



Terms and Conditions for Manx Telecom Freedom and Manx Telecom Click

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1. Definitions

"computer(s)," "modem" means equipment that is not part of our network and which you use or intend to use with the Service.

"failure of the Service" means the continuous total loss of the ability to use the dial up service.

"Main Office" means Manx Telecom Limited's main office at Manx Telecom HQ, Cooil Road, Braddan.

"main telephone socket" means the point where the equipment is connected to our network which is called the Network Termination Point in your licence.

"Manx Telecom Freedom," "Manx Telecom Click," "Freedom" and "Click" mean the services we agree to give you, which includes: access to the internet via the Manx Telecom network; helpdesk services; and any other applications as described at www.manx-telecom.com. The agreement also applies to any equipment you buy from us to use with the service.

"Minimum Period of Service" means the period of 3 months commencing on the date when the Service commences hereunder (or the period set out in our Price List.)

"our network" means Manx Telecom's public switched telecommunications network.

"Price List" means Manx Telecom's price list in force from time to time, copies of which are available at our Main Office.

"relevant standards" means the standards designated under Section 22 of the Telecommunications Act 1984.

"telecommunications service" means the connection to our network in respect of the dial up service.

"the Service" means the Service summarised in paragraph 2 and includes any related services listed in our Price List that we agree to provide to you under this agreement.

"we" and "us" means Manx Telecom Limited.

"working day" means Monday to Friday not including Public Holidays or Bank Holidays.

"you" means the customer we make this agreement with. It includes a person who we reasonably believe is acting with the customer's authority or knowledge.

"your premises" means the place where the Service is or will be provided.

2. **Provision of & Minimum Period of the Service**

2.1 We agree to provide you with the Service on the terms and conditions of this Contract. You agree to keep the service:

- a) Manx Telecom Freedom for at least 3 (three) months; the Minimum Period of Service
- b) Manx Telecom Click where no Minimum Period of Service is applicable

2.2 We cannot guarantee that the Service will never be faulty but we will correct reported faults as soon as we reasonably can. If a fault occurs you should report the fault by telephone, electronic mail or in writing to the appropriate customer service helpdesk, details of which will be provided.

2.3 The Service is accessed via a telecommunications dial up connection. This Contract does not include the provision of telecommunication services necessary for connection to the Service. You are responsible for making a separate application for the appropriate service and for complying with the conditions applicable to it.

2.4 You are responsible for providing a suitable PC, modem and any other items of hardware or communications equipment necessary to enable you to access the Service.

2.5 We may temporarily suspend the Service for operational reasons, but before doing so will give you as much notice as is reasonably practicable. We will restore the Service as soon as reasonably practicable after temporary suspension.

2.6 We may vary the technical specification of the Service from time to time.

2.7 Manx Telecom reserves the right to manage customer traffic across its network. This may involve restrictions to the Customer's Service including, but not limited to, reduced connection speed, restriction of 'peer to peer' downloading or imposing specific usage limits. These restrictions maybe used singularly or in conjunction with others. Manx Telecom undertakes to use network management to deliver a fair service to its customers.

3. **Things we may have to do**

3.1 We may have to do some things that could affect the Service and you accept that we shall be entitled to do so without liability. These things are listed in paragraph 3.2. If we have to interrupt the Service we will restore it as quickly as we can.

3.2 Occasionally we may have to:

- a) change the technical specification of the Service for operational reasons;
- b) interrupt the Service for operational reasons or because of an emergency;
- c) give you instructions that we believe are necessary for health or safety, or for the quality of the Service that we supply to you or to our other customers.

4. **When we will provide the Service**

We will endeavour to provide you with the Service by the date we agree with you, however circumstances may preclude this. Compensation may not be claimed for the delay in the provision of service.

5. **Repairing Faults**

- 5.1 We cannot guarantee that the Service will never be faulty. However we will carry out repairs within the framework of our standard fault repair service.
- 5.2 We will work on any fault that is reported to us according to the repair service we have agreed to provide to you. These repair services are explained in our Code of Practice published in the Manx Telecom Phone Book.
- 5.3 When we agree to work on a fault outside the hours covered by the repair service that we provide to you, you must pay us the extra charge set out in our Price List.
- 5.4 If you tell us there is a fault in the Service and we find either that there is not or that someone at your premises has caused the fault, we may charge you for any work we have done to try to find the fault or to repair it. Our charges for this are set out in our Price List.

6. **Charges**

- 6.1 You agree to pay all charges for the Service as specified in the Price List.
- 6.2 Unless otherwise specified in the Price List, all charges are payable in advance. Unless we notify you to the contrary, liability for charges will start from the day on which the service is applied to your line or in the case of Manx Telecom Click when the service is accessed on your telephone line.
- 6.3 Unless the Price List provides otherwise, all charges for the Service are exclusive of Value Added Tax which you must also pay to us.
- 6.4 You agree to pay for the Service by way of your Manx Telecom monthly or quarterly bill.
- 6.5 We reserve the right to vary any of the charges for the Service at any time but we will give you 14 days notice before the new charges become effective.
- 6.6 Manx Telecom Freedom together with Manx Telecom Unmetered Internet Access are applied as fixed fee charges; the service is billed on a per line basis. Internet access through Manx Telecom Click is charged per minute subject to minimum call charges that are applicable according to the appropriate charge period and is billed on a per line basis. The cost of Manx Telecom Click call charges and/or Manx Telecom Freedom charge is included on your fixed line telephone bill.
- 6.7 If as a result of your Internet use, a premium rate dialler is installed on your computer, or your computer is infected by a virus that causes it to connect to the Internet via a premium rate dialler, with or without your knowledge, you will be responsible for any charges incurred. It is the responsibility of the user to ensure that adequate steps are taken to prevent this occurring by the installation of appropriate software and, where necessary ensuring this software is kept up to date.

7. **Preparing and entry to your premises**

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

- 7.1 Entry to your premises

- a) If our engineers have to enter your premises you agree to let them do so as long as they show their Manx Telecom Identity Card. We will meet your reasonable requirements about the safety of people on your premises and you agree to do the same for us.
- b) If we need someone else's permission to cross or put our equipment on their premises, you must obtain that permission for us and make any necessary arrangements.

8. Use of the service

- 8.1 You are responsible for the creation, maintenance and design of all Information on any web site you establish.
- 8.2 You warrant that the Information will not include any material which is (or the accessing of which) would be a criminal offence or otherwise unlawful. In particular, you warrant that all necessary licences and consents (including those from owners of copyrights or performing rights) have been obtained.
- 8.3 You warrant that you will comply with all consumer and other legislation, instructions or guidelines issued by regulatory authorities, relevant licences and any other codes of practice which relate to the provision of Information and which apply to you or which we inform you of.
- 8.4 The Service must not be used:
 - a) fraudulently or in connection with a criminal offence;
 - b) to send, receive, upload, download, use or re-use any material which is offensive, abusive, indecent, defamatory, obscene or menacing, or in breach of copyright, confidence, privacy or any other rights;
 - c) to cause annoyance, inconvenience or needless anxiety;
 - d) to send unsolicited advertising or promotional material; or
 - e) other than in accordance with the acceptable use policies of any connected networks and the Internet Standards.
- 8.5 You must not use a Name so as to infringe the rights of any person, (whether in statute or common law), in a corresponding trade mark or name.
- 8.6 You must tell us immediately if any third party makes or threatens to make any claim or issue legal proceedings against you relating to your use of the Service and you will, at our request, immediately stop the act or acts complained of. If we ask you to, you must confirm the details of the claim(s) in writing.
- 8.7 If we suspend the Service for contravention of any of paragraphs 8.1 - 8.5 inclusive, we will not restore it until we receive an acceptable assurance from you that there will be no further contravention.
- 8.8 You must ensure that your contact details e.g. email address are included in a clear and legible form on any web site you establish, for receipt of any enquiries or complaints regarding the Information or any other material which appears on it. MT reserves the right to disclose to any person with an enquiry or complaint your contact details if such person cannot locate these details on your web site.
 - 8.8.1 The use of 'pinging' applications to keep the connection 'open' is not accepted and will be deemed unsuitable for the service.

8.8.2 Manx Telecom Freedom and Manx Telecom Click are not always on services, you may dial up to these services at any time, but being continually connected will result in correspondence being sent to you requesting that you disconnect whilst not using the service. Continuing violation of the this term will result in the contract being cancelled.

8.9 Indemnity

You agree to indemnify us forthwith on demand against all claims, losses, expenses, liabilities, costs and damages that we incur or that anyone other than you threatens or makes against us because of the way the Service is used or because the Service is faulty or cannot be used.

9. If we break this agreement

9.1 We do not accept liability for being late in providing the Service or repairing a failure of the Service, or for failing to keep an appointment, where matters are beyond our reasonable control. However our liability is limited as set out in these Conditions.

9.2 We accept liability if any person is injured or dies as a result of our negligence. We do not limit such liability and paragraphs 9.3 and 9.4 do not apply to that liability.

9.3 Unless stated in our Code of Practice, we have no liability under this agreement or for our negligence or otherwise:

- a) for a failure in provision of the Service or the Service itself; or
- b) for an indirect or consequential loss, loss of business revenue, profit, or savings you expected to make, wasted expense, financial loss or data being lost or harmed.

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

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

10. Force Majeure

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

11. If you breach this agreement

11.1 In addition to anything else we can do, we can suspend the Service or end the agreement (or both) at any time without telling you if:

- a) you breach any provision in this agreement or any other agreement you have with us for telephone (including mobile), telex or private service;
- b) we believe that the Service is being used in a way forbidden by paragraph 8.4. This applies even if you do not know that the Service is being used in such a way;

- c) bankruptcy or insolvency proceedings are brought against you, or you are declared bankrupt or commit an act of bankruptcy or if you do not make any payment under a judgement of a Court on time, or, you make an arrangement with your creditors, or a receiver or administrator is appointed over any of your assets, or you go into liquidation or a petition is presented or a resolution is passed for your winding up or for the appointment of a receiver or administrator or anything analogous to any of the same occurs in any jurisdiction.
- 11.2 If we suspend the Service, we will not provide it again until you do what you have agreed, or satisfy us that you will do so in future or that the Service will not be used in a way that is forbidden by paragraph 8.4.
- 11.3 Manx Telecom reserves the right to suspend or terminate the service forthwith in the event that the Customer fails to make payment of any monies on any account by the due date.
- 11.4 If we suspend the Service because you breach this agreement, the agreement will still continue. You must pay us rental until we end the agreement by giving notice under paragraph 11.1 or you or we end the agreement by giving notice under paragraph 16.1.

12. **Arbitration**

If we cannot resolve any dispute with you, you can refer the dispute to the Chartered Institute of Arbitrators under our simple procedure. This does not apply to dispute that involves more than £5,000 or a complicated issue of law. Details of how to refer a dispute to arbitration are set out in our Code of Practice for Consumers.

13. **Changing the agreement**

13.1 In general

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

13.2 Conditions

We can change the conditions of this agreement including our charges at any time. We will publish any change in our Main Office at least 2 weeks before it takes place and we will inform you with your next bill if there has been a change to our liability.

14. **Cancelling the Service before it is provided**

You may cancel the Service or any part at any time before it commences. You must pay us for any work we have done and money we have spent in getting ready to provide the Service.

15. **Ending the Contract after the Service has been provided**

- 15.1 At any time after the Service has been provided this Contract or the provision of any service or facility under it may be ended by:
- a) 1 month's notice from us to you; or
 - b) 7 days notice from you to us.
- 15.2 If we give notice you agree to pay the charges for the Service up to the expiry of the notice.

15.3 If you give notice you agree to pay charges for the Service until the expiry of the notice. Unless you give notice because we intend to change any of the terms and conditions of this Contract to your detriment, you must also pay the charges due for any remaining part of the Minimum Period of Service.

15.4 Notice given by you does not avoid any other liability for the Service already provided.

15.5 If we give notice to end the Service under paragraph 15.1 we will repay or credit the appropriate proportion of any charges for the Service which you have paid in advance for a period ending after the notice expires.

16. Variation of Terms and Conditions, Entire Agreement, Assignment

16.1 MT can from time to time change the Terms and Conditions of this Contract other than the charges payable under it by a document referring expressly to this paragraph and signed by a duly authorised employee of MT. MT will publish details of any changes (including the operative date) in its main office as soon as possible and in any event not less than 2 weeks before any change is to take effect, except that if the change is made to a provision of this Contract limiting or excluding MT's liability for breaches of duty to the Customer (in contract or tort) MT will give the Customer not less than 2 weeks notice of the change. Subject thereto this contract, these Terms and Conditions and any document referred to herein constitute the entire agreement between us and shall not be varied save by agreement in writing.

16.2 You are not allowed to transfer or assign all or any of your rights and obligations under this Agreement to anyone else without our written permission. We may assign or sub-contract our rights and/or duties in whole or in part without your consent.

17. How to give notice

Any notice given under this agreement must be delivered by hand or sent by fax or prepaid post as follows:

- a) to us at the address shown on the Application form or on your last bill, or at any other address we give you;
- b) to you at the address you have asked us to send bills to.

18. Governing Law

This agreement shall be governed by and construed in accordance with Isle of Man law and you hereby irrevocably submit to the jurisdiction of the Isle of Man High Court.