

## **The service**

1.1 Barclay Digital Services Limited will make the Service available to you at the premises as soon as reasonably practicable, following Barclay Digital Services Limited's acceptance of your application. In any event Barclay Digital Services Limited will begin providing the Service 30 days after the Agreement comes into force in accordance with clause 4.1 or at such other time as has been agreed between you and Barclay Digital Services Limited

1.2 Barclay Digital Services Limited can provide you with equipment. The equipment provided will remain the property of Barclay Digital Services Limited., but you will be responsible for keeping it safe from damage or theft while it is in your custody. You agree to pay Barclay Digital Services Limited. 1) a sum equivalent to the RRP of the equipment at the date it was supplied, or, 2) Agree to pay Barclay Digital Services Limited all legal costs involved in recovering the money if the equipment provided is lost or damaged or if upon the termination of this agreement for any reason, you do not return the equipment provided to Barclay Digital Services Limited free of damage and in full working order. The speed and equipment depends upon the Service and capacity purchased.

1.3 Barclay Digital Services Limited may route your calls over any carrier or carriers that it may choose for the provision of the Service. You agree that Barclay Digital Services Limited may act as your agent for the purpose of notifying any carrier that Barclay Digital Services Limited may choose to use for the provision of the Service that your customer line identification (CLI) should be registered for use by Barclay Digital Services Limited You agree that Barclay Digital Services Limited shall have full authority to instruct the carrier on your behalf to cancel any existing CLI registration you might have with any other service provider and to substitute Barclay Digital Services Limited as your service provider.

1.4 In order to improve the Service, Barclay Digital Services Limited may, from time to time, change the procedures or methods by which you will access the Service. Barclay Digital Services Limited will notify you within a reasonable period before any such change is due to take effect

1.5 Barclay Digital Services Limited may also provide you with the billing of your line rental. If so all lines will be maintained by Gamma, BT Wholesale or BT Openreach, but your customer service will be provided by Barclay Digital Services Limited. Barclay Digital Services Limited reserve the right to suspend telephone lines for any necessary reason.

1.6 You must follow all reasonable instructions issued by Barclay Digital Services Limited in relation to your access to and your operation of the Service.

1.7 Number portability is available on the Service

1.8 We monitor and record calls for the training purposes and for the purpose of improving our customer services and for quality purposes.

## **Charges and Payment**

2.1 You will be charged for calls at Barclay Digital Services Limited's published rates. Barclay Digital Services Limited may vary its rates by notice to you in accordance with clause 6.

2.2 Barclay Digital Services Limited will usually send you a bill once a month to the address set out on your registration form (or such other address as you request that Barclay Digital Services Limited uses for billing). You must pay all charges within 14 days by direct debit. Barclay Digital Services Limited will normally send reminders for late payment, but Barclay Digital Services Limited may, if it

wishes, charge you interest at 4% over HSBC's Bank Plc's base rate for the whole period of any late payment.

2.3 In the event that any sum remains outstanding for more than 14 days Barclay Digital Services Limited may, if it wishes, either terminate the Service or suspend the Service until such time all sums owing have been paid in full, together with such security deposit as Barclay Digital Services Limited may require. If your account is suspended Barclay Digital Services Limited will charge £25 per telephone number for the administration of reactivation of service. If a line is disconnected there will be a new line installation charge to restore service. Barclay Digital Services Limited cannot guarantee that your previous telephone number will be available. Late payments (over 30 days) are subject to a £15 administration charge.

2.4 If any sums owing are overdue by more than 60 calendar days, Barclay Digital Services Limited may instruct solicitors to recover outstanding balances. You will be liable for the debt plus interest and any costs chargeable by our solicitor including enforcement costs.

2.5 In the event a payment received by Barclay Digital Services Limited is returned unpaid a £15 administration charge will be applied.

2.6 All quoted tariffs are exclusive of Value Added Tax (VAT) unless stated otherwise.

2.7 For customers on a charge per minute contract Barclay Digital Services Limited expects the call volume not to reduce below 50% of the "expected monthly minutes" as stated on the Customer Contract Agreement for a period of more than 3 consecutive months. If this occurs Barclay Digital Services Limited reserves the right to charge you for the difference between these two amounts. This shortfall of minutes will be charged at your average call costs as incurred during your time with Barclay Digital Services Limited. The average cost will be obtained by dividing the total number of minutes used, into the total call costs during your time with Barclay Digital Services Limited for example, if you selected 1,000 minutes as your expected monthly minutes on the Customer Contract Agreement and you used only 100 minutes (assuming you exceeded the 3 consecutive months' rule) we reserve the right to charge you for 400 minutes at the average cost per minute.

### **Your Obligations.**

3.1 You will ensure that any equipment you use with the Service and the equipment provided by us is in good working order and complies with all applicable standards, requirements and approvals.

3.2 You will ensure that the Service is not used for any improper or unlawful purpose or in a manner which is offensive, (including indecent, menacing, nuisance, defamatory or hoax calls).

3.3 You will comply with any reasonable requests and directions that Barclay Digital Services Limited may make, regarding your use of the Service and/or the equipment provided, as may be necessary to ensure the quality and operational integrity of the Service.

3.4 Fair use policy: Free Calls to O2 tariff; if more than 50% of the total minutes to mobile networks on a monthly basis are to O2 mobiles, surplus minutes will be charged at the normal published rate to call a mobile phone. (E.g. a customer whose mobile call minutes total is 10000 and 9000 minutes are to O2, the surplus calls are charged at 5.4p per minute. The excess O2 minute volume is the difference between the actual O2 minute volume of 9000 minutes and the maximum fair usage (in this case) of 5000 minutes. Here the surcharge would be 4000 minutes x 5.4p per minute, and the actual billed amount would be £216 for all calls to O2 Mobiles). The average call cost per minute for

O2 Mobile in this example would be 2.4p per minute (£216/9000 minutes). For Free Calls to Work Mobiles tariff, if more than 50% of the total minutes to mobile networks are to work mobiles, the surplus minutes will be charged at the normal published rate (5.4p per minute). The excess work mobile minutes are the difference between the actual work mobile minute volume and the maximum fair usage (50%). Length of the Contract

4.1 This Agreement shall come into force on and with immediate effect from the date the Barclay Digital Services Limited Customer Contract Agreement is signed (“the Commencement Date”).

4.2 You commit to an initial minimum contract term as stated on the Barclay Digital Services Limited Customer Agreement or 24 months (if no term is specified) for the call charges, line rental services and broadband. This is known as the Initial Minimum Period.

4.3 This Agreement will remain in force (unless terminated earlier in accordance with this Agreement) for the Initial Minimum Period and will continue thereafter until terminated in accordance with clause 5 of this Agreement.

### **Termination**

5.1 Thirty (30) days before the end of the Initial Minimum Period (or any subsequent periods) you may terminate this Agreement, by giving Barclay Digital Services Limited 30 day’s written notice to terminate this Agreement to expire with effect from the last day of the Initial Minimum Period or to expire on any subsequent annual anniversary of the Commencement Date.

5.2 You may terminate this Agreement if Barclay Digital Services Limited varies its terms, resulting in an excessive increase in the charges or changes that alter your rights under this Agreement to your detriment, by giving us written notice to the registered office address below within 30 days of the date of the change. This does not apply if we raise charges by an amount equal or less than the percentage in the Retail Prices Index (RPI).

5.3 Barclay Digital Services Limited will be entitled to charge an early termination charge for customers subscribed to the line rental and calls service and / or broadband equal to a sum of the line rental and broadband charges and a sum equal to 50% of the expected monthly minutes, as stated on the Customer Contract Agreement, to the extent not already paid, for the remainder of the term.

5.4 Barclay Digital Services Limited will be entitled to charge an early termination charge for customers subscribed to the calls only service. The early termination charge will be equal to a sum of 50% of the expected monthly minutes, as stated on the Customer Contract Agreement, to the extent not already paid, for the remainder of the term.

5.5 Barclay Digital Services Limited will be entitled to charge an early termination charge for customers subscribed to a calls and lines bundled tariff, equal to the monthly bundled charge, to the extent not already paid for the remainder of the term.

5.6 You may terminate this Agreement before the Initial Minimum Period or any subsequent annual term has expired if you give us 30 days written notice of cancellation and pay us all charges that are due plus the early termination charge as described at 5.3, 5.4 or 5.5, as the case may be.

5.7 If you do not give us 30 days written notice of cancellation (whether before or after the Initial Minimum Period (or any subsequent periods) has expired) Barclay Digital Services Limited will be

entitled to charge an amount equal to 30 days average call charges in addition to any other termination charges which arise.

5.8 Barclay Digital Services Limited may terminate the Service without notice if you become subject to any bankruptcy proceedings or you make an arrangement or composition with your creditors, or a liquidator, administrator, administrative receiver, bankruptcy trustee or similar officer is appointed over any of your assets or you become unable to pay your debts within the meaning of the Insolvency (Northern Ireland) Order 1989; or you do not pay your bill when due; or if we have good reason for believing that any information you have given us is false or misleading.

5.9 Barclay Digital Services Limited may terminate this Agreement at any time after the Initial Minimum Period has expired by giving you at least 30 days written notice.

5.10 Without prejudice to any other termination rights set out in this Agreement, Barclay Digital Services Limited may terminate this Agreement immediately on notice if you commit a nonremediable breach of a material obligation of the Agreement or you commit a remediable breach of a material obligation of this Agreement (including without limitation failure to pay any charges by their due date) and fail to remedy such breach within 30 days of the date we notify you of such breach; or where any contract between Barclay Digital Services Limited and a third party provider of telecommunications services is terminated where such termination affects the provision of the Service. On termination of this Agreement you shall immediately stop using the Service and all amounts you owe as for use of the Service shall be due and payable in full.

5.11 Residential customers or a small business with 10 employees or less, once the Initial Minimum Period has been met will not be rolled into a subsequent term of contract without their express consent. If cancelling a contract within the Initial Minimum Period or any subsequent annual term please see clauses 5.3, 5.4 and 5.5.

5.12 We may from time to time supply promotional offers to some or all of our customers. Such offers shall be subject to any promotional terms and conditions we notify to our customers. Unless otherwise stated in the promotional terms and conditions we shall not incur any liability under the Agreement in relation to such offers. Promotional terms and conditions may require variation to the Agreement in which case you will be deemed to have accepted in writing such variation upon acceptance of the promotional offer. Unless otherwise stated in the promotional terms and conditions an offer may be amended or withdrawn by us (in relation to some or all of our customers) at any time and without notice. For the avoidance of doubt we are not obliged to include you in any offer we make to our other customers. If any equipment or product has been supplied by us at a reduced cost, or free of charge, as part of a promotion or sales offer in connection with this Agreement and you terminate this Agreement or you are in default of this Agreement before the end of the Initial Minimum Period, or any subsequent annual term as specified on the sales contract, you must return the product in as good a condition as it was in when you received it and in its original packaging. Should you fail to return the free gift in its original condition or at all then Barclay Digital Services Limited may demand payment of a sum equal to the full value of the item when new and selling at full price at the date of termination.

### **Changes to this Agreement**

6.1 We may change this Agreement and the charges at any time. Changes will be notified in writing to you. If we increase the charges for Services you are using or change this Agreement to your

disadvantage we will give you 30 days written notice before the increase in charges or changes takes place delivered to the last correspondence address notified to us by you.

6.2. We reserve the right to increase the price, to reflect any increase in the cost that is due to: (i) any factor beyond our control (including foreign exchange fluctuations, increases in taxes and duties, retail price index (RPI) and increases in labour, materials, other manufacturing costs, or other increases attributable to the actions of third parties); (ii) any request by you to change the delivery date(s), quantities or types of Products ordered, or your specification for the Products (if any); or (iii) any delay caused by your instructions in respect of the Products or your failure to perform your obligations under the Agreement.

### **Liability**

7.1 Barclay Digital Services Limited will provide the Service using the reasonable skill and care that would normally be expected of a competent telecommunications service provider. Barclay Digital Services Limited cannot, however, guarantee that the Service will never suffer from faults. From time to time the Service may be temporarily interrupted or degraded because of operational reasons, failure of broadband connection or matters beyond Barclay Digital Services Limited's control. If this happens your voice service will also fail. The Service may cease to function if there is a power cut or failure. Barclay Digital Services Limited will take all reasonable steps to ensure that the Service is restored promptly. Barclay Digital Services Limited shall have no further obligation to you. In no event, will Barclay Digital Services Limited have a liability for any loss you may suffer as a consequence of any disruption or suspension to the Services. In particular, Barclay Digital Services Limited Will have no liability to you for any indirect or consequential loss you may suffer, including loss of profit, savings, wasted expenses, financial loss or loss of or damage to data, even where Barclay Digital Services Limited, is aware of the possibility of such loss.

7.2 In any event, Barclay Digital Services Limited's liability under this Agreement for any loss suffered by you shall be limited to the lower of £1,000 or the total charges paid by you in the twelve months before the act or omission events giving rise to the liability.

7.3 Nothing in this Agreement shall limit or exclude Barclay Digital Services Limited's liability for death or personal injury.

7.4 Except as expressly stated in this Agreement all warranties, conditions, undertakings or terms express or implied in respect of the Service and equipment are excluded to the fullest extent permitted by law.

7.5 Neither you nor Barclay Digital Services Limited shall be liable to the other for any loss or damage, which may be suffered by the other due to any cause beyond our reasonable control. Including without limitation any act of God, inclement weather, failure or shortage of power supplies, flood, drought, lightning or fire, strike, lockout, trade dispute or labour disturbance, any act or omission of Government, highways authorities, other public telecom operations or other competent authority, war, act of terrorism, civil disorder or military operation.

### **General**

8.1 If any dispute arises in connection with this Agreement, the parties shall, within five days of a written request from one party to the other, meet in a good faith effort to resolve the dispute.

8.2 If the dispute is not resolved at that meeting, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR.

8.3 No party may commence any court proceedings or arbitration in relation to any dispute arising out of this Agreement until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

8.4 This Agreement and any dispute or claim arising out of or in connection with it and its subject matter or formation (including non-contractual) disputes or claims), shall be governed by, and construed in accordance with, the law of Northern Ireland.

8.5 Subject to clauses 8.1 to 8.4 above, the parties irrevocably agree that the courts of Northern Ireland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

8.6 If a court decides that any part of this Agreement is not enforceable, that part will not apply, but the remaining terms and conditions will continue to apply.

8.7 You may not assign this Agreement to any other person without Barclay Digital Services Limited's prior written consent

8.8 The Customer Contract Agreement application and this Agreement constitute the entire agreement between Barclay Digital Services Limited and you. No warranty, term or condition, other than those contained in this Agreement, will govern either your or Barclay Digital Services Limited's rights and obligations relating to the Service.

8.9 In this Agreement, 'Barclay Digital Services Limited.' and 'Service' shall have the meaning given to those terms on the Customer Contract Agreement and shall mean the provision of the Service arising upon the acceptance of your registration by Barclay Digital Services Limited 'Agreement' shall mean these terms and conditions that define the service that you have applied to Barclay Digital Services Limited to provide to you. 'Initial Minimum Period' shall mean initial minimum contract term referred to in clause 4.2. 'Premises' means the United Kingdom location at which Barclay Digital Services Limited agree to provide the Service.

8.10 The parties to this Agreement do not intend that this Agreement be enforceable by any person not a party to this Agreement under the Contracts (Rights of Third Parties) Act 1999.

8.11 Any notice given under this Agreement must be delivered by hand or sent by email or pre-paid post to us at the registered office address below and to you to the last correspondence address notified to us by you.

8.12 No waiver by Barclay Digital Services Limited of any default by you under the Agreement shall operate or be construed as a waiver by us of any future defaults whether of a like or different character. No granting of time or other forbearance or indulgence we grant you shall imply a waiver of our rights or shall in any way release, discharge or otherwise affect your liability under this Agreement.

8.13 In the event of any inconsistency between this Agreement and the Customer Contract Agreement the order of precedence shall be (1) this Agreement and (2) the Customer Contract Agreement.

BARCLAY DIGITAL SERVICES LIMITED IS REGISTERED IN N. IRELAND, REGISTRATION NO. NI624500 AND HAS ITS REGISTERED OFFICE AT, 248 Upper Newtownards Road Belfast BT4 3EU