

eir General Terms and Conditions

1. DEFINITIONS AND INTERPRETATION

- 1.2 “**Affiliate**” means any subsidiary or holding company of eircom as those terms defined in Section 155 of the Companies Act 1963, or such subsidiary or holding company of which eircom directs or causes the direction of the management or policies.
- 1.3 “**Agreement**” means an agreement, whether contained in one or more documents or in information in any form, made, or deemed to have been made, whether orally or otherwise, between eir and a person, relating to the provision of a Service and, for the avoidance of doubt, where a Service has been provided to a person, such a person shall be deemed to have made an agreement with the company;
- 1.4 “**Agreement for Telephone Service**” means an eir agreement in standard form for the provision of ISDN and/or PSTN Service;
- 1.5 “**Authorisation**” means any authorisation granted to eir under the Communications Networks and Services) (**Authorisation**) **Regulations 2011** SI number 335 of 2011;
- 1.6 “**Charges**” means the fees payable to eir in respect of the Services;
- 1.7 “**Code of Practice**” means eir’s code of practice for dealing with customer complaints as referenced on www.eir.ie;
- 1.8 “**ComReg**” means the Commission for Communications Regulation in Ireland.
- 1.9 “**Customer**” means “**You**” or the person who enters into a contract with eir for Telecommunications Service.
- 1.10 “**Data Protection Legislation**” means the Data Protection Acts 1988 to 2003 and any other regulations made under these acts.
- 1.11 **eir** and **open eir** are trading names of eircom Limited, Registered as a Branch in Ireland Number 907674, Incorporated in Jersey Number 116389. Branch Address: 1 Heuston South Quarter, St. John's Road, Dublin 8, Ireland.© 2015 eir.

- 1.12 **“Emergency”** means any event likely to give rise to a risk to persons or property;
- 1.13 **“Equipment”** means any telecommunications equipment and replacement parts supplied to the Customer by eir in connection with the provision of Service to the Customer including but not limited to any modem or cable.
- 1.14 **“Exchange”** means in relation to any Service means switching equipment and apparatus which forms part of the eir system for provision of that Service and, where the context so admits or requires, includes the building or part of the building or other external covering housing such apparatus;
- 1.15 **“General Authorisation”** means the General Authorisation granted to eir by ComReg pursuant to the Authorisation Regulations
- 1.16 **“Initial Period”** means twelve calendar months from the date Service is first provided:
- 1.17 **“Other Network Operators”** means any other operator authorised to provide electronic communications services.
- 1.18 **“Premises”** means the place or location at which eir provides Services to a Customer which may include a vehicle or vessel.
- 1.19 **“Price List”** the listing of eir’s prices for Services published on www.eir.ie
- 1.20 **“Private Payphone”** means a telephone, other than a public telephone, to which a telephone customer has connected or allowed to be connected a receptacle for coins or a device for recording other means of payment.
- 1.21 **“Service”** means any telecommunications service or facility [provided by eir which is expressly stated to be subject to these General Terms and Conditions and where the context requires it, any ancillary service or facility to such Service and the Services shall be construed accordingly ;
- 1.22 **“Type Approved Apparatus”** means any telecommunications apparatus which has been approved by eir for connection to its network.

2. GENERAL

- 2.1 Unless otherwise stated, these General Terms and Conditions apply to all Services provided by eir. Together with a signed and completed Agreement for Telephone Service, and any applicable service specific terms and conditions; tariff plan, promotion or Service options which are stated to form part of this Agreement, these General Terms and Conditions constitute a legally binding agreement between eir and You which will be effective from the time eir accepts your application for Service or the time You commence using the Service, whichever is the earlier. By signing an Agreement for Service, You confirm that the details contained on it and relating to You are accurate and that You also accept these General Terms and Conditions. Use of the Service, whether by You or by a person acting on your behalf, with or without your authority will be deemed to constitute an acceptance of these General Terms and Conditions and any other applicable terms and conditions of that particular Service.
- 2.2 The Telecommunications Scheme 2012 is hereby revoked.
- 2.3 The Agreement is personal to You. You may not assign or transfer to another person without eir's prior written consent. You may with the consent of eir transfer your Agreement for Service to another Customer, who is willing to accept responsibility for all of your obligations under this Agreement. If your Agreement has been transferred to another Customer under the provisions of this clause, eir will refund to You any rental payments made by You for any period after the date on which the other Customer referred to above has assumed responsibility for the Service.
- 2.4 Where a Customer or applicant for telephone service requests eir to provide Service to any house or premises or part of a house or premises, it shall be reasonable for eir to request such Customer to provide evidence of the customer or applicant's entitlement to occupy that house or premises
- 2.5 Where an application is made for Service, eir shall be entitled to request such evidence as it considers satisfactory as to:-
- (a) the authority of the applicant to seek service in the name of the Customer or proposed Customer; and
 - (b) any matter which eir considers material to the credit worthiness of the Customer or proposed Customer.

3. RESTRICTIONS ON USE OF ANY SERVICE OR EQUIPMENT PROVIDED BY EIR

3.1 You shall not use any Service or Equipment:

- 3.1.1 to transmit any indecent or obscene messages, whether addressed to eir personnel or otherwise;
- 3.1.2 to make nuisance calls, or any calls for the purposes of causing annoyance inconvenience or needless anxiety to any person;
- 3.1.3 to transmit messages which You know to be false, for the purposes of causing annoyance, inconvenience or needless anxiety to any person;
- 3.1.4 in any manner which in the reasonable opinion of eir may adversely affect the use of any other Service offered by eir;
- 3.1.5 in any manner contrary to any reasonable instructions given by eir in relation to proper Network management;
- 3.1.6 for the resale by the Customer of any Service of any Service otherwise that in accordance with any instructions given from time to time by ComReg or any other competent government regulatory authority;
- 3.1.7 in breach of any acceptable usage policy as published on any eir web site from time to time;
- 3.1.8 for the processing of any automated personal data contrary to the provisions of Data Protection Legislation;
- 3.1.9 in any manner which in the reasonable opinion of eir makes abnormal demands on the Service or on eir's Network or facility from a single connection;
- 3.1.10 for the infringement of any trade secrets or intellectual property rights of a third party;
- 3.1.11 Customers must not induce other members of the public to simultaneously call or attempt to call a specified telecommunications line, where there is in the reasonable opinion of eir a danger that telecommunications services offered by eir may be adversely affected by congestion;

- 3.1.12 You shall ensure that all hardware, software and equipment used by You to access the Service is maintained in good working order;
- 3.1.13 You shall comply with any reasonable instruction given by eir in relation to the use of the Service;
- 3.1.14 You agree to inform eir in writing if You terminate the Service.

4. NUMBERS

- 4.1 Customers shall have no proprietary interest in any telephone number FreeFone 1800 number; Call Save 1850 number; LoCall 1890 Number; FreeFone Name, terminating number, network user identity, network user address or any other name, code or number whatsoever allocated by eir from time to time by eir to a customer for use in connection with any telecommunications service.
- 4.2 eir may from time to time, at its discretion alter or replace the Exchange serving a customer, alter or withdraw the customer's telephone number FreeFone 1800 number; Call Save 1850 number; LoCall 1890 Number; FreeFone Name, terminating number, network user identity, network user address or any other name, code or number whatsoever allocated by eir from time to time by eir to a customer for use in connection with any telecommunications service.
- 4.3 If a Customer requests a change in any telephone number FreeFone 1800 number; Call Save 1850 number; LoCall 1890 Number; FreeFone Name, terminating number, network user identity, network user address or any other name, code or number whatsoever allocated by eir, eir may at its absolute discretion change or alter such name, code or number. eir may charge the customer the reasonable costs it incurs in changing any such name, code or number.

5. EIR'S RIGHTS IN RESPECT OF SERVICE OR EQUIPMENT

- 5.1 eir may use any telecommunications line used by You to provide Services to other Customers including the carrying of electrical currents over the lines at different frequencies to those used to provide the Service to the Customer;

- 5.2 eir may stipulate a maximum usage which may be made of any Service by a particular Customer or any class or group of Customers;
- 5.3 eir may to suspend Service to any person if requested to do so by ComReg or any other legally authorised body;
- 5.4 eir may in the event of war or proclamation of emergency cease summarily provisions of the Service to any Customer or to Customers generally;
- 5.5 eir will not be obliged to pay any refund or compensation to You if it invokes any of its rights under this clause.
- 5.6 eir's exercise of any of its rights under this clause will be without prejudice to, and in addition to any of its other rights or remedies whether under contract or otherwise.
- 5.7 eir may from time to time demand a declaration from a Customer that it is not in any way in contravention of the provisions of this clause.
- 5.8 eir may, if for technical reasons it deems it necessary or expedient to do so, enter agreements with two or more persons to provide Service at their respective Premises by means of a common telecommunications line for all or part of the route between their respective Premises and to the Exchange to which the lines are connected. These conditions shall apply to such a connection.

6. CHARGES

- 6.1 In consideration of provision of the Services, You will pay eir the Charges specified in the Price List applicable from time to time. Full details of all of eir's prices can be obtained by consulting the eir Price List on www.eir.ie/pricing or by contacting FreeFone 1901 (Residential Customers), or FreeFone 1800255 255 (Business Customers).
- 6.2 eir will be entitled to commence charging from the date of first provision of Service to You and will charge proportionately in respect of the period between the first provision of the Service and the first day of the next period in respect of which an account would ordinarily be issued.

6.3 The distance between two points for the purpose of computing a Charge for the use of a Service will be measured in accordance with the route taken between the two points.

6.4 **Payment of Security**

eir may where it deems it appropriate, in the interests of proper credit management require security or advance payment in respect of any money, fees or Charge payable by a Customer in respect of any Service.

6.4.1 As and from the 1st July 2013, new Customers will be required to pay their bills by direct debit and to remain on direct debit for a period of time consistent with the payment of three bills, (the "Direct Debit Period").

6.4.2 At the expiry of the Direct Debit Period, the Customer shall be free to pay their bills by any of the other payment methods prescribed in clause 7.6.1

6.5 **Value Added Tax**

Customers must pay to eir in addition to any sum properly payable by a Customer in respect of any Service the appropriate amount of any value added tax or similar tax as may be levied by any competent government authority.

6.6 **Duration of Telephone Calls for purpose of charging**

6.6.1 For the purposes of charging, for the avoidance of doubt, the duration of a telephone call is calculated from the instant the call is answered whether by the called party or otherwise.

6.6.2 eir may increase or reduce any Charges by notice in accordance with the provisions of this Agreement.

6.6.3 In respect of calls made by Customers to Customers of Other Network Operators, the duration of the call for charging purposes may be calculated from the instant of connection to the Other Operator's Network, regardless of whether the call is answered or not.

6.6.4 **Classification of telephone groups:** eir shall classify telephone Exchanges into groups and shall determine in relation to each telephone group:

- (a) what telephone groups, if any, are to be regarded as adjacent to it; and
- (b) the point (referred to as the “group centre”) which is to be used for measuring distances for the purpose of charging for telephone calls.

6.6.5 **Particulars of call:** eir may supply particulars of the duration of or Charge for a completed call (excluding a customer dialled call) or of both such duration or Charge at the request of a customer and there shall be charged to and paid by the customer in respect of each call of which such particulars are supplied the Charge specified in the price list, which is appropriate to the call.

6.6.6 **Payment for customer dialled local calls:**

- (a) In respect of every customer dialled local call there shall be charged to and paid by the telephone customer whichever of the Charges specified in the Price List as is appropriate to such telephone call.
- (b) A call to Eirpage equipment other than Minicall or the ‘08224’ service shall be construed as a local call charged for as specified in the price list, as is appropriate to such call.

6.7 **Payment for customer dialled calls:** In respect of every customer dialled trunk call made from a telephone exchange line there shall be charged to and paid by the telephone customer a Charge as specified in the Price List.

6.8 eir may from time to time, by notice allow any discounts in respect of any Services or groups or bundles of Services due from Customers’ under this Agreement or in respect of any other telecommunications service. Such discounts shall take effect on the date specified.

7. BILLING FOR SERVICES

7.1 Bills shall be issued to Customers at monthly or bi-monthly intervals according to Customers' preference. Amounts due for call Charges shall be billed in arrears and amounts due for Line Rental will be billed in advance. Any charges not to hand when a bill is being prepared will be included in a later bill.

7.2 Bills for Services shall be issued by post or may at the option of the Customer, electronically.

7.3 Bills for Services shall contain at a minimum the following particulars:

7.3.1 the number of calls made;

7.3.2 Charges for those calls.

7.4 If the Customer requests it eir shall provide further particulars of the number of calls made, or the number of calls of any particular type made, or particulars of the individual Charges in respect of such calls. These particulars must be paid for by the Customer.

7.5 **Payment Date**

7.5.1 All sums due from the Customer in respect of the Service shall become due for payment by the Customer on the date specified in any bill issued for payment of the particular Service.

7.5.2 Unless otherwise agreed, or unless eir decides otherwise, payment shall be due within fourteen days of the date of the date of issue of the bill for any particular Service.

7.5.3 eir reserves the right to demand payment by such time and by such method as it deems appropriate, in respect of any particular Customer or in respect of any particular class of Service.

7.6 **Choice of Payment Methods**

7.6.1 Customers for Services will be allowed to select their preferred payment method in respect of the particular Service from eir payment options in respect of that particular Service. The current payment options are displayed on www.eir.ie and are also listed below:-

- (a) Direct Debit - which may either be set up on your credit card, or bank account;
- (b) By Post – cheques with bill stub should be sent to eir Limited, P.O Box 43, Kilrush Co. Clare or such other address as eir may specify from time to time;
- (c) At any Post Office, Bank or retail premises offering eir bill payment facilities;
- (d) Internet – payment may be made on the eir web site www.eir.ie or An Post web site billpay.ie where the Customer has pre-registered on this site;
- (e) Electronic Banking - Payment by way of direct transfer of funds from Customer bank account to eir bank account using the bank's electronic payment options including ATM, on line and telephone banking.

7.7 Set off and Interest

7.7.1 eir has the right to deduct any sum due and payable by a Customer under this Agreement from any sum which eir may owe the Customer under any other contract for the provision of any other services provided by the Customer to eir.

7.7.2 If any sum due to eir is in arrears for in excess of twenty- one calendar days, eir without prejudice to any other rights it may have under this Agreement, charge interest on this sum at a rate equal to the A Rate for overdrafts charged for the time being by the Allied Irish Banks calculated on a daily recurring basis commencing from the due date.

7.8 Dishonoured Payments

Where a Customer pays for a Service, by cheque and the cheque is returned by the bank or other and the cheque is returned "Refer to Drawer" or otherwise unpaid to eir, then eir may recover as a simple contract debt not alone the amount of the cheque but also any other legal costs, fees or expenses eir incur in seeking to recover the debt.

7.9 **Disputed Accounts**

7.9.1 If a Customer wishes to dispute any account, bill, fee or Charge, security or advance payment under this Agreement he must do so promptly and in no case later than fourteen calendar days after the date of the date of the demand for the Charge has issued. If a Customer fails to dispute the account within fourteen days from the date the demand has issued, they will not subsequently have any entitlement to dispute the account.

7.9.2 In respect of all disputed accounts, eir will deal with all such disputes in accordance with its Code of Practice on www.eir.ie/codeofpractice. In line with the Code of Practice eir will acknowledge all such disputes within two Working Days.

7.10 **Remedies for Unpaid Accounts**

7.10.1 **Suspension of Accounts**

Where a Customers' Charges are unpaid after fourteen days of the date of issue of the initial demand for payment, then eir shall have the right, without prejudice to any other rights or remedies available to it under this Agreement or otherwise, to suspend the provision of any Services and related services provided by eir to the Customer under this Agreement. If the Services are suspended by eir under this clause, and if eir agrees to restore Service then it shall be entitled to charge an appropriate fees for the restoration of the Service.

7.10.2 **Termination of Service by eir**

eir shall have the right to terminate a Service where:-

- (a) a Customer fails to pay any Charges due in respect of any Service provided under this Agreement for a period in excess of 21 days; or
- (b) a Customer has failed to pay any security or advance payment as required by eir in respect of any Charges due under this Agreement; or

- (c) Where the maximum usage allowed is exceeded by the Customer either by calls or by network capacity; or
- (d) a Customer is adjudged bankrupt or becomes insolvent or makes any composition or arrangement with its creditors or suffers a distress or execution to be levied on any Customer assets or premises; or
- (e) the Customer is a body corporate, should any meeting of its creditors be called pursuant to Section 266 of the Companies Act 1963 or any amendment or re- enactment thereof, or should it enter into any liquidation or have a receiver or examiner appointed over its assets; or have a provisional liquidator appointed or should a petition for its winding up be advertised or presented or should a petition for the appointment of an examiner be appointed.

7.10.3 **Customer Termination of an Account**

7.10.3.1 If a Customer terminates an account within an Initial Period, eir shall without prejudice to its rights to treat the termination as a breach or repudiation of the Agreement, agree to accept such termination provided notice of this termination is addressed to eir. In such circumstances, the Customer shall be liable and agrees to pay to eir of the sum amounting to the balance of the line rental due for the Initial Period. A Customer may terminate an account outside the Initial Period by giving eir one month's notice in writing.

7.10.3.2 eir agrees to accept termination of a Customer's account outside the Initial Period without the need for one months' notice in which case the Customer will be obliged to pay to eir a termination charge of one month's rental in lieu of notice. Outside of the Initial Period Customers who wish to terminate for the purposes of changing service provider will not have to pay a termination charge.

7.10.3.3 You may cancel your contract with eir without giving a reason within fourteen days of the date of conclusion of your contract. This is your right under the EU (Consumer Information, Cancellation and Other Rights) Regulations 2013, SI 484 of 2013, ("the Regulations"). You may exercise this right by providing us with any unequivocal written statement to this effect or by using the model cancellation form displayed on the Terms and Conditions section of eir's web site at www.eir.ie. If you wish to cancel your contract under the Regulations, you must return to us any Equipment (to include any chargers or ancillary equipment supplied) to us within fourteen days of the date you provide us with written notice that you wish to cancel the contract.

7.10.4 **On Termination of this Agreement for any reason:**

- (a) the Customer shall immediately pay to eir all of eir's outstanding unpaid invoices and, in respect of all Services supplied but for which no invoice has been submitted, eir may submit an invoice, which shall be payable on receipt;
- (b) The Customer shall within fourteen days return all of eir's Equipment. Until they have been returned; or the Customer shall be solely responsible for the safe keeping of such Equipment; and
- (c) Customer may terminate this account without charge by serving notice in writing prior to the date of any implementation of any changes notified by eir under this agreement or any modification in the conditions of this Agreement. The Customer shall be deemed to have accepted any implemented changes by continuing to use the Service.
- (d) In the event that the Customer does not return the Equipment within fourteen days, eir shall have the right to charge the Customer for the cost of the Equipment.

8. ACCESS TO CUSTOMER PREMISES

- 8.1 You will provide eir with whatever access to your Premises it reasonably requires from time to time in order to maintain or upgrade our Equipment. We will provide You with advance notice, except for the case of any Emergency.
- 8.2 You agree that You will try to get permission from somebody else if we have to cross their land or put Equipment on their Premises. You agree that You will give eir whatever reasonable access to place or maintain Equipment on you Premises in order to provide Service to other Customers.
- 8.3 You agree that the method of provision of Service is entirely at eir's discretion and that You will provide us with all necessary access facilities for the completion on the work and for the continuing and on- going provision of the Service.
- 8.4 You agree that eir may, if it thinks fit and at the request of the Customer, make any alteration to its Equipment which is within the boundaries of the Customer Premises Any such alteration shall be at the expense of the Customer. You agree that if eir is unable to obtain any all access rights, wayleaves permissions that may be required over your property or if You fail to provide eir with any access rights that may not be possible to provide to continue to provide Service and that in such a case it may be necessary for eir to suspend or terminate the Service until such time as it is in a position to obtain the necessary access rights, wayleaves or permissions. You agree that You are responsible for the safety and security of all eir Equipment provided under this agreement and that if any such Equipment is damaged or lost while in your care, fair wear and tear excepted, that You will be liable to pay eir for the replacement cost of any such Equipment
- 8.5 You agree all Equipment supplied by eir to the Customer shall at all times be and remain as between eir and the Customer the exclusive property of eir, but shall be held by You in safe custody at your own risk and maintained and kept in good condition by You until returned to eir, and shall not be disposed of or used otherwise than in accordance with eir's written instructions and authorisation.

- 8.6 As between You and eir, all Intellectual Property Rights and all other rights in the Services, the Equipment and the software shall be owned by eir. eir grants to, the Customer a non exclusive, personal non transferable, non assignable, revocable license to use the software in executable form only and solely for the purpose of receipt of the Services. To the maximum extent permissible by law, the Customer shall not copy, lease, lend, rent, modify, reverse engineer, decompile, disassemble or create derivative works of the Software.
- 8.7 You agree that eir may need from time to time to alter, modify or replace the Equipment and that it may be necessary to access the Premises in order to do so. You agree to give eir whatever access it requires to exercise its rights under this clause.
- 8.8 You agree that from time to time it may be necessary to temporarily suspend the provision of the Service during periods of repair , essential maintenance or alteration or improvement to eir's telecommunications network or otherwise in accordance with law. Where possible eir will give You advance notice prior to such suspension of the Services and eir shall restore the Services as soon as possible after such Suspension.
- 8.9 in the event that You request the alteration of any telecommunications lines, fixtures or accessories on your Premises in order to provide Service either to You or to another Customer; that eir will carry out the alteration at your expense; and You agree to promptly pay eir's certified costs of alteration in advance of any such alteration works being carried out.
- 8.10 eir may from time to time at its discretion require to alter the position of telecommunications line, Equipment, fixtures and accessories on your Premises for the purposes of the provision of Service, and that the reasonable cost of any such alteration will be borne by You.
- 8.11 **Connection of a Private Payphone**
- Where a Customer connects or allows the connection of a Private Payphone and adjusts this Private Payphone so as to impose call Charges which are different to those imposed by eir, then the Customer must prominently display a notice (i) advising callers that these Charges are different to those of eir (ii) of the amount of the Charges.

8.12 Configuration of a network Link

eir configures its network in such a manner as to minimise the risk of filling or overfilling a network link. In the unlikely event that a network link may become overfilled, eir will take appropriate technical measures to manage certain traffic flows. eir will take all reasonably appropriate measures to ensure that impacts on customers' service quality are minimised.

9. EXTERNAL THREATS TO EIR NETWORK

In response to any incident or external threat to the network, eir may intervene, by means of filtering, blocking, or rate-limiting certain traffic flows to control the operation of the network which may result in a degradation of the quality of the Service.

10. LIMITATION OF LIABILITY

10.1 General Exclusion of Liability:

10.1.1 eir will not be liable under any circumstances for any indirect, special or consequential losses, corruption or destruction of data, loss of business revenue or profits, anticipated savings or wasted expenditure or for any financial losses whatever .

10.1.2 Nothing in this clause shall be deemed to in any way to exclude or limit any liability which eir may have to You which may not be properly excluded by law. In particular nothing shall exclude or limit any liability which eir may have to You under Section 2 of the Liability for Defective Products Act 1991

10.1.3 Without prejudice to what is stated above, eir in so far as it is permissible by law, shall not be liable for any failure on the part eir to perform any obligation under any agreement or these General Terms and Conditions or for any failure, interruption or delay in providing or maintaining a Service or for any injury, loss or damage suffered as a result of:

10.1.4 acts of God, lightning, electric voltages and currents affecting a telecommunications line or fixtures and accessories or customer equipment by lightning or otherwise, fires, floods, storms or other catastrophes; or

- 10.1.5 Government control, restrictions or prohibitions;
 - 10.1.6 any other act or omission of any public authority, including Government, whether local, national, international or supranational;
 - 10.1.7 the act or default of any supplier, agent or other person;
 - 10.1.8 strikes, trade disputes, work stoppages or labour disputes or difficulties, whether or not within eir company; or
 - 10.1.9 any other cause whatsoever, where such other cause is beyond the reasonable control of the company.
- 10.2 eir, in so far as it is permissible by law, shall not be liable for:
- 10.2.1 libel, slander or infringement of copyright or trade secrets arising from or in connection with the transmission of messages by means of Services provided by the company;
 - 10.2.2 infringement of patents or trade secrets arising from the combination or use of a Service with facilities, apparatus, equipment or services of a Customer or any other person.
 - 10.2.3 any claim arising out of any act or omission of a customer, a Customer's servants or agents;
 - 10.2.4 unlawful or unauthorised use of telecommunications services or telecommunications lines or fixtures and accessories of the company;
 - 10.2.5 any claim arising out of a breach in the privacy or security of messages transmitted by means of a Service provided by eir unless such breach results from a wilful act or omission of eir its employees or agents;
 - 10.2.6 any claim arising in relation to the provision, maintenance or use of telecommunications lines, channels, equipment, networks or services other than those of the company;
 - 10.2.7 any claim arising in relation to the non-availability or non-performance of a space satellite system or submarine or terrestrial cable and any related facilities used for the provision of a telecommunications service;

- 10.2.8 any claim arising out of any alteration, replacement or modification of telecommunications lines, channels, equipment, networks or services that renders any customer equipment obsolete or which necessitates modification or alteration of such equipment or otherwise affects the use or performance of such equipment; and
 - 10.2.9 any claim arising out of or resulting from the quality of, fitness for purpose of, compliance with description of, or compliance with sample of goods supplied by letting to a customer or other person by eir under any agreement or otherwise unless the customer “deals as a consumer” within the meaning of the Sale of Goods and Supply of Services Act, 1980.
- 10.3 Except as provided in article 8.5, and without prejudice to this clause 8.5 eir shall not be liable in contract, tort or otherwise, for any loss, injury or damage, other than death or personal injury as a direct result of the negligence of the company, arising directly or indirectly from:-
- 10.3.1 any act, omission, error, default, failure or delay in respect of the provision, installation, operation, maintenance, use or termination of a telecommunications service;
 - 10.3.2 any failure of a telecommunications service; or
 - 10.3.3 any failure of, or defect in, anything provided as part of or in association with a telecommunications service.

11. DATA PROTECTION

- 11.1 Pursuant to the provisions of the Data Protection Acts 1988 and 2003 (“The DPA”), eir is a data controller of the personal data for the purposes of this Agreement
- 11.2 All personal data about the Customer referred to in this Agreement as the Customer’s (“Personal Data”) which eir processes about the Customer pursuant to this Agreement will be processed and maintained in accordance with eir’s obligations under the DPA.
- 11.3 eir shall process (including disclose) the Customer’s Personal Data:

- 11.3.1 To process the Customer's application, to make credit decisions and to manage the Customer's account; and
 - 11.3.2 In compliance with eir's data protection obligations and the Customer's preferences to maintain and develop eir's relationship with the Customer including to advise the Customer of other eir goods and services which may be of interest to the Customer.
- 11.4 eir does not disclose the Customer's Personal Data, except:
- 11.4.1 where the Customer has given eir consent;
 - 11.4.2 where eir is required or permitted to do so by law; or
 - 11.4.3 where necessary for the purposes of this Agreement, to other entities who provide a service to eir or the Customer.
- 11.5 From time to time eir may change the way it uses Customer Personal Data. Where eir believes the Customer may not reasonably expect such changes, eir will obtain the Customer's consent as required by the DPA.
- 11.6 The Customer has the right at any time to request a copy of Personal Data eir holds about the Customer and to ask for any inaccuracies in their Personal Data to be corrected. If the Customer would like a copy, or wishes to update Personal Data, eir may be contacted at 1901. Evidence of identity and a small fee may be payable.
- 11.7 To keep the Customer up to date about its products and services special offers and price reductions, eir may retain and use the Customer's details in order to contact the Customer from time to time.
- 11.8 If You do not wish to be contacted while an eir Customer, You should contact eir by dialling 1901.

- 11.9 If You do not wish to be contacted by eir post termination of this Agreement the Customer should contact eir by calling 1901.
- 11.10 In particular eir reserves the right to contact the Customer via e-mail regarding information specific to the Services, including service enhancements, network upgrades, process changes and general information relating to the products purchased.
- 11.11 Third parties are allowed to use the National Directory Database (“NDD”) for direct marketing. eir may place an indicator next to the Customer’s NDD entry advising third parties that the Customer does not want Customer details to be used for this purpose. If the Customer wants an indicator placed beside the Customer’s directory entry, please contact eir by calling 1901. (Please note that ex-directory Customers automatically have this indicator. If the Customer is ex directory and wishes to receive calls from third parties, please contact eir by calling 1901 and eir will remove the indicator.
- 11.12 The information within the Phonebook which is compiled from the NDD is also passed on to other companies who operate a telephone number information (Directory Enquiry) service.
- 11.13 During the Customer application for telephone service:
- 11.13.1 If the Customer chooses to be Listed, it means that the Customer’s details will appear in the Phonebook and will also be available on Directory Enquiry Services;
 - 11.13.2 If the Customer chooses to be Unlisted it means that the Customer’s details will not appear in the Phonebook but will be available on Directory Enquiry Services;
 - 11.13.3 If the Customer chooses to be Ex-directory it means that the Customer’s details will not appear in the Phonebook, nor will it be available on Directory Enquiry Services. The Customer’s information will be automatically flagged for “no marketing telephone calls in the NDD.

11.14 **Free entry in directories:** A telephone customer shall be given one free entry in and one free copy of any telephone directory published by or on behalf of eir and relating to the area in which the telephone customer's premises is situated and the entry may be made in such terms, manner and order as eir thinks fit.

11.15 Regardless of which Telephone Directory option the Customer chooses when applying for the Services, if the Customer has opted to have a no marketing calls indicator set against its telephone number in the NDD, the Customer should not receive marketing calls from Companies with which the Customer does not have a commercial or business relationship.

12. NOTICES

12.1 Any Notice to be served by eir under this Agreement shall, without limiting the manner in which eir may give notice, be deemed duly given to any person or persons generally as the case may be:

12.1.1 if left at the Customer's Premises or if sent by ordinary post to the address specified in any agreement or other address deemed by eir to be reasonable in the circumstances; or

12.1.2 the notice is addressed to persons generally by advertisement.

12.3 Any account may be rendered by eir under this Agreement deemed to have been duly given if a copy of the account is sent by ordinary post at the address specified in the Agreement or to any other address notified or agreed with the Customer or any other address deemed by eir to be reasonable in the circumstances.

12.4 A notice or account addressed to a person may be incorporated with or associated with any other communication from the company.

- 12.5 A notice or account shall be deemed to be duly given on the second day after the day of posting of the notice or account.
- 12.6 Any Changes to these General Terms and Conditions will be notified to Customer in accordance with the notice provisions at 12.1 above.