xcomm will notify Customer at least one month in advance of such changes unless Xcomm believes such changes are not (in Xcomm's reasonable opinion) likely to be of material detriment to Customer and Customer does not (in Xcomm's reasonable opinion) regularly use the Outside of Allowance Services affected;
- 6.3 Xcomm may change or introduce new Charges in respect of Additional Services or Add-Ons and will publish any changes on the Xcomm website. If any Add-ons affected have a recurring Charge, Xcomm will notify Customer at least fourteen (14) days before the Charge changes.
- 6.4 Customer will not be able to end this Agreement if any change or increase:



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- (a) is due to changes to the law, regulation or licence which affects Xcomm - this includes any increase or change in the rate of VAT or other applicable taxes or any new taxes that are introduced; or relates solely to:
  - (i) Additional Services;

## 7. What Xcomm will provide to Customer

- 7.1 XComm will open an account for Customer and provide Customer with a SIM and a Xcomm Phone number for each User.
- 7.2 Xcomm owns each SIM, which remain Xcomm's property at all times. Xcomm permits Customer and Users to use the SIM on a limited licence to enable Customer and Users to access Xcomm Mobile Services.
- 7.3 Each SIM can only be used in Devices. If Customer tries to use the SIM in another device, it may damage the device and affect usage (including making emergency calls). In these instances, Xcomm is not responsible for any such damage or usage problems.
- 7.4 A Customer can move existing phone number(s) to Xcomm. Customer will need to ask its previous mobile network operator for its existing PAC(s) and provide such PAC(s) to Xcomm. Once Xcomm has checked the details of the request, it will provide Customer with the date of the transfer to Xcomm.
- 7.5 If Customer decides to transfer a phone number that is connected to the Xcomm Network to a different network provided by another supplier, Customer must ask Xcomm for its PAC(s). Once Xcomm has checked the details of the request, Xcomm will provide Customer with the PAC(s) which must be used within the time specified. The Xcomm Mobile Services will be discontinued once Customer's number(s) have been successfully transferred. If Customer moves its Xcomm phone numbers to another mobile network within the Minimum Term, Customer must pay all Charges owed to Xcomm plus any Cancellation Fee owed.
- 7.6 Following the Commencement Date, Xcomm will provide Customer with access to Xcomm Mobile Services.
- 7.7 Users may also be able to upload and send their own content using Xcomm Mobile Services.
- 7.8 Customer grants Xcomm an irrevocable, royalty free, perpetual and worldwide licence to store, transmit or otherwise deal with any content Users upload on Xcomm Mobile Services.
- 7.9 Xcomm:
  - (a) may change or withdraw some, or part, of the Xcomm Mobile Services from time to time. This may be because of changing technologies, obsolescence, new or different product features, changing content providers or the need to remove, replace or change content. Depending on the changes that Xcomm makes, Customer may have a right to end this Agreement,
  - (b) may determine how Xcomm Mobile Services are presented and delivered to the Device or are otherwise made available to Users. Xcomm can change the way Xcomm Mobile Services are presented, delivered or otherwise made available to Users at any time;
  - (c) may deploy traffic management measures, across the Xcomm Network to protect the network and to ensure an enjoyable internet experience for the vast majority of Xcomm's customers. Xcomm reserves the right to review and amend any such measures from time to time.
- 7.10 Users can make free calls to emergency services from their Phone in the UK by calling 999 or 112. When Users are outside of Xcomm's coverage area in the UK, the Phone will try to locate another mobile network so that they can try to contact the emergency services (however, neither the User's mobile phone number nor the User's Location Data will be transmitted to the emergency services in these circumstances). If Users need to contact the emergency services while roaming abroad, they will need to call 112 (this number is recognised by most mobile operators worldwide) or the local emergency services number if different (however, neither the User's phone number nor Location Data will be transmitted to the emergency services in these circumstances). Emergency service calls can't be made using Skype (or certain other voice over IP services).
- 7.11 Any User having difficulties hearing or are speech impaired and need emergency assistance, can send a text message with details of their location to 999 or 112. The text will be converted and passed to the appropriate emergency service but the User will need to register before being able to use this service. Details on how to do this are available at <http://www.emergencysms.net/>.
- 7.12 If a User has a Device, other than a Phone, such as a Tablet, which is capable of making telephone calls, the User may be able to use this to make free calls to emergency services in the UK by calling 999 or 112, however the User's Location Data may not be transmitted to the emergency services in these circumstances.
- 7.13 If a User has a Device that operates on Android operating system 2.3 and above, on calling 999 or 112 while in the UK and connected via the Xcomm Network, the User's Location Data may be automatically transmitted to the emergency services to help them locate the User in an emergency.
- 7.14 Xcomm will always try to make Xcomm Mobile Services available to Customer. However, there may be areas where Users don't have access to all Xcomm Mobile Services or where coverage is otherwise limited or unavailable or network speeds are slower than expected.
- 7.15 The data speeds that Users will experience on the Xcomm Network will vary due to a number of factors including the User's distance from the nearest mast, the User's location in a building, local geography, congestion and the type of equipment that the User is using - for example, Users will only be able to enjoy 4G speeds if they are in a 4G coverage area and using a 4G device.
- 7.16 Due to the nature of mobile technology, there may be situations when Xcomm Mobile Services aren't always available, or the quality or network speeds are affected and so Xcomm cannot guarantee continuous fault-free service. For example:
  - (a) when Xcomm needs to perform upgrading, maintenance or other work on the Xcomm Network or Xcomm Mobile Services;



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- (b) when a User moves outside Xcomm's 3G or 4G or 5G service area while on a call (in this case calls may end) or using data (in this case, User's connection may be lost);
  - (c) when a User is in areas not covered by the Xcomm Network. In this case, Xcomm Mobile Services rely on other operators' networks, over which Xcomm has no control; and
  - (d) because of factors outside Xcomm's control, such as the features or functionality of the User's Device, legal or regulatory requirements, lack of capacity, interruptions to the Xcomm Mobile Services from other suppliers, faults in other communication networks, the weather or radio interference caused by hills, tunnels or other physical obstructions.
- 7.17 As Xcomm own the SIM and it remains Xcomm's property at all times, Customer shall ensure that Users keep it safe and secure whilst it's in their possession and Customer must ensure that Customer is able to return it to Xcomm, if required. Xcomm may charge Customer for any replacement SIM (as set out in the Price Guide).
- 7.18 Customer shall ensure that Users keep all PINs and passwords secure and confidential.
- 7.19 Customer shall ensure that Users immediately change their PIN or password if Users become aware that someone is accessing Xcomm Mobile Services on Customer's account without Customer's permission.

## 8. Use of Xcomm Mobile Services by Customer

- 8.1 Customer shall procure that Users will only use Xcomm Mobile Services:
- (a) as set out in this Agreement (and in particular this Section 6); and
  - (b) for Users' own personal use. This means Users must not resell or commercially exploit any of Xcomm Mobile Services or Xcomm's content.
- 8.2 Users must not use Xcomm Mobile Services, the SIM, or Xcomm phone number or allow anyone else to use Xcomm Mobile Services, the SIM, or Xcomm phone number for illegal or improper uses. For example:
- (a) for fraudulent, criminal or other illegal activity;
  - (b) in any way which breaches another person's rights;
  - (c) including copyright or other intellectual property rights;
  - (d) to copy, store, modify, publish or distribute Xcomm Mobile Services or their content, except where Xcomm gives Customer permission;
  - (e) to download, send or upload content of an excessive size, quantity or frequency. Xcomm will contact Customer if Customer's or a User's use is excessive;
  - (f) in any way which breaches any security or other safeguards or in any other way which harms or interferes with the Xcomm Network, the networks or systems of others or Xcomm Mobile Services; or
  - (g) to use or provide to others any directory or details about Xcomm customers.
- 8.3 Customer and Users shall always co-operate with Xcomm and follow Xcomm's reasonable instructions to ensure the proper use and security of Customer's account. This includes (but is not limited to) any instructions from us to update the settings on a Device and any instructions regarding the use of Customer's Package.
- 8.4 If anyone makes, or threatens to make, any claim or issue legal proceedings against Users relating to use of Xcomm Mobile Services, Customer will, notify Xcomm of this immediately and, at Xcomm's request, immediately stop the act or acts complained of.
- 8.5 If Xcomm asks Customer to, Customer must confirm the details of the claim(s) in writing.
- 8.6 Xcomm may publish an acceptable use policy which provides more details about the rules for use of certain Xcomm Mobile Services:
- (a) to ensure that use of Xcomm Mobile Services either in the UK or in Xcomm's Roaming destinations is not excessive;
  - (b) to combat fraud; and
  - (c) where Xcomm Mobile Services Xcomm offers or may introduce require certain rules to ensure they can be enjoyed by all Xcomm customers.
- Any such policy will be available on the Xcomm website and may be changed from time to time.
- 8.7 While using the Messaging Services, Users must not:
- (a) send or upload anything that is copyright protected, unless the User has permission;



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- (b) generate artificially inflated traffic or send unsolicited, bulk or automated messages or other unauthorised communications, or knowingly send any viruses; or
  - (c) send or upload anything that is obscene, offensive, abusive, defamatory, menacing, harassing, threatening or is unlawful in any other way.
- 8.8** Xcomm may put limits on the use of certain Xcomm Mobile Services, such as Messaging Services or Storage Services. For example, Xcomm may limit the size of messages or storage space.
- 8.9** While Xcomm has no obligation to monitor the Messaging Services or Storage Services, if Users exceed Xcomm's published use limits, or Xcomm is made aware of any issues with Customer's use of the Xcomm Mobile Services (for example, if Customer is made aware that Customer or a User is using Xcomm Mobile Services in any of the ways prohibited in Section 8.7 above) Xcomm reserve the right to remove or refuse to send or store content on User's behalf. Customer may still be charged for any content which is blocked or removed.
- 8.10** Users under 18 are not allowed to access Age Restricted Services. Users who are 18 or over who access the Age Restricted Services, must not show or send content from the Age Restricted Services to anyone under 18.
- 8.11** Users must also ensure that they have deactivated any access to Age Restricted Services if they let anyone under 18 use its Device.
- 8.12** Customer accepts that Xcomm cannot control access to age restricted services.
- 8.13** If Users use Xcomm Mobile Services from a country outside the UK:
- (a) use of Xcomm Mobile Services may be subject to laws and regulations that apply in that other country, and Xcomm is not responsible for a User's failure to comply with those laws or regulations;
  - (b) Users will be roaming on another operator's network so:
    - (i) Users may not receive the same level of coverage and speed as they are used to on the Xcomm network. Xcomm has no liability if Users are unable to access services abroad, or if the quality of any other operator's network services differs from those provided on the Xcomm network and;
    - (ii) Xcomm accepts no responsibility for information processing when it leaves Xcomm's control.
- 8.14** Use of Xcomm Mobile Services in Xcomm's Roaming destinations is subject to Xcomm's fair use policies as published in the Price Guide, which may be updated from time to time see [www.Xcomm.co.uk](http://www.Xcomm.co.uk) for full details.
- 8.15** Users may accidentally roam if they are in an area close to national borders because User's Device picks up a network signal across the border. If this is the case then Customer may be charged as if Users are roaming on an international network.
- 8.16** Customer must pay Xcomm all Charges in connection with all Xcomm Mobile Services which are accessed using the SIMs Xcomm supplies to Customer under this Agreement. Customer must pay the Monthly Charge which is calculated from the earlier of:
- (i) the date the Equipment and/or SIM is shipped by Xcomm; and
  - (ii) the date the Equipment and/or SIM is received by Customer, whether or not Users' allowance of voice minutes, text messages and/or data are consumed by Users or by another person, with or without Customer's permission.
- Customer must also pay for all Xcomm Mobile Services which are not included in their allowance and which are accessed using the SIM Xcomm supplied to Customer or which are accessed using a Device, whether the Xcomm Mobile Services are accessed by Users or by another person, with or without Customer's permission. If Customer's SIM and/or Device are lost or stolen Customer remains responsible for all the Charges to Customer's account until Customer notifies Xcomm and arranges for the SIM, and/or Device to be deactivated.
- 8.17** Xcomm will send Customer a bill on a periodic basis and this will usually be done monthly. However, Xcomm may change this period, on no less than 14 days' notice.
- 8.18** Customer's bill will normally include the Monthly Charge for the Package for use of the Xcomm Mobile Services in the UK in the last period and outside the UK in prior periods (if not within an allowance). If Customer's Package includes an allowance, this will be made up of a certain number of voice minutes or text messages, and/or a certain amount of data each month. If Customer has used all of that monthly allowance by the time Xcomm bills Customer, it will expire and the monthly allowance will then start again on each monthly bill date.
- 8.19** Charges on Customer's bill are shown exclusive of VAT.
- 8.20** Customer must make payment by the due date and by the payment method stated on Customer's Order form. However, Xcomm may also submit an interim bill or require an immediate payment if Xcomm thinks Customer has exceeded a reasonable limit on Customer's account. Customer's bill will state the amount of the Charges due from Customer and the due date by which Customer must make payment. If Customer fails to pay its account on time, Customer will be breaking this Agreement and Xcomm may Suspend or Disconnect Customer. In this case, Customer will have to pay any outstanding Charges. Xcomm may set a credit limit on Customer's account. If Customer exceeds the credit limit Xcomm sets, Xcomm may Suspend any or all of the Xcomm Mobile Services Customer uses until Customer has made a payment to the account. Customer should not use the credit limit for budgeting as the amount Customer owes isn't capped or limited by any credit limit Xcomm sets.
- 8.21** Xcomm may need to take legal or other collection action against Customer for non- payment of Charges. This could mean Customer has to pay Xcomm's reasonable costs and expenses, or the reasonable costs and expenses of Xcomm's assignees, including legal and



administration costs. Interest will accrue on any sum due under this Agreement each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

- 8.22 Xcomm's plans' pricing include paying by direct debit. Xcomm cannot prevent Customer from cancelling a direct debit, and if a direct debit is cancelled, Customer is still required to pay bills by the due date. Customer must continue to have a valid direct debit or other Recurring Payment Method in place.

## 9. Customer's Rights – Complaints

- 9.1 If Customer is unhappy about any aspect of Xcomm Mobile Services, Customer should contact Xcomm Customer Services with written notice of the complaint which sets out the full facts and includes relevant documentation.
- 9.2 Xcomm will investigate any complaint in accordance with its customer complaints policy, after which Xcomm will contact Customer with the results. A copy of Xcomm's customer complaints code can be viewed on Xcomm's website at Xcomm.co.uk/complaints or Customer can request a copy by contacting Xcomm Customer Services. If Xcomm are unable to resolve Customer's complaint, Customer may, depending on the nature of the complaint, be entitled to ask Ombudsman Services: Communications to consider the complaint. Their website address is: <https://www.ombudsman-services.org>.

## 10. Suspension of Xcomm Mobile Services

- 10.1 Xcomm may Suspend any or all of the Xcomm Mobile Services without notice if:
- (a) Xcomm reasonably believes Customer has provided Xcomm with false or misleading details about Customer;
  - (b) Xcomm advises Customer that a User or Users' excessive use of Xcomm Mobile Services (as may be defined in accordance with Section 6 above) is causing problems for other users, and Users are continuing to use Xcomm Mobile Services excessively;
  - (c) Xcomm believes a User's Device, SIM has been lost, stolen or is being used in a way not allowed by this Agreement;
  - (d) Xcomm reasonably believe that Customer or Users have used Xcomm Mobile Services, the SIM(s), or a Xcomm Phone number for illegal or improper purposes in contravention of Xcomm's responsible use requirements in Section 6 above;
  - (e) Xcomm receives a serious complaint against a User which Xcomm believes to be genuine (for example, if Xcomm receives a complaint that Users are using Xcomm Mobile Services in any of the ways prohibited in Section 6); or
  - (f) Xcomm is required to Suspend Customer's Xcomm Mobile Services by the emergency services or other government authorities.
- 10.2 In addition to the circumstances set out in Section 10.1, Xcomm may also Suspend any or all of the Xcomm Mobile Services Users use without notice if:
- (a) Customer hasn't paid Xcomm's Charges on time, or if Customer has previously failed to pay the Charges on time; or
  - (b) Customer has exceeded any credit limit that Xcomm may have set for Customer (as set out in Section 6.20 above); or
  - (c) Customer has insufficient credit on it's account to cover Charges Customer agreed to pay in advance.

Additionally, Xcomm reserves the right to Suspend any other account(s) Customer has with Xcomm, if Xcomm reasonably believes that Customer will be unable to pay the relevant Charges.

- 10.3 Xcomm may end any calls that Users make that are longer than 2 hours' duration in order to prevent Customer from incurring excessive, inadvertent costs.
- 10.4 Xcomm may turn off a User's Messaging Services if they're inactive for an extended period of time – Xcomm will let Customer and/or User know before this happens. If Xcomm does turn off a User's Messaging Services Xcomm will have no obligation to maintain any of the content in the User's Messaging Services, or to forward any unopened or unsent messages to the User, or anyone else.
- 10.5 If Xcomm Suspends any or all of a User's Xcomm Mobile Services, such User will still be able to make emergency calls (unless they've been Suspended at the request of the emergency services).
- 10.6 If a User's Xcomm Mobile Services are Suspended, Xcomm may agree to re-Connect the User if Customer asks Xcomm to do so and there may be a re-Connection Charge for this.
- 10.7 Ending this Agreement and Disconnection of Xcomm Mobile Services
- 10.8 Customer may end this Agreement in the following ways:
- (a) in certain circumstances under Xcomm's Returns Policy. Customer will need to get in touch with Xcomm Customer Services to arrange Disconnection;



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- (b) during Customer's Minimum Term (if it has one) by giving notice to Xcomm Customer Services 30 days before the date Customer wants to end the Agreement. Customer must pay Xcomm all the Charges it owes to Xcomm, plus any Cancellation Fees for Customer's Package;
  - (c) at the end of Customer's Minimum Term or any time after the Minimum Term has expired, or if Customer does not have a Minimum Term, provided Customer gives notice to Xcomm Customer Services at least 30 days before the date Customer wants to end the Agreement.
- 10.9** A Cancellation Fee won't be charged within one month of Xcomm telling Customer about a variation to this Agreement (which includes Customer's Package) which is likely (in Xcomm's reasonable opinion) to be of material detriment to Customer. Customer must give notice to Xcomm Customer Services within that month and the Agreement will finish at the end of that month once Xcomm receives Customer's notice.
- 10.10** Customer will not be able to end the Agreement during the Minimum Term without paying a Cancellation Fee if the variation to the Agreement (which includes the Package, Xcomm Mobile Services or Xcomm's prices) is due to any of the following circumstances:
- (a) the change is due to changes to the law, government regulation or licence which affects Xcomm - this includes any increase or change in the rate of VAT or other applicable taxes or any new taxes that are introduced;
  - (b) the change relates solely to Additional Services or Add-on(s). In such circumstances Customer will not be able to end the Agreement but Customer will be able to cancel the Add-on(s) or stop using the Additional Services;
  - (c) the change isn't (in Xcomm's reasonable opinion) likely to be of material detriment to Customer;
  - (d) the change relates to a variation in Xcomm's Charges for Outside of Allowance Services and such changes are not (in Xcomm's reasonable opinion) likely to be of material detriment to Customer or Customer does not (in Xcomm's reasonable opinion) regularly use the Outside of Allowance Services affected; or
  - (e) the change is an Annual Price Change.
- 10.11** Xcomm may end this Agreement in the following ways:
- (a) by giving Customer at least 30 days' notice if the Package doesn't have a Minimum Term, or the Minimum Term has ended;
  - (b) immediately in the following cases:
    - (i) if Xcomm has the right to Suspend Customer's Xcomm Mobile Services on any of the grounds in Section 10 and Xcomm believes that the grounds are serious and have not been, or are unlikely to be, rectified;
    - (ii) if Xcomm believe that Customer's communications with Xcomm Customer Services or any of Xcomm's retailers or agents, or Xcomm's use of the Xcomm Mobile Services, are jeopardising the operation of the network, or are of an unacceptable nature;
    - (iii) if Xcomm reasonably believe Customer won't be able to pay its bill. This could result from a failure to pass one of Xcomm's credit assessments; or
    - (iv) in the event Customer makes an arrangement with or assignment in favour of a creditor, goes into liquidation or administration or a receiver or manager is appointed to manage its business or assets, or any analogous insolvency event occurs; and, in any of these circumstances, Customer has to pay all the Charges it owes up until Xcomm Disconnects Customer;
  - (c) if Xcomm no longer has access to other operators' networks which Xcomm need to provide Xcomm Mobile Services, or if Xcomm is no longer able to provide Xcomm Mobile Services due to factors beyond Xcomm's control or because Xcomm ceases business. If reasonably possible under these circumstances, Xcomm will endeavour to provide Customer with such notice as is practical.
- 10.12** If Users Devices are dual SIM compatible and their SIM Profile is Suspended or Disconnected by Xcomm because Customer or Users have not complied with certain terms of this Agreement, Xcomm may also Suspend or Disconnect the other SIM Users are using in their Device if that SIM is also an Xcomm SIM.

## **11. Effect of this Agreement ending**

- 11.1** If this Agreement ends, Xcomm will close Customer's account and all Sims will be Disconnected. Customer will not be able to use Xcomm Mobile Services or make emergency calls.
- 11.2** Customer must immediately pay all Charges it owes to Xcomm up to the date the Agreement ends. If Xcomm ends this Agreement due



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- 11.3 to Customer or Users' conduct, or if Customer ends its Agreement within the Minimum Term, the Charges will include a Cancellation Fee. Xcomm may bill Customer up to 4 months following the Disconnection of Customer's account, in respect of Charges that Xcomm incurred during Agreement, but were not billed prior to the date of Disconnection. In accordance with Section 6.17, Customer must pay Xcomm all Charges in connection with all Xcomm Mobile Services which are accessed using the SIM or eSIM Profile Xcomm supplied to Customer.

## 12. Liability

- 12.1 The express terms of this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, which are all excluded to the fullest extent permitted by law.
- 12.2 Xcomm is not liable for any service, goods or content Customer or Users may take from third parties, including if they are defective or deficient, and any dispute with a third party will not affect Customer's obligations to Xcomm.
- 12.3 Xcomm will try to ensure the accuracy, quality and timely delivery of Xcomm Mobile Services. However:
- (a) Xcomm accepts no responsibility for any use of, or reliance on, Xcomm Mobile Services, or for any disruptions to, or any failures or delays in, Xcomm Mobile Services. This includes, without limitation, any alert services or virus detection services; and
  - (b) Xcomm does not make any representations as to the accuracy, comprehensiveness, completeness, quality, error free nature, compatibility, security or fitness for purpose of Xcomm Mobile Services. They are provided to Customer on an 'as is' basis.
- 12.4 Xcomm will not be liable:
- (a) for any loss Customer or Users may incur as a result of someone using a User's PINs or passwords with, or without, the User's knowledge; or
  - (b) if Xcomm cannot carry out its duties, or provide Xcomm Mobile Services, because of something beyond Xcomm's control.
- 12.5 Users may be able to use Xcomm Mobile Services:
- (a) to upload, email or transmit content; and
  - (b) to access content which is branded or provided by others and to obtain goods and services from others, which may be in a digital form. Where Xcomm provides Users with such access, all Xcomm does is transmit the content to the User and Xcomm does not exercise control over the content, goods or services. Xcomm is not responsible or liable in any way for, and does not endorse, any of this content, goods or services, including any content, goods and/or services that Customer may pay for using Xcomm Mobile Services. Customer also accepts that Xcomm has no responsibility for information Users supply to third parties who provide content, goods or services on the Xcomm Network.
- 12.16 In exceptional circumstances, a government authority may order the reallocation or change of phone numbers, in which case Xcomm may have to change Users' Xcomm Phone number.
- 12.17 Customer confirms that it has full contractual capacity to agree to the Agreement and is able to pay the Charges.
- 12.18 Third parties cannot benefit from this Agreement under The Contracts (Rights of Third Parties) Act 1999.