

Terms of Service

These Terms of Service ("TOS") constitute a binding agreement between Customer and Provider. By registering on our website (<https://xcall.com.ng>) and accepting the TOS, Customer is acknowledging that Customer has read, understood, and agreed with these TOS.

PLEASE REVIEW THESE TOS CAREFULLY. ONCE ACCEPTED, THESE TOS BECOME A BINDING LEGAL AGREEMENT BETWEEN YOU AND PROVIDER. IF YOU DO NOT AGREE TO BE BOUND BY THESE TOS, YOU SHOULD NOT CLICK THE "I ACCEPT" BUTTON AND YOU SHOULD NOT USE THE SERVICE.

1. Definitions

Provider: Refers to ICMS Technologies LTD., a registered Nigerian company.

Customer: Means any user of Services under these TOS, including Resellers and users associated to a Reseller. Any references to "you" are to Customer.

Reseller: Refers to a Customer that resells the Services under these TOS to third parties.

Credit Balance: Credits remaining in Customer Account, accessible through Customer Account dashboard.

Account Balance: Same as Credit Balance.

Usage Credits: Credits in Customer Account Balance.

Customer Account: A personal dashboard where all the critical data regarding Customer is kept, including the standard data, such as name, order data, order and transaction history, billing information, interaction information, credit information, and other information relevant to the Services under these TOS.

Reseller Account: Has the same meaning as Customer Account.

Services: Refers to any services rendered by Provider to Customer under these TOS.

Dormant Account: A customer account that has no successful customer-initiated transaction (ie, credit purchase or usage) for a continuous period of 12 months

(365 days) or more, and has been disabled or deactivated.

Customer Registration Form: Successfully submitted by Customer and received by Provider as request by Customer to receive Services from Provider.

DID: Direct Inward Dialing, refers to a feature offered by communications companies for use with their customers' PBX system, whereby a range of telephone numbers associated with one or more phone lines is allocated to Customers. DID allows a company to assign personal number (DID number), without requiring a separate physical phone line, for each, to connect to the PBX.

E164 Format: Refers to international telephone numbering plan that ensures proper routing of numbers between different countries. This is what allows phone calls and text messages being correctly routed to individual phones in different countries. E.164 numbers are formatted [+] [country code] [subscriber number including area code] and can have a maximum of fifteen digits.

Inbound CLI: Refers to Inbound Calling Line Identity, a method of identifying a business or an individual by their number of origin and, in some cases, the name of the person or organization that is associated with the number when placing inbound calls.

IPPBX: A system that connects telephone extensions to PSTN and provides internal communication for a business. An IP PBX is a PBX system with IP connectivity and may provide additional audio, video, or instant messaging communication utilizing the TCP/IP protocol stack.

Minimum Monthly Commitment: Minimum monthly payment required to be made by Customer to be eligible to receive Services under these TOS. The Minimum Monthly Commitment is linked to the account type that Customer wants to have with Provider under these TOS and is solely determined by Provider.

Monthly Usage: Monthly use of Services by Customer under these TOS.

Parties: Customer and Provider.

PBX System: Private Branch Exchange - a private telephone network used within a company or organization. PBXs offer key voice features that companies need to run daily operations. Such features include: extension dialing, business hour settings to route calls off hours, customer waiting queues, music on hold, and call conferencing that are often not available on residential telephone or cell phone services.

PSTN: Public Switched Telephone Network - the world's collection of interconnected voice-oriented public telephone networks, both commercial and government-owned.

SIP: Session Initiation Protocol - an application-layer control protocol that can establish, modify, and terminate multimedia sessions (conferences). A session is an exchange of data between an association of participants, such as internet telephony calls and video telephony.

SIP Channel: A SIP Channel is a line within the SIP trunk. More specifically, it is a virtual telephone line that is carried within the virtual trunk. It operates in much the same way the physical phone line does in the physical trunk of old. The number of SIP channels within a trunk determine how many simultaneous calls you can make or receive.

SIP Device: (Also known as VoIP phones) - IP telephones that enable the internet service provider to integrate basic phone capabilities with web, email, online chat and more through IP network. This device uses the SIP protocol to set up and manage phone calls. Can be a physical device or a software application that processes calls.

SIP Endpoint: A device that places or receives calls via Customer and Provider connection with Customer equipment.

SIP URI Scheme: The Uniform Resource Identifier (URI) scheme for SIP multimedia communications protocol. SIP address is URI that addresses specific telephone extension on VoIP system. This can be a PBX or an E.164 telephone number dialed through a specific gateway.

Sub-40% ASR: The Answer-Seizure Ratio (ASR) - a measurement of network quality and call success rates in telecommunications. Represents a percentage of answered telephone calls with respect to the total call volume. "Sub-40%" refers to under 40 percent answered calls.

Sub-60s ACD: An Automatic Call Distributor (ACD) - a telephone facility that manages incoming calls and handles them based on the number called and an associated database of handling instructions.

Taxes: Means all federal, state and local taxes, fees, charges, carrier surcharges or other similar exactions, imposed on or with respect to the Services under these TOS, whether these taxes are imposed directly on Customer or Provider, including, but not limited to, sales and use taxes, utility user's

fees, excise taxes, value added tax (VAT), any other business and occupations taxes, as well as any penalties and interest assessed and accrued due to Customer failure to pay or late payment of taxes.

TOS: These Terms of Service between Provider and Customer, including any updates, amendments or modifications. **Unused Balance:** Positive balance of Customer Account Balance, minus the Minimum Monthly Commitment and any incurred fees for the Services already rendered by Provider under these TOS.

Website: Provider website at: <https://xcall.com.ng>.

VoIP: Voice over Internet Protocol - the use of the internet as the transmission medium for telephone calls by sending voice data using IP.

2. Services

2.1. Provider agrees to render the Services and Customer agrees to purchase the Services under these TOS.

3. Eligibility for Services

3.1.1. To register on our website, receive the Services under these TOS, or accept any promotions, discounts, free-trials and other similar offers, Customer must meet the following pre-requisites:

3.1.2. **Acceptance:** Customer must accept the TOS to be eligible for Services under these TOS.

3.1.3. **Compliance:** Customer must comply with the TOS to be eligible for Services under these TOS.

3.1.4. **Identification - Verification:** Pursuant to the applicable anti-money laundering and terrorism-related laws in various countries, Customer is required to pass a verification process by Provider, which may include Provider request of several forms of identification confirmations.

3.1.5. **Payment:** Customer must comply with payment terms in these TOS to be eligible for Services under these TOS.

3.1.6. Customer must accept this TOS by either selecting the "I Accept" button provided during online registration or by submitting a signed copy of this TOS to Provider. Either method is deemed a willful and binding agreement to these TOS.

4. Fees and Payments

4.1. Customer agrees to pay Provider for the Services rendered under these TOS.

4.2. Minimum Monthly Commitment: Customer agrees herewith to the Minimum Monthly Commitment corresponding to Customer selected level of Services under these TOS and solely determined by provider from time to time.

4.3. Pre-Payment. All Services under these TOS must be pre-paid by Customer.

4.4. It is the sole responsibility of Customer to ensure sufficient positive balance remains on Customer Account for uninterrupted Services under these TOS.

4.5. Credit shall only be added to Customer Account upon confirmation of cleared funds in Provider's bank account.

4.6. Should Customer Account balance reach zero, Provider will suspend the Services under these TOS.

4.7. Rate Changes. Provider may at any time increase or decrease the rates for the services under these TOS, but shall give Customer a reasonable notice in advance of such change. Written notice given in 3 days before the date of proposed changes shall be considered a reasonable notice.

4.8. Provider only renders Services when Customer Account Balance is positive, and the Services are pre-paid. No overdrafts are allowed.

4.9. Taxes: Customer is responsible for and shall pay all taxes, if applicable, with respect to the Services under these TOS.

4.10. If Customer qualifies for an exemption from any taxes, Customer shall submit to Provider with a properly completed, executed, signed and dated valid exemption certificate, as the case may be. Once the provided exemption certificate has been reviewed and approved, Provider will exempt Customer from relevant taxes on a going-forward basis. If, for any reason an applicable tax

authority determines that Customer is not exempt from those taxes and assesses those taxes, Customer agrees to pay Provider those taxes, plus any applicable interest or penalties.

4.11. Fee Disputes: Customer must notify Provider in writing if Customer disputes any portion of any fees or bills paid or payable by Customer under these TOS. Customer must provide an advance written notice to Provider within thirty (30) days of the applicable charge and Provider will work together with Customer to resolve the ensuing dispute as soon as practicably possible. If Customer does not provide Provider with required advance written notice of Customer fee dispute within this 30-day period, Customer will not be entitled to dispute any fees or bills paid or payable by Customer to Provider.

5. Billing, Credit Validity & Account Status

5.1. Usage credits are valid for 12 months (365 days) from the date of customer's last successful transaction activity (ie, credit purchase). Unused credit balance shall expire at the end of the validity period and shall no longer be available for use by Customer.

5.2. A Customer Account may be deemed dormant if no successful customer-initiated activity (purchase or usage) has occurred in a continuous period of 12 months (365 days) or more. accounts shall be disabled and may not be accessible to Customer. A dormant account may be deactivated and become inaccessible to or unavailable for use by Customer.

5.3. Customer's account balance is not redeemable in cash, and is not transferable to, or interchangeable with credit of another service/product or Customer under any circumstances.

5.4. If a credit/debit card dispute or charge-back occurs on Customer Account, Provider reserves the right to stop the Services under these TOS with no refund provided.

6. Customer Account

6.1. To access and use the Services, Customer must create a Customer Account on the Website. Customer shall provide accurate, complete, and current information and, as applicable, is solely responsible for timely updating the same in Customer Account.

6.2. Customer is solely responsible for the activity that occurs on its Customer Account (which includes sub-accounts), including via Customer Application, and for keeping its Customer Account password secure. Provider is not liable for losses caused by any unauthorized use of Customer Account.

6.3. Upon termination of these TOS, Provider may retain Customer data, as reasonably necessary for compliance with the applicable laws and any other applicable regulatory requirements.

7. Intellectual Property

7.1. All intellectual property rights owned by one party shall remain vested in such party, and for clarity, and avoidance of doubt:

7.2. All rights of any nature, trade name, documents, drawings and information including any access codes provided to Customer, and information in Provider database accessed by Customer or Reseller remain vested in Provider.

7.3. Information provided to Customer by Provider pursuant to these TOS, pertaining to the Reseller customers is the property of Customer for the purposes of these TOS.

7.4. Customer shall not use Providers name, trademarks, or copyrights in any way that implies any approval or connection with the Services or products offered by Customer subject to these TOS.

7.5. Any right to use the Services, and/or any software related to the Services under these TOS, granted by Provider to Customer will only be perceived as a personal, limited, non-exclusive and non-transferable licence of use by Provider of the services, and/or any software related to the services, for the designated purpose only.

8. Confidentiality

8.1. All confidential information, including, but not limited to, any business, technical, financial, and Customer information, disclosed by one party to the other during negotiation or the effective term of these TOS which is marked "Confidential", will remain the sole property of the disclosing party, and each party will keep in confidence and not use or disclose such proprietary information of the other party without express written permission of the disclosing party.

9. Customer Logo

9.1. Provider may use Customer logo, as well as Customer brand name ("Marks") for commercial and marketing purposes for the duration of the Services under these TOS, as long as such commercial and marketing activities relate to the Services under these TOS.

9.2. Customer herewith agrees to collaborate with Provider, if requested by Provider, in the development of joint marketing materials.

10. Relationship of Parties

10.1. Nothing in these TOS is intended or meant, nor shall it be construed or interpreted to constitute an employer-employee relationship or a partnership, agency, joint venture, or franchise between Provider and Customer.

11. Indemnification

11.1. Customer will defend, indemnify and hold Provider harmless against any actual or threatened claim, loss, liability, proceeding, third-party discovery demand, governmental investigation or enforcement action resulting from or relating to Customer's activities under these TOS. This includes actions taken or misinformation provided pursuant to Customer Application and any violation of these TOS.

11.2. Provider will cooperate as reasonably required, in defense of any claim against Customer, at Customer's expense.

11.3. Customer will pay all costs, reasonable attorney's fees, any settlements or damages awarded against Provider in connection with any claim made against Customer or Provider.

11.4. Customer will pay all costs, reasonable attorney's fees, any settlements or damages awarded against Provider in connection with Provider's right to enforce this clause.

11.5. Customer shall be solely responsible, bear all costs (including reasonable legal costs) and will hold Provider harmless, if Customer breaches the jurisdiction restrictions under these TOS.

11.6. If a court decides that any provision of these TOS is not enforceable or valid, then the entire section will be null and void but, the remaining TOS will still apply, and the remaining sections will be unaffected.

12. Force Majeure

12.1. No failure, delay or default in performance of any obligation of Provider or Customer shall constitute an event of default or breach of these TOS to the extent that such failure to perform, delay or default arises out of a cause, existing or future, that is beyond the control and without negligence of Provider or Customer, including action or inaction of governmental, civil or military authority; fire; strike, lockout or other labor dispute; flood, terrorist act; war; riot; theft; earthquake and other natural disaster. Provider or Customer affected by such cause shall take all reasonable actions to minimize the consequences of any such cause.

13. Limitation of Liability and Exclusion of Damages

13.1. TO THE EXTENT FULLY POSSIBLE UNDER THE APPLICABLE LAW AND EXCEPT AS OTHERWISE STATED IN THESE TOS, PROVIDER WILL UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, BE LIABLE TO CUSTOMER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY CHARACTER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, LOST PROFITS, LOST SALES OR BUSINESS, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, LOST DATA, OR FOR ANY AND ALL OTHER DAMAGES OR LOSSES, EVEN IF PROVIDER HAD BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT AS DESCRIBED HEREIN, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, WILL PROVIDER BE LIABLE TO CUSTOMER FOR ANY DIRECT DAMAGES, COSTS OR LIABILITIES IN EXCESS OF THE AMOUNTS PAID BY CUSTOMER DURING THE TWELVE (12) MONTHS PRECEDING THE INCIDENT OR CLAIM.

13.2. THE PROVISIONS OF THIS SECTION ALLOCATE THE RISKS UNDER THIS TOS BETWEEN PROVIDER AND CUSTOMER, AND PROVIDER AND CUSTOMER HAVE RELIED ON THE LIMITATIONS SET FORTH HEREIN IN DETERMINING WHETHER TO ENTER INTO THIS TOS.

13.3. PROVIDER WILL NOT BE LIABLE TO CUSTOMER OR OTHER PARTY FOR PUNITIVE, SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR OTHER SIMILAR DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES OR COSTS INCURRED AS RESULT OF LOSS OF TIME, LOSS OF DATA, LOSS OF PROFITS OR REVENUE, OR LOSS OF USE OF EQUIPMENT OR

SOFTWARE. IN ADDITION, PROVIDER IS NOT RESPONSIBLE OR LIABLE FOR DAMAGES OR COSTS IN CONNECTION WITH OBTAINING SUBSTITUTE EQUIPMENT OR SOFTWARE, CLAIMS BY OTHERS, INCONVENIENCE OR SIMILAR COSTS.

13.4. PROVIDER DOES NOT ASSUME ANY LIABILITY FOR ANY NON-COMPLIANCE BY CUSTOMER WITH ANY LOCAL AND GLOBAL RULES AND REGULATIONS.

13.5. PROVIDERS SERVICES ARE NOT INTENDED TO SUPPORT OR CARRY EMERGENCY CALLS OR SMS MESSAGES TO ANY EMERGENCY SERVICES. PROVIDER WILL NOT BE LIABLE UNDER ANY LEGAL OR EQUITABLE THEORY FOR ANY CLAIM, DAMAGE, OR LOSS (AND CUSTOMER WILL HOLD PROVIDER HARMLESS AGAINST ANY AND ALL SUCH CLAIMS) ARISING FROM OR RELATING TO THE INABILITY TO USE PROVIDER SERVICES TO CONTACT EMERGENCY SERVICES.

13.6. PROVIDER DOES NOT OFFER ANY WARRANTIES WITH RESPECT TO THE SERVICES UNDER THESE TOS.

14. Acceptable Use Policy

14.1. Provider reserves the right to strictly enforce these TOS by, without limitation, issuing warnings, suspending, or terminating the service, refusing to transmit, removing, screening, or editing the service parameters prior to delivery or actively investigating violations and prosecuting them in any court or appropriate authority. Provider may block access to certain parts of the service if, in Providers sole discretion, Provider is experiencing excessive billing, collection, fraud problems or other misuse of Providers' service. Provider may review, report on, and disclose transaction information about Customer use of Provider system, and any relevant information transmitted by Customer via Provider system, to the extent permitted by law, in order to comply with the law, to enforce or apply these TOS, to protect Provider rights or property, or to protect other Customers from fraudulent, abusive, or unlawful use of the service.

14.2. Customer agrees to not use and not encourage or allow the use of Services in the following prohibited ways:

14.2.1. Using the Provides Services to encourage any illegal, fraudulent, abusive, or other activities that materially interfere with the business or activities of Provider.

14.2.2. Attempting to bypass or break any security mechanism on any of Provider Services or using Provider Services in any other manner that poses a material security or service risk to Provider or any of its other customers.

14.2.3. Reverse-engineering Provider Services in order to find limitations, vulnerabilities, or evade filtering capabilities.

14.2.4. Launching or facilitating, whether intentionally or unintentionally, a denial of service attack on any of Provider Services or any other conduct that materially and adversely impacts the availability, reliability, or stability of Provider Services.

14.2.5. Transmitting any material that contains viruses, Trojan horses, spyware, worms or any other malicious, harmful, or deleterious programs.

14.2.6. Using Provider Services in any manner that causes a telecommunications Provider to complain about Customer use to Provider or materially violates the industry standards or government regulatory policies.

14.2.7. Engaging in any unsolicited advertising, marketing or other activities prohibited by applicable law or regulation covering anti-spam, data protection, or privacy legislation in any applicable jurisdiction.

14.2.8. Using Provider Services in connection with unwanted, or harassing communications (commercial or otherwise), including, but not limited to, phone calls, SMS or MMS messages, chat, voice mail, video, or faxes.

14.2.9. Using Provider Services to harvest or otherwise collect information about individuals, including email addresses or phone numbers, without their explicit consent or under false pretenses.

14.2.10. Using Provider Services to engage in, or in connection with fraudulent activity.

14.2.11. Violating or facilitating the violation of any local, state, federal, or foreign law or regulation, including, but not limited to, laws and regulations regarding the transmission of data or software and recording of phone calls and communications.

14.2.12. Using Provider Services to record or monitor a phone call or other communication without securing consent from the participants to the phone call or other communication as required under applicable law.

14.2.13. Using Provider Services in a manner that triggers a law enforcement, government, or regulatory agency to request the suspension of Provider Services to Customer and/or Customer phone numbers.

14.2.14. Using Provider Services to transmit any material that infringes the intellectual property rights or other rights of third parties.

14.2.18. Using Provider Services to transmit any material that is, facilitates, or encourages libelous, defamatory, discriminatory, or otherwise malicious or harmful speech or acts to any person or entity, including but not limited to hate speech, and any other material that Provider reasonably believes degrades, intimidates, incites violence against, or encourages prejudicial action against anyone based on age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, geographic location or other protected category.

14.2.19. Using Provider Services to transmit any material or content that is offensive, inappropriate, pornographic, obscene, illegal, or otherwise objectionable to any person or entity.

14.2.20. Creating a false identity or forged email address or header, or phone number, or otherwise attempting to mislead others as to the identity of the sender or the origin of a message or phone call.

14.20. Having a high volume of unanswered phone calls or phone calls that are too short in duration (i.e., phone calls generally less than twelve (12) seconds in length).

15. Service Restrictions

15.1. Calls Resulting from unauthorized access to Customer account or IPPBX: Customer is fully responsible for all calls made using the SIP account credentials, including unauthorized calls made by third parties.

15.2. Inbound CLI: By signing up, Customer agrees to receive Caller ID information as received from the DID vendor. CLI service is offered on a best-effort-basis.

16. Prohibited Use and Account Termination

16.1. At its sole discretion and at any time, without prior notice, Provider reserves the right to deny

(i) any registration to the Service by any Customer or

(ii) the Services performed under these TOS to any Customer if Provider

determines that the Customer failed to comply with these TOS, including, but not limited in the event of fraud, unauthorized assignment or transfer of the service provided by Provider, not a bona fide Customer, and any other similar violations.

17. Suspension of Services

17.1. Provider may, at its sole discretion and without prejudice to any rights terminate or suspend the Services under these TOS until further notice in the event that:

17.1.1. Undisputed amounts remain unpaid after the due date of the invoice despite one or more reminders sent by Provider;

17.1.2. Provider is obligated to comply with an order, instruction or request of a court, government, agency, emergency service organization or other competent administrative or regulatory authority;

17.1.3. Provider has reasonable grounds to believe that the Services under these TOS are being used fraudulently or illegally; or

17.1.4. Customer uses the Services under these TOS in violation of these TOS.

17.2. In the event that Provider suspends the Services under these TOS, Provider shall, whenever reasonably practical, give an advance notice of any suspension of Services under these TOS to Customer. Provider shall in such circumstances use all reasonable best efforts to resume the Services under these TOS as soon as practical.

17.3. Provider shall not be liable for any loss, damage or inconvenience suffered by Customer as a result of any suspension of Services under these TOS. In no event will Customer be entitled to any compensation should any suspension occur.

18. Ownership

18.1. Provider endeavors to provide the Customer with network service and service numbers, but notwithstanding this, Provider is not obliged to supply service numbers requested by the Customer. Any service number provided by Provider to the Customer will always remain the property of Provider. Provider may also change numbers supplied to the Customer if this is required for regulatory, statutory or legal reasons, and in such instance shall notify the Customer as soon as is reasonably practical.

19. TOS Changes

19.1. Provider reserves its right to modify these TOS from time to time. Such modifications shall become effective on the date the TOS are posted on Provider Website at: <https://xcall.com.ng/terms-of-service.pdf>.

19.2. It is Customer's responsibility to monitor Provider Website on a regular basis for any changes or updates to these TOS. The use of the Services by Customer after these TOS, as well as any updates, changes or modifications are posted on Provider Website, as the case may be, constitutes Customer's acceptance of the TOS then in effect.

19.3. Provider will do its best to notify Customer about the TOS changes. However, Provider does not assume any responsibility to notify Customer about the TOS Changes, other than for timely posting of any such TOS Changes on Provider Website.

20. Electronic Signatures and Binding Agreements

20.1. Customer hereby agrees to the use of electronic communication in order to enter into contracts, place orders and other records and to the electronic delivery of notices, policies and records of transactions initiated or completed through the Website.

20.2. Customer waives any rights or requirements under any laws or regulations in any jurisdiction which require an original (non-electronic) signature or delivery or retention of non-electronic records, to the extent permitted under applicable law.

20.3. Restrictions to this clause: If Customer is residing in a jurisdiction where it is forbidden by law to offer or use internet telephone, Customer should not accept these TOS. By entering into these TOS, Customer explicitly represents that Customer has verified in Customer's own jurisdiction that the use of internet telephone is allowed.

21. Entire Agreement

These TOS, as amended from time to time, including any and all documents, websites, rules, terms and policies referenced herein, constitute the entire agreement between Provider and Customer with respect to the matters referred to in these TOS and supersede all prior and contemporaneous agreements and understandings, whether electronic, oral or written, between Provider and Customer with respect to such matters.

22. Assignment

Provider may at any time assign provider rights and obligations under these TOS, in whole or in part, without notice to Customer. Customer may not assign these TOS without prior, written consent from Provider. These TOS will inure to the benefit of and bind Customer and Provider and respective personal and legal representatives, successors and permitted assignees.

23. Governing Laws

These TOS shall be construed, interpreted, and enforced in accordance with the laws of Nigeria.