

Yello Terms and Conditions for Business Service

Issue 001

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These terms and conditions apply to new and existing customers and are effective from the implementation date shown above.

CONTENTS

1. Definitions
2. Providing the Service
3. Phone Book and Directory Entries
4. Managing the Service
5. Monitoring Calls
6. Access to and Preparing the Premises
7. Customer Equipment
8. Misusing the Service
9. Charges and Deposits
10. Cancelling or Ending this Contract
11. If the Customer Breaks this Contract
12. Limits of Liability
13. Matters Beyond Yello's Reasonable Control
14. Resolving Disputes
15. Changes to this Contract
16. Transferring this Contract
17. Third Party Rights
18. Notices
19. The Service Charter

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1. DEFINITIONS

In this Contract the following terms have the definitions shown next to them:

"Yello" Yello Communications Management Ltd of 23 Meadvale Road, West Knighton, Leicester, LE2 3WN registered in England Number 3750886

"BT" British Telecommunications plc of 81 Newgate Street, London EC1A 7AJ, registered in England Number 1800000

"BT Equipment" equipment (including any software) placed by BT at the Premises to provide the Service.

"Call" a signal, message or communication that is silent, spoken or visual.

"Call Diversion" diverting incoming Calls to another fixed line or mobile telephone number as set out in the Service Charter.

"Conditions" these terms and conditions for Yello's business service.

"Contract" these Conditions, the Service Charter and the Price List. This Contract begins on the date that Yello accepts the Customer's request for the Service.

"Customer" the person with whom Yello contracts to provide the Service.

"Customer Equipment" equipment that is not part of BT's network and which the Customer uses or plans to use with the Service.

"Minimum Period" the first 12 months of the Service, (or any other period shown in the Price List).

"Premises" the place at which Yello agrees to provide the Service.

"Price List" the document containing a list of Yello charges and terms that apply to the Service.

"Service" the facility to make or receive a Call (or both) and any related services listed in the Price List that Yello agrees to provide to the Customer under this Contract.

"Service Failure" the continuous total loss of the facility to make or receive a Call, or of any related service provided to the Customer under this Contract.

2. PROVIDING THE SERVICE

2.1 Yello will provide the Service by the date agreed with the Customer. Sometimes, Yello will agree the date following a survey of the Premises by BT.

2.2 Occasionally, for operational reasons, Yello may have to change the codes or the numbers given to the Customer, or interrupt the Service. Yello will restore the interrupted Service as quickly as possible.

2.3 The Customer accepts that occasionally Yello will provide instructions regarding the Service. The Customer must follow these instructions.

2.4 Yello may take instructions from a person who it thinks, with good reason, is acting with the Customer's permission.

3. PHONE BOOK AND DIRECTORY ENTRIES

3.1 The Service includes a telephone number. This number will be put in the appropriate BT Phone Books, together with the Customer's details, and made available

from Directory Enquiries Services unless the Customer requests otherwise.

3.2 Yello may agree to a special entry in the BT Phone Books at an additional charge.

3.3 The Customer does not own any number nor has any right to sell or to agree to transfer any number provided to it by Yello.

4. MANAGING THE SERVICE

4.1 If the Customer reports a fault in the Service, Yello will respond in line with the level of repair service the Customer has chosen.

4.2 If BT and/or Yello agrees to work outside the hours covered by the repair service the Customer has chosen, the Customer must pay Yello additional charges for doing so.

4.3 Yello provides a Service Charter. If Yello is late in providing the Service, or repairing a Service Failure, the Customer may be entitled to a Call Diversion or to claim compensation under the Service Charter.

4.4 If the Customer reports a fault and Yello and/or BT finds that there is none, or that the Customer has caused the fault, Yello may charge the Customer for any work as set out in the Price List.

5. MONITORING CALLS

BT monitors and records all calls to the 999 or 112 service.

6. ACCESS TO AND PREPARING THE PREMISES

6.1 The Customer agrees to prepare the Premises according to any instructions Yello and/or BT may give, and provide Yello and/or BT with reasonable access to the Premises.

6.2 When Yello and/or BT's work is completed, the Customer will also be responsible for putting items back and for any re-decorating which may be needed.

6.3 If BT needs to cross other people's land, or put BT Equipment on their property (for example a neighbour or landlord), the Customer agrees to obtain their permission.

6.4 BT will meet the Customer's reasonable safety and security requirements when on the Premises and the Customer agrees to do the same for BT.

6.5 The Customer agrees to provide, at its expense, a suitable place and conditions for BT Equipment and where required a continuous mains electricity supply and connection points.

6.6 The Customer agrees to look after any BT Equipment and to pay for any repair or replacement needed if it is damaged, unless it is due to fair wear and tear, or is caused by BT or anyone acting on BT's behalf. Yello, or anyone acting on Yello's behalf, will look after the Customer's physical property as set out in paragraph 12.2.

7. CUSTOMER EQUIPMENT

7.1 If the Customer wishes to connect Customer Equipment to BT's network other than by using a BT main telephone socket, the Customer must get Yello's permission.

7.2 Any Customer Equipment must be:

(a) technically compatible with the Service and not harm BT's network or another customer's equipment; and

Yello Terms and Conditions for Business Service

(b) connected and used in line with any relevant instructions, standards or laws.

8. MISUSING THE SERVICE

8.1 Nobody must use the Service:

(a) to make offensive, indecent, menacing, nuisance or hoax Calls; or

(b) fraudulently or in connection with a criminal offence.

The Customer agrees to take all reasonable steps to make sure that this does not happen. The action Yello can take if this happens is explained in paragraph 11. If a claim is made against BT and/or Yello because the Service is misused in this way, the Customer must reimburse Yello in respect of any sums Yello is obliged to pay.

8.2 The Customer accepts that nobody must advertise the phone number for the Service in or on a BT phone box without BT's consent. If this happens, Yello may suspend the Service or end this Contract, but Yello and/or BT will write to the Customer before taking this action.

9. CHARGES AND DEPOSITS

9.1 The Customer agrees to pay all charges for the Service as shown in the Price List (or as otherwise agreed) and calculated using the details recorded by Yello.

9.2 Unless paragraph 9.4 applies, rental charges will normally be invoiced quarterly in advance, and call charges will normally be invoiced monthly in arrears. Where possible the charges will appear on the Customer's next invoice but sometimes there may be a delay.

9.3 Yello will send its first invoice shortly after providing the Service, and then at regular intervals, usually every three months. Sometimes Yello may send the Customer an invoice at a different time.

9.4 If the Customer orders a temporary Service, Yello may invoice the Customer for the rental charge in advance for the whole period of the temporary Service.

9.5 Yello will send invoices for the Service to the address requested by the Customer.

9.6 The Customer agrees to pay all charges for the Service whether the Service is used by the Customer or someone else and upon receipt of Yello's invoice.

9.7 In some cases the Customer may need to pay a deposit or provide a guarantee as security for paying future charges.

10. CANCELLING OR ENDING THIS CONTRACT

10.1 The Customer may cancel this Contract or any part of the Service at any time before Yello provides the Service. In this event the Customer must pay Yello for any work done or money spent in getting ready to provide the Service. Yello will take reasonable steps to limit the amount of its costs.

10.2 This Contract can be ended by:

(a) the Customer on seven days written notice to Yello; or

(b) Yello on one month's written notice to the Customer.

10.3 If this Contract ends during the Minimum Period the Customer must pay Yello the early termination charge shown in the Price List. This is not the case if the Customer does so because Yello increases its charges, or changes the Conditions in either case to the Customer's significant disadvantage.

10.4 If this Contract ends, Yello will refund any money owed to the Customer, after first deducting any money the

Customer owes to Yello under this Contract or any other agreement Yello has with the Customer.

11. IF THE CUSTOMER BREAKS THIS CONTRACT

11.1 Yello can suspend the Service or end this Contract (or both) at any time without notice if one of the following applies:

(a) the Customer breaches this Contract or any other agreement the Customer has with Yello and fails to put right the breach within a reasonable time of being asked to do so;

(b) Yello reasonably believes that the Service is being used in a way forbidden by paragraph 8.1. This applies even if the Customer does not know that the Service is being used in such a way;

(c) bankruptcy or insolvency proceedings are brought against the Customer; or if the Customer does not make any payment under a judgement of a Court on time, or makes an arrangement with its creditors; or a receiver, an administrative receiver or an administrator is appointed over any of its assets; or the Customer goes into liquidation; or a corresponding event under Scottish law.

11.2 If the Customer does not pay a bill, Yello will generally not suspend the Service or end this Contract until 28 days after the payment was due (21 days if the Customer pays monthly). However, sometimes Yello may take this action after only 14 days (7 days if the Customer pays monthly).

11.3 If the Service is suspended, Yello will tell the Customer what needs to be done before it can be reinstated. However the Customer must continue to pay rental charges whilst this Contract continues.

11.4 If either party delays in acting upon a breach of this Contract that delay will not be regarded as a waiver of that breach. If either party waives a breach of this Contract that waiver is limited to that particular breach.

12. LIMITS OF LIABILITY

12.1 Yello accepts unlimited liability for death or personal injury resulting from its negligence.

12.2 Yello accepts liability for loss or damage to the Customer's physical property arising from its negligence, up to £1 thousand in any 12 month period.

12.3 Yello cannot guarantee that the Service will never be faulty. However, Yello accepts liability if it is late in providing the Service or repairing a Service Failure as set out in the Service Charter

12.4 Unless Yello is negligent, Yello's only liability under this Contract is as set out in the Service Charter.

12.5 Unless the Service Charter or paragraph 12.3 says otherwise, Yello is not liable to the Customer for any loss of business, revenue, profit or expected savings, wasted expense, financial loss or data being lost or corrupted or for any loss that could not have been reasonably foreseen.

12.6 Unless paragraphs 12.1 and 12.2 apply, Yello's liability to the Customer in contract, tort (including negligence) or otherwise in relation to this Contract is limited to £1 thousand in any 12 month period.

12.7 Each provision of this Contract that excludes or limits Yello's liability operates separately. If any part is disallowed or is not effective, the other parts will still apply.

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13. MATTERS BEYOND YELLO'S REASONABLE CONTROL

13.1 Sometimes Yello may be unable to do what it has agreed because of something beyond its reasonable control.

13.2 If this happens, Yello is not liable to the Customer. However, Yello will try to provide Call Diversion to the Customer. If Yello cannot do this then the Customer is entitled to a rental refund for any whole or part day, that there is a Service Failure.

14. RESOLVING DISPUTES

Yello will try to resolve any disputes with the Customer. However, if the parties cannot agree, the Customer may refer the dispute to any recognised dispute resolution service.

15. CHANGES TO THIS CONTRACT

15.1 Yello can change the Conditions (including the charges) at any time.

15.2 Yello will forward the changed Conditions to the Customer upon request by the Customer.

16. TRANSFERRING THIS CONTRACT

The Customer cannot transfer or try to transfer this Contract, or any part of it, to anyone else.

17. THIRD PARTY RIGHTS

The parties agree that the terms of this Contract are not enforceable by a third party under the Contracts (Rights of Third Parties) Act 1999.

18. NOTICES

If the parties need to write to each other they must do so as follows:-

- (a) to Yello at the address shown on the bill or any address which Yello provides to the Customer;
- (b) to the Customer at the address to which the Customer asks Yello to send invoices, the address of the Premises or, if the Customer is a limited company, its registered office.

19. THE SERVICE CHARTER

19.1 YELLO'S CHARTER

19.1.1 Yello guarantees:

- (a) to provide the Service by the date agreed with the Customer as described in paragraph 2.1;
- (b) to repair a Service Failure in line with the repair service the Customer has chosen. For standard service this means by midnight on the first weekday (not including public and bank holidays) after the day the fault is reported to Yello;
- (c) not to disconnect the Service by mistake; and
- (d) to keep any appointment Yello makes with the Customer under this Contract.

19.1.2 If Yello is late in providing the Service or repairing a Service Failure, the Customer may choose either:

(a) **Call Diversion** – as described in paragraph 19.2. This is only available if it is reasonably practicable, and technical restrictions may sometimes prevent Yello from offering this option; or

(b) **compensation** – the Customer may claim fixed rate compensation (as described in paragraph 19.3).

19.1.3 If Yello disconnects the Service by mistake, the Customer may claim fixed rate compensation (as

described in paragraph 19.3) from the date of disconnection.

19.1.4 If Yello does not keep an appointment, the Customer may claim a specified sum, as shown in the Price List.

19.2 CALL DIVERSION

19.2.1 If Yello provides Call Diversion, Yello will divert the Customer's incoming Calls, on request, to another fixed line or mobile telephone number of the Customer's choice. Once Yello has provided the Service or repaired a Service Failure, Yello will cancel the Customer's Call Diversion.

19.2.2 The number chosen must be a UK number, but there are some number ranges to which Yello will not divert the Customer's Calls (for example, 0800 and 0870 numbers).

19.2.3 If Yello diverts the Customer's Calls to a mobile number, the person calling the Customer will not have to pay extra costs for making that Call. The Customer is liable for the additional cost of these diverted calls.

19.2.4 In addition to providing a Call Diversion, for each line affected, Yello will pay the Customer, upon request, a rental rebate for each whole or part day Yello is late in repairing a Service Failure, as shown in the Price List.

19.3 COMPENSATION

19.3.1 *Fixed rate compensation* is the only compensation Yello will pay to the Customer at fixed rates (shown in the Price List) for each line affected by Yello not keeping to its Charter. If the Customer claims this, it does not have to prove its loss.

The limits on compensation

19.3.3 If the Customer wishes to claim *fixed rate compensation*, the amount Yello will pay is limited to compensation for up to 10 whole or part days for each line affected at the rates shown in the Price List.

19.4 PAYMENT OF CLAIMS

Yello will deduct any compensation amounts that Yello owes to the Customer under this Charter from the Customer's next phone bill, unless the Customer asks for payment by cheque.

19.5 APPLICATION OF THIS CHARTER

19.5.1 This Charter applies to the Service, including generally any related services Yello provides to the Customer. However, its application to some of the related services may vary as shown in the Price List.

19.5.2 This Charter does not apply if:

- (a) someone, other than Yello, has caused the fault,
- (b) Yello and/or BT asks for access to the Premises and the Customer does not allow this, or
- (c) Yello and/or BT reasonably asks for other help and the Customer does not provide it.

19.6 MAKING A CLAIM

19.6.1 The Customer must make any claim within one month of Yello putting things right. The Customer must claim in writing using a claim form provided by Yello.

19.6.2 Yello's contact phone number and address are shown on the Customer's bill.