

- 1.1 These terms and conditions apply to your Order to the exclusion of all other terms and conditions (including any terms or conditions which you purport to apply under any purchase order, confirmation of order, or other document)
- 1.2 UTV Internet reserves the right not to accept Orders at its discretion.
- 1.3 Services are provided in accordance with each Order.
- 1.4 Your standard purchasing terms and conditions (if any) are excluded, even if such terms are attached to the Order.
- 1.5 You acknowledge that you have not relied on any statement promise or representation made or given by or on behalf of UTV Internet which is not set out in these terms and conditions. Nothing contained herein will exclude or limit UTV Internet's liability for fraudulent misrepresentation
- 1.6 You must ensure that the terms of your Order are complete and accurate.
- 2 ACTIVATING THE SERVICE**
- 2.1 Before being able to activate either Service, UTV Internet will:
- 2.1.1 verify that your premises are in an area in which the Services are available;
- 2.1.2 carry out a line test
- 2.2 Occasionally it will not be possible to establish whether the Broadband Service can be activated until after the Broadband Service is installed at your premises.
- 2.3 If either Service cannot be activated UTV Internet will notify you as soon as possible and this Agreement will be cancelled and any payments made by you will be repaid. UTV Internet may propose an alternative service (e.g. a lower bandwidth line). If you prefer to accept the alternative instead of cancellation you will need to confirm that within 5 calendar days.
- 2.4 UTV Internet will use its reasonable endeavours to provide the Service within 45 Business Days of the date of acceptance of the Order by UTV Internet.
- 2.5 If UTV Internet is unable to activate any Service due to your act or omission or due to incorrect information being provided by you UTV Internet reserves the right to charge you a failed connection fee of £50.
- 2.6 Occasional visits to your premises will be required. These visits are sometimes carried out by BT. UTV Internet will liaise with you to arrange the timing of these appointments. It is also possible that BT may contact you directly in relation to the appointment.
- 2.7 During activation or transfer of the Service you may temporarily lose the use of your telecommunications services.
- 2.8 If you require a static IP address you will need to specify this in your Order. If you do not do this you will receive either a dynamic or a static IP address at our discretion.
- 3 PROVISION OF THE SERVICE**
- 3.1 UTV Internet will provide the Service using the reasonable skill and care of a competent telecommunications service provider. UTV Internet may subcontract the provision of all or any part of the Services to third parties.
- 3.2 Changes may be made to the Network or the technical specification of a Service from time to time; if these changes will detrimentally affect the Service, UTV Internet will inform you in advance.
- 3.3 It is technically impracticable for UTV Internet to provide fault free Services and UTV Internet does not warrant or undertake to do so.
- 3.4 You understand and accept that the voice services are determined and governed by BT/other suppliers and UTV Internet rely upon BT/other supplier's co-operation in providing the voice services. UTV Internet give no warranty representation or undertaking as to the speed quality or availability of the service.
- 4 COMMENCEMENT AND TERM**
- 4.1 Following acceptance of the order, the Service or Services shall continue to be provided for a period of not less than 24 months from the date of activation (the "Initial Term") unless otherwise stated.
- 4.2 If you subscribe to any of the services ordered and you seek to cancel this agreement during the Initial Term you must pay a sum equal to the average charges for the remainder of the Initial Term. Upgrades to the ADSL or Voice or Line Rental renew the agreement for a 24 month period from the date upgraded unless otherwise stated.
- 4.3 If you subscribe to Voice Services only and you seek to cancel this agreement during the Initial Term you must pay a sum equal to an average monthly fee calculated using the charges paid by you for the Voice Services in the 12 months prior to the cancellation for the remainder of the Initial Term.
- 4.4 After the Initial Term either of us may cancel the Service. Cancellation requires sixty (60) days' prior written notice, such notice to take effect at the end of the Initial Term or the same day in any subsequent month.
- 5 MODEM CONNECTION**
- 5.1 If you subscribe to Broadband Service you shall ensure that any Modem connected to a Service is connected to and used with the Service in accordance with the published instructions and any safety and security procedures notified to you.
- 5.2 UTV Internet makes no warranty that the Service will interoperate properly with your Modem.
- 6 USE OF SERVICES**
- 6.1 You shall not use any of the Service:
- 6.1.1 in connection with the carrying out of any fraudulent, criminal, or any other illegal activity;
- 6.1.2 to send, knowingly receive, upload, download or use any material which is offensive, abusive, indecent, defamatory, obscene or menacing or in breach of copyright, confidence, privacy or any other rights;
- 6.1.3 to cause annoyance or needless anxiety;
- 6.1.4 to send or provide or, knowingly receive responses to, any spam or unsolicited advertising or promotional material;
- 6.1.5 to knowingly or recklessly transmit any electronic material (including viruses) which shall cause or is likely to cause detriment or harm in any degree to computer systems owned by other Internet users;
- 6.1.6 in a manner which restricts or inhibits any other user from using or enjoying UTV Internet products or services;
- 6.1.7 to utilise excessive amounts of bandwidth (for example by connecting for an excessive amount of time; repeatedly engaging site-local scripts or similar behaviour);
- 6.1.8 in breach of any reasonable instructions given by UTV Internet;
- 6.2 UTV Internet shall have the right to examine, from time to time, the use to which you put the Services and the nature of the data/information that you are transmitting or receiving via the Services where such examination is necessary: (i) to protect / safeguard the integrity, operation and functionality of (Reseller's) (and neighbouring) networks; or (ii) to comply with police, judicial, regulatory or governmental orders, notices, directives or requests.
- 6.3 You agree to indemnify UTV Internet and its subcontractors from any liability or claim arising out of, or any penalty or fine imposed in respect of, your breach of this clause 6.
- 7 SERVICE SUSPENSION/ALTERATION**
- 7.1 UTV Internet may suspend the provision of the Services or any part thereof, and/or to disconnect your facilities from the Network if and to the extent that:
- 7.1.1 UTV Internet has reasonable grounds to believe that the Services are being used in breach of Clause 6; or
- 7.1.2 your use of the Network may damage or disrupt the proper functioning of the Network; or
- 7.1.3 Temporarily, for operational or technical reasons
- 7.2 UTV Internet shall give you as much notice of a suspension under Clause 7.1.3 as is reasonably practicable in all the circumstances.
- 7.3 UTV Internet shall be entitled to terminate or modify the Service, without any liability whatsoever, if any licence or authorisation which UTV Internet requires in order to provide the Service is not obtained, withdrawn or otherwise cancelled; in the event of a modification that is detrimental to the Service, you shall have the right to terminate this Agreement with immediate effect.
- 8 CHARGES AND CREDIT TERMS**
- 8.1 If you subscribe to Broadband Services and Line Rental, clause 8.2 applies and if you subscribe Voice, Hosting and other services then clause 8.3 applies. Clauses 8.4 and 8.5 apply to all services.
- 8.2 Prices shown are exclusive of VAT and any other taxes applicable except where shown on the order.
- 8.2.1 The amounts payable by you in respect of the Broadband Services are set out on your Order
- 8.2.3 The Recurring Charges for the Services shall accrue monthly in advance. All amounts due under this Agreement to be paid by you to UTV Internet shall be paid in full (without deduction or withholding except as required by law) and you shall not be entitled to assert any credit, set-off or counterclaim against UTV Internet in order to justify withholding payment of any such amount in whole or in part.
- 8.3 Charges shown are exclusive of VAT and any other taxes applicable except where shown on the order.
- 8.3.1 The amounts payable by you in respect of the Line Rental, Voice Services, Hosting and Other Services provided to you are set out on the Order or associated tariff.
- 8.3.2 Subject to giving you 30 days written notice prior to the effective date of the revision, UTV Internet may at any time revise the amounts set out on the Order. The revised amounts shall apply to clause 8.3.1 provided to you on or after the effective date of such revision.
- 8.3.3 UTV Internet will invoice you for Services provided pursuant to this agreement, monthly payment shall be made in full and by direct debit/cheque by you within 15 days of the date of the invoice. Migration codes for transfer of service will be provided on full settlement of the account in accordance with the termination clauses; you may lose service moving to another provider which is beyond the control of UTV Internet.
- 8.4 UTV Internet may charge interest on any overdue amounts payable from the due date until payment (whether before or after judgement) at the rate of 4 percent per annum, above the base rate of HSBC bank plc from time to time. UTV Internet reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 8.5 If any sums owed by you to UTV Internet remain outstanding for more than seventy-two (72) hours from the due date UTV Internet may suspend the provision of Services and the performance of its associated obligations forthwith without prejudice to UTV Internet rights under this Order, including its rights to payment. Migration codes will not be provided unless the account is paid up to date.
- 9 TERMINATION**
- 9.1 UTV Internet may terminate this Agreement at any time by notice, such notice to take effect forthwith if:
- 9.1.1 you have not paid any sums due to UTV Internet
- 9.1.2 you have committed a material breach of this Agreement;
- 9.1.3 you fail to pay your debts when they become due,
- 9.1.4 any mortgage, charge, licence or other security interest which may for the time being affect any of your assets becomes enforceable;
- 9.1.5 if any meeting is convened for the purpose of considering a resolution, or any petition is presented or any other steps taken, for the purpose of making an administration order against you, or for your winding-up or dissolution or any similar action or steps are taken in relation to you and such action or step is not withdrawn within 30 days;
- 9.1.6 if any administrator, administrative or other receiver or trustee or similar officer is appointed over you or any steps are taken to do the same to you;
- 9.1.7 You go into liquidation either compulsory or voluntary (save for the purpose of reconstruction or amalgamation or, being an individual, you are the subject of a bankruptcy petition or bankruptcy order).
- 9.2 You may terminate an Order if the Service to be delivered under that Order is not delivered within 90 working days of the "customer agreed date" notified to you, provided that such failure is not due to your act or omission.
- 9.3 The termination or expiry of this Agreement shall be without prejudice to the rights and liabilities of either of us accruing up to such date;
- 10 DATA PROTECTION**
- 10.1 UTV Internet shall be entitled to store and process Personal Data provided on the Order for its internal use and for the purposes of providing the Service.
- 10.2 You have the right to request a copy of information relating to you that is held by UTV Internet, by written request to our data protection compliance manager and upon payment of a fee.
- 10.3 You may change the personal information held by us at any time, by advising us in writing.
- 10.4 From time to time UTV Internet will contact you about future UTV Internet products and services. If you do not wish us to contact you please tell us. In order that other respected organisations selected by UTV Internet can tell you about their products and services directly, your name and address details will be passed to them. If you do not wish to receive such mailings please tell us.
- 11 LIABILITY**
- 11.1 The following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to you in respect of:
- a) any breach of these conditions;
- b) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract
- 11.2 All warranties conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract
- 11.3 Nothing in these conditions excludes or limits the liability of the Company:
- a) for death or personal injury caused by the Company's negligence;
- b) under Section 2(3) Consumer Protection Act 1987;
- c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
- d) for fraud or fraudulent misrepresentation
- 11.4 Subject to Conditions 10.2 and 10.3:
- a) the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the contract price, and
- b) the Company shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation in whatsoever (howsoever caused) which arise out of or in connection with the Contract.
- 12 GENERAL TERMS**
- 12.1 If any provision of this Agreement is held by a court or any governmental agency or authority to be invalid, void, or unenforceable, the remainder of this Agreement shall nevertheless remain legal, valid, and enforceable.
- 12.2 UTV Internet shall not be liable for any delay or failure in performance of its obligations to the extent that such delay or failure is attributable to matters beyond its reasonable control.
- 12.3 UTV Internet may assign the benefit or burden of this Agreement upon notice to you.
- 12.4 UTV Internet failure to exercise or enforce or any delay in exercising or enforcing any right or benefit conferred by this Agreement shall not be deemed to be a waiver of any such right or benefit nor operate so as to bar the exercise or enforcement thereof or of any other right or benefit on any later occasion.
- 13 GOVERNING LAW**
- This Agreement shall be governed and construed in accordance with English law, and the Parties irrevocably agree to the non-exclusive jurisdiction of the English courts.
- 14 Definitions**
- "Activation" occurs when UTV Internet notifies you that the relevant Service is available for use;
- "Agreement" means these terms and conditions together with the Order;
- "Broadband Service" means the supply of Broadband Services at a speed necessary to access the public communications network.
- "Voice Service" means the supply of outbound telephone calls and inbound telephone calls using NGN Services as set out in the Order which includes line rental if ordered.
- "Modem" means the device to be installed at your premises between the Service and your local infrastructure includes the DSL modem and Line Filters;
- "Network" means the DSL network and/or BT
- "Order" shall mean a purchase order for the Services in a form attached hereto;
- UTV Internet means UTV Internet Ltd (NI 32652) whose registered office is at Ormeau Road, Belfast, BT7 1EB
- "Service(s)" means the Broadband, Voice, Line Rental, and Hosting Service etc as described in the relevant Order.
- "Migration" means the transfer of broadband to another provide by use of an authorisation code
- "Recurring Charges" means the amount payable by you to UTV Internet on a monthly basis for the provision of the Broadband Services and Line Rental as set out in the Order.