

From 28/10/08 a new set of Terms and Conditions apply, you can view them here:

<http://www.madasafish.com/terms-and-conditions/pdf/IC24-Broadband-18042006-22082006.pdf>

## Broadband Terms and Conditions

If there are any Terms and Conditions you do not understand, please contact Customer Services using the contact details set out on the Website at <http://www.ic24.net/contact.asp>. Calls to Customer Services may be monitored and recorded for training and quality assurance purposes.

### 1. Start of this Agreement

1.1 This Agreement will commence on the Commencement Date and will continue for 12 months ("the Minimum Period") unless terminated by you or us in accordance with paragraph 10 below.

### 2. Registration Information

2.1 To register for the Broadband Services, you must be at least 18 years of age and resident in the UK.

2.2 You warrant that all information provided to us, including the information in the online registration form, is absolutely true, complete and accurate. If any facts or information provided to us become inaccurate then you will tell us immediately of the changes.

2.3 You confirm that there are no facts or circumstances which have not been disclosed to us which would affect our decision to provide the Broadband Services to you.

### 3. Our Provision of the Broadband Services

3.1 We will provide the Broadband Services subject to these Terms and Conditions.

3.2 We can only provide Broadband Services in areas of the United Kingdom in which we are technically able from time to time and we will endeavour to provide the Broadband Services to you at the access rate you choose, but the speed may be affected at times due to network congestion and other reasons.

3.3 Whilst we will use our reasonable endeavours to begin providing the Broadband Services on any date agreed with you, we will not be liable for any failure to meet such a date.

3.4 We will provide the Broadband Services to the main BT socket and can not guarantee that the Broadband Services will work over any extension sockets that you may have installed.

3.5 If your telephone line is unable to support your chosen access speed we will provision the service at the fastest speed possible.

3.6 To use the Broadband Services you will need a telephone line and a personal computer of a minimum specification as we notify to you. You may only access the Broadband Services by using a designated telephone number.

3.7 You will provide the computer system, software and telephone connection necessary to enable you to access the Broadband Services and you will be responsible for ensuring that they are compatible with the Broadband Services. You are also responsible for the provision of, and payment for, telecommunications services necessary to access and use the Broadband Services.

3.8 We may provide you with certain software to enable you to use the Broadband Services and you agree to sign any agreement reasonably required by the owner of the copyright in such software that protects owner's rights in that software in order to use the Broadband Services and the software. Unless permitted by law, you must not modify or copy this software or use it for any purpose other than to access the Broadband Services in accordance with this Agreement nor copy the manuals or documentation provided with the Broadband Services or the provided software.

3.9 You confirm that we have and any licensed operator supporting the Broadband Services has your permission, on reasonable notice to:

(a) carry out any works on your premises for, or in connection with the installation, maintenance,

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adjustment, repair or alteration of the Broadband Services;

(b) enter the premises to inspect, modify, upgrade or replace any equipment that you may have connected to the Broadband Services.

3.10 Where on reasonable notice we tell you that we wish or any licensed operator supporting the Broadband Services wishes to carry out any work set out in paragraph 3.8(a) you agree to:

(a) obtain all necessary consents, including consents for alterations to buildings, if applicable;

(b) provide any electricity and connection points required by us or by any licensed operator supporting the Broadband Services; and

(c) provide a suitable, safe and appropriate working environment in accordance with our reasonable requirements or those of any licensed operator supporting the Broadband Services.

3.11 Where, at our request, any third party equipment is installed at your premises to enable you to receive the Broadband Services, you will not, and you will procure that no-one else shall, add to, modify or in any way interfere with such equipment without our prior consent. Furthermore, you will use such equipment in accordance with any instructions, safety and security procedures applicable to the use of that equipment. You acknowledge that all such third party equipment remains owned by the relevant third party and you will be responsible for such equipment while installed at your premises. You acknowledge that you will be liable to the owner of such equipment for any damage to it while installed/delivered to your premises (fair wear and tear excepted).

3.12 We may suspend the Broadband Services temporarily without notice in an emergency or in order to improve, maintain or repair the Broadband Services or our network or for other operational reasons. We will try, but cannot guarantee, to keep you informed and to keep interruptions to a minimum.

3.13 We cannot guarantee that the Broadband Services will be uninterrupted or error free. If a fault occurs, you should report it by phone, e-mail or in writing to our Technical Support Services using the current contact details set out on the Website at <http://www.ic24.net/contact.asp> and we will try to rectify the fault.

3.14 You may purchase a modem during the registration process or use your own modem. We will provide technical support on all modems purchased during registration but we will not be responsible for any faults in its design, manufacture or performance and we will not be liable for any loss or damage incurred by you as a result of any such fault. If you purchase a wireless router you will be required to connect using the Ethernet cable (provided) for troubleshooting purposes. If you have chosen to use your own modem or router to connect to the service we will refer you to the supplier for technical support.

3.15 You acknowledge that we will not be responsible for any sites, content, goods or services offered or made available on the Internet provided by third parties nor for any computer viruses, cookies or anything similar transmitted to you via the Broadband Services by such third party sites or otherwise through our provision of the Broadband Services.

3.16 We will not be responsible for the content of newsgroup or chat areas, whether moderated by us or not. By entering these areas, you accept this and agree to waive any claims against us for any distress, injury, loss, liability, damage and expense arising from or in connection with your use of these areas and their contents. You will indemnify us against any claims arising from your use of the areas or any content of the areas which you post or create.

3.17 We do not monitor the Broadband Services. However, we reserve the right to do so and to review the contents of any communication sent or received using the Broadband Services, and to review the contents of any material accessed whilst using the Broadband Services. We reserve the right at all times to disclose any information or materials we deem necessary in connection with any applicable

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law, regulation, legal process or governmental request, or to edit, refuse to post or to remove any information or materials, in whole or in part, at our sole discretion.

#### **4. Your Use of the Broadband Service**

4.1 The Services and any software provided as part of the Services (with the exception of additional mailboxes) are provided solely for your own use and you may not resell, transfer, assign or sub-license the Services (or any part of the Services) to any other person.

4.2 You must ensure that any machines or personal computers used by you to access the Broadband Services do not have an adverse effect on our systems, those of our suppliers or on network traffic generally. You must use the Broadband Services in a manner consistent with all applicable laws and regulations which may apply to your use of the Broadband Services.

4.3 You must ensure that any computers, systems or networks that utilise the Broadband Services are configured in such a way that does not give a third party the capability to use the Broadband Services in an illegal or inappropriate manner. You should run a firewall and up-to-date anti-virus software, and ensure that your operating system is kept fully up to date with the latest security patches.

4.4 You must not use the Broadband Services in any way that would, in our reasonable opinion, materially affect the use of or access to the Internet of any other person. This includes, but is not limited to, extremely high amounts of data transfer during peak times, "denial of service" (DOS) and "distributed denial of service" (DDOS) attacks against another network or individual user. DOS attacks will result in immediate termination of the Broadband Service.

4.5 Any attempt, whether successful or not, to gain access to or retrieve data from any computer system without authorisation from its maintainer or owner will lead to immediate termination of the Broadband Service and possibly to prosecution. This applies to port scanning, vulnerability probes and intentional distribution of "trojan horse" programs, viruses and worms, as well as making use of systems compromised by third parties.

4.6 Use of the Broadband Service to transmit any unsolicited commercial or unsolicited bulk e-mail is expressly prohibited. We have a zero-tolerance policy for spam. Spamming will result in immediate termination of the Broadband Service.

4.7 Intentional distribution of software that attempts to and/or causes damage, harassment, or annoyance to persons, data, and/or computer systems is prohibited. This will result in immediate termination of the Broadband Service.

4.8 Adding, removing or modifying identifying network header information in an effort to deceive or mislead is prohibited. Attempting to impersonate any person by using forged headers or other identifying information may result in termination of the Broadband Service.

4.9 You must not use the Broadband Services:

- (a) in any way that does not comply with any licences applicable to you or is unlawful or fraudulent or has any unlawful purpose or effect or;
- (b) in connection with the carrying out of a fraud or criminal offence;
- (c) to disseminate or otherwise distribute, knowingly receive, upload, download, use or re-use, any information or material which is inappropriate, profane, abusive, indecent, defamatory, obscene or menacing, or in breach of any copyright, privacy or any other rights;
- (d) in any way which infringes any third party's intellectual property rights;
- (e) in a way that does not comply with our specific instructions.

4.10 We may require you to change your e-mail address and/or website address and we may suspend the Services if we reasonably believe that any URL or e-mail address you are using is likely to be offensive, abusive, defamatory or obscene or in breach of paragraph 4.9 and you will be responsible

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for any losses, expenses or other costs incurred by us that are caused by your breach of paragraphs 4.1 to 4.9.

4.11 The personal Web space provided with your account is limited to 1,000 hits per account per day. If your usage of the space is in excess of the limit we will suspend access to the Web space. We will contact you to request that you reduce your usage. Continued excessive use of our Web server resources may result in suspension or termination of the account. A hit means an image or html page downloaded at the request of an Internet user. Multiple graphical images on one Web page are deemed to be multiple hits.

4.12 The maximum size of a mailbox is 50MB or 2000 e-mails, whichever is reached first. If a mailbox reaches these thresholds, mail sent to that mailbox will bounce.

4.13 Downloads from the free Newsgroups (Usenet) service are restricted to a maximum of 10GB per user per month.

## 5. Additional mailboxes

5.1 You can create two additional password protected mailboxes when you have registered a free domain name, in the form alias@freedomain.co.uk. You can administer these mailboxes (delete, rename, forward, change passwords) using the My Account self-administration tool accessible from the Website. You may purchase further additional mailboxes at the rate advertised on the Website.

5.2 You may contact the support centre for help and advice about additional mailboxes. We will not be able to provide support to any user of an additional mailbox that is not the main account holder.

5.3 If your domain name is not active for any reason (e.g. it has been suspended, de-tagged or transferred to another host) any additional mailboxes you have set up will not function.

5.4 The maximum size of an additional mailbox is 20MB or 800 e-mails, whichever is reached first. If a mailbox reaches these thresholds, mail sent to that mailbox will bounce.

5.5 Usage of additional mailboxes is subject to these terms and conditions. You should ensure that any person using additional mailboxes on your account complies with these terms and conditions. You will be held responsible for any breach of these terms and conditions.

5.6 You may opt to forward mail sent to an additional mailbox address to another e-mail address of your choice. Once forwarding has been enabled the mailbox account can not be accessed to send or receive e-mail.

5.7 The contents of any additional mailbox that is not accessed for a period of 6 months may be deleted.

## 6. Payment

6.1 You will pay us the applicable charges for the Broadband Services to which you subscribed, as set out on the Website or as otherwise notified by us to you (the Fees). We reserve the right to change the Fees at any time on giving you not less than 28 days' notice. The changed fees will apply on expiry of this 28 day period unless you tell us in the meantime that you want to terminate this Agreement.

6.2 We will bill you each month in advance for the Fees applicable. For customers choosing to pay by credit/debit card, we will seek payment through your credit/debit card 7 days before the day on which the Fees are payable. If any instruction for such payment is not confirmed by the credit/debit card issuer by no later than 5 days prior to the start of the relevant calendar month, we may suspend the provision of the Broadband Services to you immediately without notice. For customers choosing to pay by Direct Debit, we will seek payment from your bank or building society on or after the day on which the Fees are payable. If any instruction for such payment is not confirmed by your bank/building

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society by the day on which the Fees are payable, we may suspend the provision of the Services to you immediately without notice.

6.3 If we suffer a chargeback (being a debit from our bank account or repayment by us as a result of a credit card transaction dispute procedure initiated by you) of any Fees (or part of them) paid by you to us, you will immediately repay us for the charged back sum and we may:

- (a) immediately without notice suspend the provision of the Broadband Services to you; and/or
- (b) charge interest on the charged back sum at a rate of 4% above the base rate of HSBC Bank plc until the sum is repaid to us.

6.4 You may be required to pay a re-connection charge at our rates in force at that time if you wish to be re-connected following a suspension of the Broadband Services resulting from paragraphs 6.2 and/or 6.3.

6.5 If it is necessary to install the Broadband Service on a different telephone line at any time, for example as a result of you moving house, you will be required to pay an administration charge of £55 (inc. VAT). This charge applies even if you keep the same telephone number.

6.6 If there is a change to the status of your telephone service that causes your Broadband Service to be cancelled, for example a change to the name of the account holder, you will be required to pay a reactivation fee of £55 (inc. VAT) to reconnect the Broadband Service.

6.7 The IC24 Broadband service comes with a 5GB Monthly Usage allowance. Any Monthly Usage that is registered by our systems above this allowance will be charged at 20p (inc. VAT) per 100MB (or part thereof). This charge will appear on your next monthly invoice.

## **7. Security and Confidentiality**

7.1 In order to enable you to use the Broadband Services, we will provide you with Security Details. You will be responsible for maintaining the confidentiality and security of the Security Details. Where the Security Details include a password that may be changed by you, you will change the password at frequent and regular intervals.

7.2 You will immediately notify us if any of the Security Details: (a) have been disclosed to an unauthorised person or are, or may be used in an unauthorised way (or if you suspect, or have reason to suspect that this may occur or have occurred); and/or (b) have been lost or stolen.

7.3 We may suspend your Security Details if at any time we think that there is, or is likely to be, a breach of security and require you to change any password.

7.4 You will be responsible for all actions undertaken by anyone else using the Security Details unless you have given notice to us at the first possible opportunity upon becoming aware of the events listed in paragraphs 7.2(a) or 7.2(b) above as the case may be. We may suspend the Broadband Services and you will fully indemnify us from all losses resulting from such actions.

7.5 You accept that the Broadband Services are not secure and we do not guarantee the prevention or detection of any unauthorised attempts to access the Broadband Services.

7.6 You agree to keep in confidence any information (whether written or oral) of a confidential nature (including software and manuals) obtained under or in connection with this Agreement and will only use such information in order to receive the Broadband Services.

## **8. Personal Data**

8.1 We will comply with our obligations under the Data Protection Act 1998 and any other applicable data protection legislation.

8.2 By registering for the Broadband Services you consent to our using and/or disclosing your personal information for certain administrative and credit-checking purposes. This may involve disclosing your

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personal information to third parties, but only to the extent necessary: to provide and operate the Broadband Services.

8.3 We may collect information about your tastes and preferences based on your use of the Services. The collection of this information may include the analysis of website traffic, including the use of cookies. We may use this information to inform you about new services, competitions or offers offered by us or carefully chosen third parties. If you do not wish to receive such details, you may be removed from our mailing list by going to <http://unsubscribe.ic24.net>

8.4 From time to time we will compile aggregate statistics about the Services and may share them with reputable third parties. These statistics will not contain information that would enable any third party to identify you personally.

8.5 Except as set above or as required by law, we will only use your personal information in accordance with our privacy policy (the "Privacy Policy"). A copy of our Privacy Policy can be viewed online at <http://www.ic24.net/termsandconditions/privacy.asp>.

## 9. Limitation of Liability

9.1 We will not be liable either in contract, tort (including negligence) or otherwise for any damages for any direct or indirect loss of profits, business or anticipated savings, nor for any indirect or consequential loss nor for any damage or destruction of data however arising from the use of or inability to use the Broadband Services or from any action or omission taken as a result of using the Broadband Services. Notwithstanding any other provision of these Terms and Conditions we do not exclude or limit any liability in respect of death or personal injury resulting from our negligence.

9.2 Our aggregate liability to you in contract, tort (including negligence) or otherwise and arising out of, or in connection with, this Agreement and/or the provision of the Broadband Services for each 6 month period (the first period starting on the date the Broadband Services is first provided to you) shall be limited to the amount of the Fees paid by you to us in respect of that 6 month period.

9.3 The information on the Website is updated from time to time. However, we exclude any warranties, conditions or terms (whether express, implied, statutory or otherwise), as to the quality, accuracy, efficacy, completeness, performance, fitness for a particular purpose of the Broadband Services or any of the contents of the Website.

9.4 You agree to indemnify us against all costs, claims, losses and expenses (including indirect and consequential losses) howsoever arising, from any claim brought against us by any third party relating to any breach by you of your obligations under these Terms and Conditions.

9.5 We will not be liable to you for any breach of any of our obligations under these Terms and Conditions or the Privacy Policy where the breach is caused by a 'force majeure' event which term shall include, but is not limited to, acts of God, insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions of local or central government, highway authority or other competent authority, industrial disputes of any kind (whether including us or not), fire, lightning, explosion, flood, subsidence, inclement weather, unavailability of third party telecommunications networks or any other cause beyond our reasonable control.

## 10. Termination and Suspension

10.1 This Agreement may be terminated without penalty at any time prior to our confirmation of the Commencement Date. If we have supplied you with any hardware, you must return it to us and (if applicable) we will refund you for any payment received from you for such hardware. Any hardware returned for a refund must be received in pristine and resalable condition, including all packaging, manuals, software and cables, as appropriate.

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10.2 After we have confirmed the Commencement Date this Agreement may be terminated in accordance with the terms set out in this Agreement and the cancellation provisions of the Consumer Protection (Distance Selling) Regulations 2000 (the "Distance Selling Regulations") will not apply to the Service.

10.3 We may terminate this Agreement at any time on notice if:

- (a) we are directed by any competent authority to cease the provision of the Broadband Services or any part of them;
- (b) you are in breach of any of these Terms and Conditions;
- (c) your contract with your telecoms provider for your direct analogue exchange line is terminated;
- (d) any licensed operator supporting the Broadband Services ceases to do so for whatever reason or changes the terms of its provision of telecommunications services beyond our reasonable control.

10.4 Unless otherwise specified in this Agreement, either you or we may terminate this Agreement on giving not less than 28 days' notice to the other; such notice not to expire before the end of the Minimum Period.

10.5 If you terminate this Agreement within the first 12 months after the Commencement Date:

- (a) you will be subject to payment of £55 (including VAT) if your Broadband Service is a new installation or £25 (including VAT) if we successfully migrated your Broadband Service from another ISP;
- (b) you will be subject to payment for any free or subsidised hardware that you ordered from us at the Recommended Retail Price of that hardware at that time you ordered it;
- (c) you will be subject to payment for any free promotional months of service you have received at the standard rate at the time you signed up for the service.

10.6 Upon termination you agree to cease using the Broadband Services immediately and to pay any monies owing (we will bill any outstanding payments promptly after termination). On termination your right to use the Services ceases immediately.

10.7 You may cancel an order for additional mailboxes at any time. The number of available additional mailboxes will automatically be reduced on the last day for which you have paid for those mailboxes. It is your responsibility to manage your additional mailboxes accordingly.

## 11. General

11.1 All intellectual property rights in or relating to the Broadband Services are the property of, or have been licensed to, us. You are only permitted to use these intellectual property rights as provided in these Terms and Conditions and in order to receive the Broadband Services. You will not use or allow anyone else to use any of our name, logo, trade mark or other intellectual property rights or that of any of the licensed operator involved in providing the Broadband Services without our prior written consent.

11.2 We may change the Terms and Conditions at any time by notice on the Website or e-mail prior to the change becoming effective. You will be deemed to have accepted any such changes by your continued use of the Broadband Services. Changes to fees are covered by paragraphs 6.1.

11.3 Notwithstanding any other rights that we may have in these Terms and Conditions, we reserve the right at any time (notwithstanding prior acceptance) to suspend, cancel, refuse to supply or terminate the provision of the Broadband Services wholly or partly without notice, and we shall not be liable for any loss suffered as a result of such suspension, cancellation, refusal or termination. If at the time we exercise our rights under this paragraph 11.3, you have paid us any Fees in advance, we will reimburse you pro rata for the proportion of these Fees that relate to the period after this date.

11.4 This Agreement constitutes the entire agreement between you and us in relation to the provision of the Broadband Services and supersedes any representations, communications and prior

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agreements (whether oral or written) related to the its subject matter other than fraudulent misrepresentation.

11.5 We may assign, sub-contract or otherwise deal with our rights or obligations under this Agreement without giving you any notice beforehand. You may not assign, sub-contract, sell or transfer your rights or obligations under this Agreement.

11.6 Any notice or communication required to be sent pursuant to these Terms and Conditions should be sent to us at IC24, 9-10 Grafton Street, London, W1S 4EN or to you at the address indicated in the online registration form.

11.7 If any provision of these Terms and Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Terms and Conditions, and the remainder of the provision in question, will not be affected.

11.8 Except as expressly stated in these Terms and Conditions, no person who is not a party to the Contract will derive any benefit from it, whether by virtue of the Contracts (Rights of Third Parties) Act 1999 or otherwise.

11.9 This Agreement will be governed and construed in accordance with the laws of England and Wales and you irrevocably submit to the exclusive jurisdiction of the English Courts.

## 12. Definitions

The following terms will have the following meanings:

"Agreement" means the agreement between you and us for the provision of the Broadband Services, comprising these Terms and Conditions and the Privacy Policy;

"Broadband Services" means the services through which you may gain high-speed access to the Internet via a telecommunications network together with the services and facilities provided by us in connection with such Internet access service, which may include the provision of an e-mail account, personal web space, etc as described on the Website at the date of your online registration;

"Commencement Date" means the date on which the Broadband Services are first provided to you or the date on which you request a change to an alternative Broadband Service provided by us;

"Security Details" means any and all usernames, passwords, keys, electronic signatures and any other devices or information in whatever form and on whatever media supplied to allow you to access the Broadband Services;

"Monthly Usage" is the aggregate of data uploads and downloads through your Broadband Service, normally taken from one invoice date to the next.

"We, Us and Our" means Brightview Group Limited (no. 04715534) having its registered office at 9-10 Grafton Street, London, W1S 4EN;

"Website" means our Internet site which can be found at <http://www.ic24.net>

"You, Your" means the person, company or organisation whose details are included on the registration form.