

TERMS AND CONDITIONS

These Terms and Conditions apply to customers signing up on or after Thursday 26th August 2004.

1. DEFINITIONS

1.1 The following words shall have the following meanings:

"Access Provider" means the company which physically provides the Customer's telephone line(s) and associated telephone number(s), from which UTV rents such line(s) and number(s).

"Agreement", means these terms and conditions, the Handbook (which includes UTV's tariffs for the Service as specified therein), the Application Form (including the Customer Authorisation Form), the Single Billing Scheme and the Single Billing Pricing Schedule (Summary), which together constitute a legally binding agreement between UTV and the Customer. The Agreement shall come into force once the Customer or another person (whether or not such a person is acting with the authority of the Customer) commences to use the Service as determined by us. Where you avail of the Service, you shall also be deemed to have accepted that you are bound by the obligations as set out in Clause 4 and prescribed by the Single Billing Code of Practice.

"Application Form" means the application form on which the Customer specifies that it requires the Service.

"Call Management Services" has the meaning assigned to such term in the Handbook.

"Call Management Services Charges" are the charges applicable to the Call Management Services as specified in the Handbook.

"Carrier Pre-Selection" or "CPS" means the service whereby the Customer is able to pre-select a service provider other than eircom to carry his/her calls according to his/her pre-selected options - national calls and/or international calls or "All Calls" (except for calls to emergency numbers 999 and 112, calls to codes 199 and to those starting with 13 and 17) - in accordance with Decision Notices D2/99 and D13/99 of COMREG. For the avoidance of doubt in selecting the Service the Customer accepts that CPS "All Calls" Option forms part of same.

"Charges" means all charges payable to UTV for the Service as specified in the Single Billing Pricing Schedule (Summary) and the Handbook and includes, without limiting the generality of the foregoing, the Line Rental Charges, Equipment rental charges and Call Management Services Charges.

"COMREG" or "Commission for Communications Regulation" means the National Regulatory Authority for the telecommunications market in Ireland.

"Customer" means the person using the Service ("Customer" or "you").

"Customer Authorisation Form" means a form completed by the Customer to approve the provision of the Service and which contains information as set out in Annex B of the Single Billing Code of Practice. This information may also be captured via TPV or sign up over the Internet as per the agreed processes.

"Data Protection Legislation" means the Data Protection Act, 1988, the Data Protection (Amendment) Act, 2003 and any amendment, replacement or supplement thereto, from time to time.

"DSFA" means the Department of Social and Family Affairs.

"DSFA Scheme" means the DSFA telephone allowance scheme from time to time, which scheme UTV shall adhere to in charging a Customer who is eligible under such scheme.

"Equipment" means a telephone or other equipment of the Service Provider or UTV that is located on the Customer's premises.

"UTV", "we" "us" means Ulster Television Limited, the provider of the Service under the Agreement.

"Handbook" means the UTV Phone and Internet Pricing as same may be amended from time to time and which is available at <http://u.tv>.

"Line Rental Charges" means the charges for telephone line rental as specified in the Handbook.

"Minimum Term" means a minimum of twelve months from the start date.

"National Directory Database or NDD" means the record of all subscribers of publicly available telephone services in the State, including those with fixed, personal and mobile numbers, who have not refused to be included in that record.

"Network" means the telecommunications system owned and/or operated by UTV the designated telecoms provider in accordance with its licence granted pursuant to Section 111(2) of the Postal and Telecommunications Act, 1983.

"Service" means the SB-WLR service requested by the Customer in the Application Form. The Service does not facilitate the provision by UTV to the Customer of the Single Billing Product Exclusions.

"Single Billing through Wholesale Line Rental" or "SB-WLR" means the facility which, through use of CPS "All Calls" Option, enables UTV provide a single bill to the Customer covering all aspects of voice services, at rates UTV determines, where voice services means all telephone lines (PSTN/ISDN), Equipment, calls and Call Management Services, unless otherwise excluded herein.

"Single Billing Code of Practice" means the Code of Practice developed for the purpose of SB-WLR and approved by COMREG, as same may be amended from time to time, a copy of which can be obtained by writing to Marketing Department, UTV, Ormeau Road, Belfast, BT7 1EB.

"SB-WLR Customer Listing" means the customer listing setting out the Customer's name, address, telephone number, directory status, and direct marketing preference on the Access Provider's Directory Database, UTV's internal directory database and/or where appropriate the National Directory Database.

"Single Billing Product Exclusions" means those services which the Access Provider, and not UTV, will continue to offer the Customer from time to time as specified in the Handbook, which includes eircom Charge Card, eircom i-stream, High Value CPE, spread payment contracts (for equipment purchase) and eircom discount schemes, as same may be amended from time to time.

"Single Billing Scheme" means the UTV scheme in relation to the Service contained at <http://u.tv> which details the rights and obligations of the Customer in relation to the Equipment and the Service and includes UTV's Fault Management Policy and Customer Guarantee Scheme.

"Start Date" means the date that the service or any part of it is first made available to you, or when you first start to use the service, whichever is the earlier.

"Telecommunications Scheme" means the eircom Telecommunications Scheme, 2003, as amended from time to time.

"TPV" means the independent means of verifying a Customer's consent and obtaining the information from the Customer required to approve the provision of the Service. It is conducted via the telephone, with a recording of the call serving as a record of the Customer's consent.

2. SERVICE

2.1 Subject to Clause 12.2, for technical, operational and commercial reasons we shall be entitled to vary the Service and any aspect thereof at any time.

2.2 UTV customer care number is 1890 927 112.

2.3 UTV customer care policy is available on <http://u.tv/talk/code.asp>.

2.4 The application by the Customer for the Service is in respect of individual telephone lines and not the Customer's entire telephone account, unless otherwise specified on the Application Form. The Customer must specifically elect on the Application Form for SB-WLR in respect of each telephone line which the Customer wishes to apply SB-WLR on.

2.5 The Customer shall contact UTV in the event that it wants to alter any aspect of the Service, including, but without limiting the generality of the foregoing, the addition of a telephone line, upgrades to a telephone line, change in the Call Management Services, changes in the Customer's premises where the Service is provided.

3. PAYMENT

3.1 The Customer will receive one bill from UTV for all Charges incurred by the Customer in respect of this Service. The Customer will continue to be billed separately by its Access Provider for any Single Billing Product Exclusions.

3.2 UTV's tariffs for the Service are stated in the Handbook and the Single Billing Pricing Schedule (Summary), which form part of the Agreement. All quoted tariffs shall be inclusive of Value Added Tax. UTV reserves the right to alter such tariffs and shall notify the Customer of such a change by notice in accordance with Clause 10, 30 days in advance of the effective date. In the event of any such change the Customer shall be entitled to terminate the Service in accordance with Clause 12.2.

3.3 The Charges shall be billed as follows:-

Element of Service UTV Talk
Line Rental and Equipment rental charges Monthly in advance
Call Usage Monthly in arrears
Call Management Services Monthly in advance

3.4 All sums due to UTV shall be paid in full by the Customer within fourteen (14) days of the date of the bill. In order to avail of the Service, the Customer agrees to pay by Direct Debit. UTV reserves the right to charge Customers an additional administrative fee for unpaid Direct Debits.

3.5 Should you disagree with any charges shown on your bill, you are requested to write or phone us before the date that payment is due. If the charges are incorrect, we shall amend and re-issue the bill with a new date for payment. Otherwise the full amount remains due.

3.6 Other than in a case of manifest error by UTV, all charges shall be calculated by reference to the data recorded or logged by UTV. UTV's determination in respect thereof is final.

3.7 As some usage takes longer to rate, notwithstanding any other clause herein, you may be billed for charges incurred in a prior billing period. UTV reserve to change this if required.

3.8 The Customer shall be charged for usage of the "call forward" function under the Service.

3.9 A Customer's eligibility under the DSFA Scheme shall be indicated by the Customer on the Application Form and UTV shall rely on same in crediting the Customer in bills for the Service. In the event that it is determined that the Customer is not, or has not been, eligible for the DSFA Scheme, the Customer acknowledges and agrees that any DSFA Scheme credits improperly awarded to the Customer (on the basis of information

evidencing eligibility furnished by the Customer to UTV) pursuant to the DSFA Scheme may be credited or recouped to UTV in a subsequent bill from UTV to the Customer.

3.10 UTV Internet will not issue manual cheque refunds for any amount less than €10.00; we will issue a credit to be placed on a customer account for amounts under this figure where applicable.

4. USE OF THE SERVICE

4.1 UTV Talk shall provide the Service for consumer, domestic and/or personal purposes purposes.

4.2 The Customer undertakes not to use the Service or the Equipment:

(i) for any improper, immoral or unlawful purpose, nor cause any nuisance by the use of the Service, nor allow others to use the Service for any of the foregoing purposes, in a way that may cause degradation of service levels to other customers as determined by UTV or put the UTV Talk network at risk; or

(ii) for the transmission of any material which is, may be or is intended to be a hoax or is of a defamatory, offensive, abusive, obscene or menacing nature; or

(iii) for the infringement of intellectual property rights or trade secrets of another party; or

(iv) for the processing of automated personal data as defined in the Data Protection Legislation;

(v) in any manner which does not comply with the terms of any legislation or any licence or authorisation applicable to the Customer or any instructions given by UTV from time to time.

4.3 The Customer hereby agrees to avail of the Service subject to the provisions of the Telecommunications Scheme in force for the time being, the Single Billing Scheme, the Handbook and the provisions of any legislation applicable hereto. Use of the Service by the Customer or by another person (whether or not such person is acting with the authority of the Customer) shall be deemed to be an acceptance by the Customer of the terms and conditions of this Agreement and the terms of Annex C (Service Schedule 401) to the Reference Interconnect Offer Agreement.

4.4 You shall ensure that all persons having access to the Service or the Equipment comply with the terms and conditions herein stated.

4.5 You shall ensure that all Equipment is maintained and kept in good working order.

4.6 You shall comply and are bound by all conditions of any licence under which the Equipment is provided.

4.7 You shall comply with all reasonable instructions given to you by us in relation to the use of the Service.

4.8 You shall inform UTV of any change in your name, address and/or telephone number(s) as provided by you in the Application Form (the "Personal Data"). The Customer hereby warrants that the Personal Data is true and accurate in all respects at the date hereof and undertakes to notify UTV of any changes to same during the term of this Agreement.

4.9 You shall indemnify and hold us harmless against all liabilities, claims, damages, losses, expenses and proceedings howsoever arising from or in any way connected with the use of the Service and/or the Equipment and/or a breach of Clause 4.8 above.

4.10 The Customer accepts and acknowledges that (i) the Access Provider shall bar access to all carrier selection and carrier access codes on telephone lines that have SB-WLR applied and (ii) override codes are not available for use by the Customer in conjunction with the Service (i.e. a Customer cannot access another operator's network in making calls through use of a prefix). The Customer accepts that UTV shall have no liability for any losses or damages howsoever arising from non provision of the Service in the event that such restrictions are not accepted by the Customer.

4.11 You undertake to inform UTV upon termination of the Service by you. If you terminate the service within the Minimum Period you will be charged for the Service up to the end of the Minimum Period.

5. LIABILITY

5.1 We shall use all reasonable endeavours to ensure that the Service is available for use by you in accordance with the standards for the time being relating to the Service as set out in UTV's Service literature, but shall not be liable for any delay, failure, interruption, or deterioration therein, howsoever arising.

5.2 UTV shall make reasonable efforts to prevent unauthorised access to the Service by third parties but shall have no liability to the Customer for any unauthorised access to the Equipment.

5.3 WE SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE OF ANY KIND CAUSED BY THE FAILURE OF THE SERVICE OR EQUIPMENT DUE TO THE

INCOMPATIBILITY WITH THE SERVICE OF EQUIPMENT SUPPLIED BY YOU. Neither shall any third party, including without limitation, Irish Rail or Iarnod Eireann and Affiliates, with whom UTV or any of its Affiliates have entered into arrangements with for the provision of services, networks, equipment, wayleaves or rights of passage, have any liability to you, howsoever arising, as a result of the failure, interruption or delay connected with or involving any of the aforementioned.

5.4 WE SHALL NOT BE LIABLE TO YOU OR ANY THIRD PARTY IN CONTRACT, TORT OR OTHERWISE FOR ANY FINANCIAL LOSS WHATSOEVER OR FOR ANY INDIRECT OR CONSEQUENTIAL LOSS HOWSOEVER ARISING IN RELATION TO THE USE OF THE SERVICE OR THE EQUIPMENT OR ANY FAILURE OR ERROR OR DEFAULT BY US IN THE PROVISION THEREOF, OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT. WITHOUT PREJUDICE TO THE GENERALITY OF THE FOREGOING, ANY AND ALL LIABILITY ARISING UNDER THE SALE OF GOODS AND SUPPLY OF SERVICES ACT 1980 IS EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW.

5.5 WE SHALL HAVE NO LIABILITY UNDER THIS AGREEMENT FOR THE ACTS AND OMISSIONS OF OTHER TELECOMMUNICATION OPERATORS.

5.6 We shall not be liable for claims arising out of a breach in the security or privacy of messages transmitted using the Service provided by us unless the breach results from a wilful act or omission of UTV or its employees.

5.7 This Clause 5 shall continue to apply notwithstanding termination of this Agreement for any reason whatsoever or howsoever arising.

5.8 In the event of UTV making any error or omission in a directory published by it, or on its behalf, except where such error or omission is based on information furnished by or otherwise requested by the Customer, UTV shall, notwithstanding Clause 5.4 above, be liable for the loss or damage suffered by the Customer and caused by UTV's said failure, error or omission, provided that, any such liability shall be limited to a sum equal to 2 months Line Rental Charges for the Customer in respect of each incident, or series of incidents of failure, error, omission or delay SUBJECT TO A MAXIMUM OF €12,697.38 IN AGGREGATE FOR ALL CUSTOMERS FOR EACH INCIDENT OR SERIES OF RELATED INCIDENTS PROVIDED ALWAYS that (i) UTV shall only be liable to pay the amounts contained in this clause if the Customer has made a claim in writing within 3 months of liability hereunder having arisen and the failure, error, omission or delay is not as a result of circumstances beyond the reasonable control of UTV; (ii) the amount payable to each Customer pursuant to this section shall be reduced pro rata if UTV considers that the number of customers who are likely to make a claim in respect of any incident or series of related incidents is such that the maximum aggregate sum of €12,697.38 payable by UTV is likely to be exceeded; and (iii) UTV may credit the Customer's account with any sum payable hereunder.

5.9 Any limitation or exclusion of liability under these terms and conditions shall only be to the extent permitted by law.

6. TERMINATION AND SUSPENSION

6.1 The Customer shall have the right to terminate the Service within five days of placing an order with UTV if he wishes to revert to the Access Provider, provided that the Customer signs a valid contract within this period with his Access Provider. The Customer shall be liable for any usage charges incurred prior to his cancellation of the Service. No other cancellation charges shall apply.

6.2 If the Customer wishes to terminate the Service after five days of placing an order with UTV, he shall contact UTV.

6.3 Without prejudice to its rights under this Agreement, UTV shall have the right to terminate this Agreement forthwith by seven days written notice in the event that you are in material default of any of your obligations under this Agreement.

6.4 Without prejudice to the generality of Clause 6.3, non-payment of charges in accordance with this Agreement shall be deemed a material breach, giving UTV the right on seven days notice to (i) suspend the Service; (ii) terminate the Agreement; and/or (iii) restrict the Customer from moving to another provider of this Service (such restriction to cease on payment in full of all charges due by the Customer in accordance with this Agreement).

6.5 Save as provided for elsewhere in this Agreement, this Agreement is terminable by either party upon giving to the other at least thirty days written notice.

6.6 We shall have the right forthwith to terminate the Agreement for due reason and without liability, including, but not limited to if:

6.6.1 the Customer is in breach of Clause 4 above or of the Agreement in respect of the Equipment;

6.6.2 the Customer is in breach of any term of the Agreement or any information supplied by the Customer to UTV is false or misleading; or

6.6.3 we are obliged to comply with an order, instruction or request of Government, COMREG, an emergency service organisation or other competent authority; or

6.6.4 you are suspected of involvement with fraud or acts, which are of defamatory, offensive, abusive, obscene, menacing, unsuitable or unlawful character in connection with use of the Service.

6.7 The termination of this Agreement or default of the Customer hereunder shall not affect any obligation of the Customer under the Agreement. Without prejudice to the generality of the foregoing, on suspension of the Service or termination of the Agreement, all charges accrued by you shall become immediately due and payable and you shall continue to pay the charges in accordance with Clause 3 hereof in the event of suspension due to a breach by the Customer of these terms.

6.8 If the Service is suspended in accordance with the terms herein, the Customer will be able to make emergency calls only.

6.9 Upon termination of the Service for any reason whatsoever or howsoever arising, UTV shall not credit the Customer for any Subscription Fee already charged by UTV for the provision of the Service. For the avoidance of doubt, all other Charges accrued under this Agreement shall remain due and owing for the Service, save that Line Rental Charges, Equipment rental charges and Call Management Services Charges relating to any period after the effective date of termination shall be credited to the Customer on the Customer's final bill and in the event that there still remains a credit due and owing to the Customer same shall thereafter be paid to the Customer by UTV.

6.10 In the event of termination of the Service for any reason whatsoever or howsoever arising to a Customer who has been claiming under the DSFA Scheme, any credit awarded to the Customer pursuant to such Scheme which applies to a period after the effective date of such termination, shall be charged to the Customer.

7. FORCE MAJEURE

7.1 In the event of Force Majeure, neither party shall be held in breach of its obligations hereunder (except in relation to obligations to make payments) nor be liable to the other party for any loss or damage which may be suffered by the other party due to any cause beyond its reasonable control including, without limitation, any act of God, failure, interruption of power supplies, flood, drought, lightning or fire, strike, lockout, trade dispute or labour disturbance, acts or omissions of Government, highway authorities or other circumstances beyond the control of the parties.

8. ASSIGNMENT

8.1 UTV may assign this Agreement to an Affiliate without consent.

8.2 The Customer shall not assign this Agreement in whole or in part without the prior written consent of UTV.

9. NO WAIVER

9.1 Failure by either party to exercise or enforce any right conferred by this Agreement shall not be deemed to be a waiver of any such right and does not operate so as to bar the exercise or enforcement thereof, or of any such right or any other right on any later occasion.

9.2 Any deficiency in the Customer's authority to avail of the Service or to use the Equipment shall not preclude reliance by UTV on any of its rights under this Agreement.

10. NOTICES

10.1 UTV shall send all notices to the Customer (i) in writing to the Customer's billing address as provided on registration; and/or (ii) on the Customer's bill; and/or (iii) by placing same on the UTV website; and/or (iv) via national newspapers.

10.2 UTV's address for service of any notice hereunder shall be such address as appears on the last written correspondence rendered to the Customer or such other address as may be prescribed by UTV for the purpose.

10.3 All written correspondence from UTV shall be deemed served 48 hours after posting or on earlier proof of delivery.

11. USE OF INFORMATION

11.1 In accordance with the Data Protection Legislation and the Single Billing Code of Practice, any information obtained by UTV through an application for or the use of the Service may be accessed and used by UTV and its Affiliates, agents and subcontractors for the purposes of credit references, accurate billing and efficient operation of the Service, including disclosure to and retention by the Access Provider in connection with the operation, suspension and/or termination of the Service and for the insertion, change and deletion of the SB-WLR Customer Listing by UTV and/or the Access Provider. The Customer shall be deemed in accepting these terms and conditions to have given consent for the use of his information for such purposes. The use of such information for purposes

other than those outlined in this Agreement shall be subject to the Customer's consent as given on the Application Form and the Customer Authorisation Form.

12. MISCELLANEOUS

12.1 The Application Form, these terms and conditions, together with the Handbook, the Single Billing Pricing Schedule (Summary), the Application Form and the Single Billing Scheme constitute the entire agreement between the parties in relation to the Service and, for the avoidance of doubt, supersede any terms which may have governed the provision of the CPS Residential Calling Service to the Customer. In the event of a conflict between these Terms and Conditions and the Handbook, these Terms and Conditions shall prevail.

12.2 UTV reserves the right to alter any terms of this Agreement upon 30 days notice to the Customer. In the event of any such alteration, the Customer shall have the ability to terminate the Service without penalty, by giving notice to UTV within 60 days of notification by UTV of such alteration, subject to payment by the Customer in full of all charges due prior to the date of receipt of such notice by UTV.

12.3 Any dispute that arises in relation to this Service shall be dealt with in accordance with the dispute process contained in the section entitled "Code of Practice" as amended from time to time on u.tv/talk/code.asp. For the avoidance of doubt, the Customer's obligations under this Agreement, including payment obligations, shall not be effected for the duration of the complaint resolution.

12.4 If any provisions of the Agreement are held to be unenforceable, illegal or void in whole or in part the remaining portions of the Agreement shall remain in full force and effect.

12.5 This Agreement shall be governed by and construed in accordance with Irish law and the parties hereby submit to the exclusive jurisdiction of the Irish Courts.