

GENERAL TERMS AND CONDITIONS OF NEXCOM BULGARIA EAD

Regulating the relations with the users of the service access to voice telephone service through the carrier selection service

Agreed with Resolution of the Commission on Regulation of Communications

№ 1850/03.10.2005

I. GENERAL TERMS AND CONDITIONS

1. These General Terms and Conditions regulate the relations between NEXCOM BULGARIA EAD /hereinafter referred to as NEXCOM/, with registered office and principal place of business: Sofia, 75 Krum Popov St., et.4, holder of an individual license №116Б-02667/15.10.2004, for carrying out of telecommunications through the public telecommunications network for providing the service access to voice telephone service through the service choice of operator in the territory of the Republic of Bulgaria, and end users of the mentioned service /hereinafter referred to as the USERS/.
2. The Users can be natural or legal persons who use or stated their wish to use the service access to voice telephone service through the service choice of operator /the Service/.
3. These General Terms And Conditions are obligatory for NEXCOM and the USERS.
4. The General Terms And Conditions are obligatory for the Users from the moment of their adopting. The adopting of these General Terms And Conditions by the Users shall be done by entering into an individual contract. Those Users that do not enter into express individual contract, shall be deemed notified of these General Terms And Conditions since the date of their publication pursuant cl.55, and the Users shall be deemed to have accepted those General Terms And Conditions from the moment they have started using the service.
5. The Users shall be liable for complying with the General Terms And Conditions and by all third parties using the service, and these third parties shall agree to comply with these General Terms And Conditions with the very fact of using the service.

II. SERVICES PROVIDED BY NEXCOM. INDIVIDUAL CONTRACTS

6. Through its public telecommunications network, NEXCOM shall provide to the Users 24 hours, 7 days a week, except in cases of force majeure, the service access to voice telephone service through the service choice of operator.
- 6.1. Access to voice telephone service through the service choice of operator is a public telecommunications network for direct transmission of voice real time through public fixed telecommunications network using commutation and/or routing, notwithstanding the technology used for transmission, and with certain quality stated in these General Terms And Conditions. Provided with the service is an option for the choice of operator of the transmission media in effecting inter-town and international calls, through inputting of a code for choice of an operator in front of the sought number 01010 of on subscription basis.
- 6.2. The service may be provided also as prepaid service /by purchase of a prepaid package and paying the price of the service before its use/ and post-paid service /by signing of an individual written contract and paying of the service after its use/ under the conditions provided for in these General Terms And Conditions.

7. Considering changes in legislation and contracts for connection entered with other operators, the scope and way of providing the services may expand, and NEXCOM shall immediately notify the Users of that.

8. In order to use the service, the User must satisfy the following conditions:

- to have signed and to have an effective contract with another public telecommunications operator for use of fixed voice telephone service provided with the use of individual limited recourse the number;
- to have functioning number pursuant to the contract, cl.1;
- the contract with the operator as per cl.1 /incl. subscription plan/ and the type of the used technology /analogue, digital/ to allow the use of the service pursuant to the requirements of the effective legislation and the signed contract for connection between NEXCOM and the operator as per cl.1.

9. NEXCOM shall provide to the Users the opportunity to use the service after signing of an individual written contract, purchase of prepaid package for the use of the service or another way publicly announced by NEXCOM.

10. NEXCOM may sign with the User an individual written contract. This contract shall become effective as of the date of its signing by the parties unless otherwise provided in it.

10.1. The contract as per cl.10 shall be effective for unlimited term unless otherwise provided in it. The term of a term contract shall start as of the date of activation of the service.

10.2. In case of signing a contract as per cl.10, the respective User shall indicate to NEXCOM its individual data required by latter, as well as provide, if required, document supporting those data. In case of change in those data, the User shall immediately notify NEXCOM, no later than 7 days after the change.

10.3. NEXCOM shall have the right to authorize third parties to enter into contract on its behalf and at its expense, as well as to carry out activities for execution of its rights and/or execution of its obligations under the respective contracts.

10.4. NEXCOM shall have the right to refuse to enter into a contract with a certain party, in case the latter:

- does not provide individual data as required by NEXCOM;
- does not provide to NEXCOM a required document supporting the individual data;
- is in default of its obligation as per another contract with NEXCOM;
- is not eligible pursuant to the conditions for use of the services as per cl.8.

10.5. The User shall have the right to transfer its rights and obligations under the contract with NEXCOM to third parties, without the prior written consent of NEXCOM.

11. NEXCOM shall provide an opportunity to use the service by purchase of prepaid packet of services.

11.1. At the purchase of prepaid packet of services, for the parties emerge the obligations under these General Terms and Conditions after the payment of the prepaid package of services /in case of bank payment the payment shall be deemed effected after the crediting of the bank account of NEXCOM and the acceptance of these General Terms and Conditions by the User as per cl.4.

III. QUALITY OF PROVIDED SERVICES

12. NEXCOM shall provide the service, allowing transfer of voice with the following quality:

- factor for evaluation of the transfer of voice /R factor/ - no less than 7 5;
- one-way delay no longer than 150 milliseconds.

13. In case of signed written contract, NEXCOM shall activate the service within 90 calendar days of the later of the two dates: the signing of the individual contract with the User or the payment of the price for initial activation of the service. The activation of the service shall be proved by signing of an activation report.

13.1. In case of purchase of prepaid package, the service shall be activated immediately under the conditions of art.11.1.

14. NEXCOM shall provide the service in such a way as to provide quality of service pursuant to the characteristics provided for in cl.1, as per the normative documents and the Individual license, as follows:

- time for fixing failures no later than 24 hours;
- percentage of failed calls no more than 0,5%;
- connection time no more than 30 seconds;
- percentage of claims regarding the correctness of bills 0,3% of 1000 issued bills.

14.1. NEXCOM shall fix the failures causing worsening of the quality of the service, no later than 24 hours of receiving a written notification of the User, electronic or after a call to the telephones for contact, indicated in cl.24.4.

14.2. In case of failures that resulted due to causes beyond the NEXCOMs control and/or force majeure, the term for fixing the failure shall start from the termination of the circumstance.

IV. PRICES, CHARGING AND PAYMENT

15. The prices of services shall be fixed by NEXCOM pursuant to the Telecommunications Act.

16. NEXCOM shall place Tariff for Prices of Provided Services /the Tariff/ on its web site (<http://www.nexcom.bg>) and provide it to the Users free of charge in all of its offices. In case of change in the prices in the Tariff, it shall be published no later than 7 days prior the effective date of the changes. The changed prices shall be applied to the Users as of their effective date.

17. The prices as per cl.15 shall be specified under the conditions of equality of users, and NEXCOM shall have the right to specify different prices and discounts on the grounds of technology, class of the User, volume of use of service, joint voluntary use of two or more services chosen by the User or supplementing each other, and joint purchase of package of service/s/.

18. The prices as per cl.15 shall be:

- price for initial activation of the service paid is a lump sum at entering into the services contract, and in case of bank payment the payment shall be deemed effected after the crediting of the bank account of NEXCOM;
- monthly subscription price paid is by the User each month;
- price for held conversations; as well as
- other prices for use of the respective services provided by NEXCOM, as price for consultations and work on projects, price for additional services chosen by the User etc.

19. NEXCOM shall issue and send to the User a proforma invoice for the obligatory payments, by fax or e-mail, no later than 5th of the month following the month of use, in case the User does not have a fax or an e-mail and has declared that before NEXCOM, the proforma invoice shall be sent by mail.

19.1. The not sending and/or not receiving of proforma invoice or tax invoice, shall not free the User of its obligation to pay the amounts due within the terms due.

19.2. No later than 15th of the month, the User shall pay the price of all calls made and the monthly subscription fee for the previous month.

20. In case of purchase of prepaid package of services, the User shall prepay a price for conversations held, not paying a monthly subscription fee.

21. The prices for the provided services shall be paid:

- in cash in the offices of NEXCOM or to persons indicated by NEXCOM, stated in the individual contract;
- to the bank account of NEXCOM stated in the individual contract or publicly announced. All commission fees, fees and other expenses related to the bank transfer, shall be at the expense of the User.

22. The charging of calls shall start when the opposite side answers the call.

22.1. Phone calls which are not answered, shall not be charged, including those when the line is busy.

22.2. The charging shall be done pursuant to the effective tariffs of NEXCOM depending on the type of call, destination, duration, tariff zone for distance and the time of the call, as set in the Tariff or prices of services, VAT included.

23. NEXCOM shall keep for 6 months and provide, if requested by the respective User, detailed information on the used telecommunication services, and till the expiration of the above term, shall keep records of the readings of the charging system.

V. MAIN RIGHTS AND OBLIGATIONS OF NEXCOM 24. NEXCOM shall provide the service in compliance with the effective legislation of the Republic of Bulgaria, Individual License as per cl.1, signed individual contracts with Users and these General Terms and Conditions.

24.1. NEXCOM shall carry out continuous monitoring of the process of providing the service, and in case of technical problems it should make everything possible for repair of failures within the terms of these General Terms and Conditions.

24.2. NEXCOM shall have the right to receive all amounts due by the Users for the provided services.

24.3. If necessary to hold planned or occasional preventive inspections or repair of its network, as well as if necessary to carry out activities for the development of the network, NEXCOM may suspend the providing of the service. In such cases, NEXCOM shall appropriately /by the e-mail and by posting on its website/ notify those Users affected by the planned preventive inspections, repairs or activities for expanding of its network, when it is expected those events to cause suspension or worsening of the quality of the respective service. The notification shall be done no later than 24 hours prior the holding of the respective events, and shall contain information of the period of suspension or worsening of the quality of the service.

24.4. NEXCOM shall maintain publicly declared addresses and telephones for contact with the Users for providing of information on matters regarding the use of the service.

24.5. NEXCOM shall provide 24-hour technical maintenance of the service with duty operators.

24.6. NEXCOM shall provide in all of its offices, free of charge, copies of the General Terms and Conditions to Users.

24.7. NEXCOM shall not have the right to create advantages for certain Users or group of them, regarding the same service, in case there are equal other conditions regarding the type of used technology, categories of subscribers and volume of traffic.

24.8. NEXCOM shall provide, if so requested by the User, information regarding the conditions for use of the service.

VI. MAIN RIGHTS AND OBLIGATIONS OF USERS

25. The Users shall have the right to use the service in compliance with the effective legislation of the Republic of Bulgaria, the signed individual contracts with Users and these General Terms and Conditions.

25.1. In the use of the service, the Users shall comply with the effective legislation of the Republic of Bulgaria and the accepted rules of moral, as well as respect the rights and freedoms of citizens.

25.2. The Users shall have the right to require of NEXCOM information regarding the conditions for use of the service provided by the latter.

25.3. The Users shall have the right to notify NEXCOM of any established problems related to the use of the service.

25.4. The Users shall be able to use end telecommunication devices purchased or rented from NEXCOM or from third persons.

25.5. The Users shall pay the amounts due for use of the service in time and in ways specified in these Terms and Conditions and the signed individual contract /if any/ .

25.6. The Users shall not have the right to transfer, against payment, the service to third parties without the prior written agreement of NEXCOM.

25.7. The Users shall provide cooperation and technical possibility to NEXCOM to provide the service during the term of the contract.

25.8. The Users shall provide the presence of the conditions for use of the service as per cl.8 during the use of the service.

26. The Users shall, in using the service provided by NEXCOM, not violate any property or non-property rights and legal interests of third parties.

27. The Users shall, in using the service, not transmit any messages containing threat to the physical integrity and bodily inviolability of individuals, damaging to the reputation of another or calling to violent change of constitutionally established order, to committing a crime, to violence on the individual or to stirring racial, national, ethnic or racial hate. Users shall, in the use of the service, not transmit any false messages for accidents, natural disasters, fire, terrorist acts, need of medical help, etc.

VII. CLAIMS, PETITIONS AND SUGGESTIONS. DISPUTES

28. Each User shall have the right to claims, petitions and suggestions to NEXCOM, related to the provided service.

28.1. NEXCOM shall answer all claims, petitions and suggestions sent by Users, within one month of their receiving.

28.2. NEXCOM shall keep registers of the received claims, petitions and suggestions by Users, as well as of their answers. The information for each specific case shall be kept in the registers for no less than 24 months.

28.3. The challenging of an amount due by a User shall not release the latter from its obligation to pay it. In case of decision of a competent body becoming effective, satisfying the claim, the paid but undue part of the amount shall be re funded to the payer.

29. The Users may address claims to the Commission on Regulation of Communications, regarding non-compliance with the conditions of the license issued to NEXCOM and these General Terms and Conditions.

VIII. TERMINATION OF CONTRACTS. STOPPING THE PROVISION OF THE SERVICE

30. The contract between the parties shall be terminated in the following cases:

1. In case of termination of one of the parties or death of User natural person;
2. In case, with a normative act of the respective state authorities, is prohibited the providing of the service or part of it;
3. By mutual agreement of the parties;
4. After expiration of the contract, unless it is automatically extended.

31. In case of contract signed between the parties for a certain term /initial term/, the contract may be terminated unilaterally by any of the parties, prior the expiration of the initial term, with 30-day written notice, unless otherwise agreed in the individual contract between the parties.

32. In case of contract signed between the parties for a certain term, after the expiration of the initial term of the contract it shall continue to be effective for a new term equal to the initial term, in case none of the parties used its right as per cl31 herein. The rule as per the previous sentence shall be applied after the expiration of each next term of the contract, respectively.

33. After the expiration of the initial term of the contract, as well as in case of signed contract of an unlimited term, the contract may be terminated unilaterally by each party with 30-day notice.

34. NEXCOM shall have the right to unilaterally terminate the contract with 7-day written notice, in case the User has not paid the payments due, within 15 calendar days as of the date the amounts become due.

35. NEXCOM shall have the right to unilaterally terminate the contract with 10-day written notice, in case the User is in default of another of its contractual obligations. The termination of the contract shall become effective with the expiration of the term of the notice, in case the default and its damaging results were not repaired.

36. NEXCOM shall have the right to terminate, without notice, a written contract with a User in the following cases:

1. in case the User has stated untrue individual data;
2. in case of pending bankruptcy procedure on the User;
3. in case of systematic default /at least three cases of default/ by the User of a contractual obligation of its, in case it has been notified in writing by NEXCOM of these three cases of default of the respective obligation.

37. The User shall have the right to unilaterally terminate the contract by sending a 7-day written notice in case NEXCOM does not provide the agreed service, through its fault, for 5 consecutive days.

38. The User shall have the right to terminate its contract with NEXCOM in case of major default of the obligations of the latter, and the term of the notice of termination shall be 10 days.

IX. LIABILITY. COMPENSATIONS AND PENALTIES

39. NEXCOM and Users shall have civil liability for guiltily caused damages result of illegal behavior of the respective party during or regarding the provision or use of the service.

40. In case of delay of the User related to payment of due amount as per the individual contract, penalties shall be due amounting to 0.1% /zero point one/ of the amount due for each day overdue, which shall be automatically added after the 25 of the month in which the amount has become due.

41. The parties shall not be liable for default in executing their obligations in case of force majeure circumstances for as long as the force majeure or accidental event continues .

41.1. Force majeure shall be each event of irresistible force or accidental event, that represent circumstances of irresistible nature that could not be anticipated at the moment of signing of the contract between the parties.

41.2. A party to the contract which is under force majeure circumstances, shall immediately notify the other party of those circumstances and the limitations caused by them.

41.3. In case the force majeure continues for more than 14 days, and one of the parties loses interest in the contract, it may ask for termination of the contract. In such case the contract shall be terminated immediately from the moment the demand for termination is received by the other party, without any consequences to the parties.

41.4. In case of dispute, the force majeure circumstances shall be proven to the other party by a force majeure certificate issued by the Bulgarian Chamber of Commerce and Industry or another official document.

42. NEXCOM shall keep the right, for improvement of the quality of the service, and after the respective notice, sent to the User at least 7 days previously, to change devices, configurations, suppliers and conditions for providing the service.

43. NEXCOM shall not be liable for the content of the information exchanged between Users. In case of connection that passes through several telecommunication networks, NEXCOM shall not be liable for the worsened quality of services, due to limitation of or failures in the other networks.

44. The User shall be entitled to damages for the time during which the service could not be used, in case this happened for 4 consequent astronomic hours, and was not guiltily caused by the User.

44.1. The amount of the damages as per cl.44, shall be calculated per hours, dividing the actually due periodical remuneration /monthly subscription fee/ for the provided service, to the hours per month /seven hundred and twenty astronomic hours/. The number of hours for which damages are paid /over four hours: shall be rounded to the closest round hour. The damages shall not be due in case the time during which the providing of the service by fault of NEXCOM was not longer than 4 /four/ astronomic hours.

45. In case the User:

1. does not pay in time the payments due to NEXCOM and the delay continues for more than 7 /seven/ days after they have become due; or
2. fails to execute one of its contractual obligations as per the contract with NEXCOM, or these General Terms and Conditions, and continues to do so after a written note by NEXCOM; or
3. resells the service to third parties without the prior, explicit and written agreement of NEXCOM; or
4. uses the service in violation of Bulgarian legislation, applicable norms or morality norms.

NEXCOM shall have the right with a 24 /twenty-four/-hour notice to the User, sent by e-mail or by fax or letter, to stop providing the service. In case of serious violation by the User leading to or which may lead to damages to NEXCOM or to other Users, the stopping of the service may have immediate effect. The stopping of the service shall not free the User of its obligation to pay the amounts due for the use of the service for the respective periods pursuant to the contract between the parties.

45.1. A serious violation as per cl.45 shall be transmission of messages containing threat to the physical integrity and bodily inviolability of the individual, damaging to the reputation of another or calling to violent change of constitutionally established order, to committing a crime, to violence on the individual or to stirring racial, national, ethnic or racial hate, creating dangers to the national defense or security, as well as transmitting of false messages for accidents, natural disasters, fire, terrorist acts, need of medical help, etc.

X. GUARANTEEING THE CONFIDENTIALITY OF MESSAGES AND PROTECTION OF PERSONAL DATA

46. NEXCOM shall guarantee the confidentiality of messages which includes the content of the message, type of provided service and all data related to its providing, undertaking all technical and organizational measures to that purpose .

46.1. In the collection, processing, use and storage of personal data provided by the Users, NEXCOM shall observe all obligations for their protection, as provided by law.

46.2. Under the provisions and procedures provided by law, NEXCOM shall provide the requested cooperation to the competent bodies of the Ministry of Interior and the judiciary, including providing the possibility to monitor the use of services.

47. For providing of the service, NEXCOM shall have the right to collect, process, use and store the following data regarding Users:

1. individual data for the subscriber /name, address, etc./;
2. type of used devices or telecommunication service;
3. total number of measure /fee/ units charged for a specific period of preparing the bill in case of periodical bill;
4. volume of transferred data;
5. price due for the services used for the respective period;
6. information relating to the way of payment chosen by the subscriber, and the payments effected and due;
7. information regarding changes in the use of the service limitation for use, restoring after limitation;
8. traffic data:
 - beginning and end of the call, specified by time and date, within the second if technically possible, and/or in case of transfer of data volume of the transferred data, when this is necessary for fees;
 - number of the calling User and number of the called User;
 - type of telecommunication service used by the User;

- all points of interconnection in case of realization of the call, start and end of their use specified by time and date, within the second if technically possible;
- other data necessary in the building and maintaining of the call;
- data necessary for forming of price of calls, as type of connection or zones time or territorial.

48. NEXCOM shall have the right to collect and process data for opening, localizing and repair of failures and errors in the telecommunications network, after notifying the persons concerned.

49. NEXCOM shall be able to provide the data as per cl.47 and 48 to third parties, only in case of compliance with the effective legislation of the Republic of Bulgaria after an express written agreement of the User. NEXCOM shall guarantee the confidentiality of information concerning the use of each User.

50. The personal data for the Users that, at the signing of the individual contract, became known to NEXCOM, shall be kept by the latter in compliance with the Protection of Personal Data Act and Telecommunications Act. The purpose of the keeping is the possibility for individualization of the Users and contact with them within the contractual rights, as well as for the purposes as per art.202 of the Telecommunications Act. The User shall have the right to access and correction of its personal data. That right shall be practiced in person or by an attorney with notarized power of attorney, in the offices of NEXCOM.

XI. CONFIDENTIALITY

51. The parties to the contract shall not have the right to disclose or to allow the disclosure of information, or to make public knowledge of terms and conditions and fact, technological knowledge and know-how, concerning the contracts or payments to it, without the express written permission of the other party, regarding the facts that may be disclosed to third persons.

52. In using the service, the User may use a personal digital code for authorization and access to the system provided by NEXCOM.

52.1. The personal code may be used multiple times for use of services described in these General Terms and Conditions, unless it is blocked by NEXCOM.

52.2. NEXCOM shall not provide to third parties an information of the personal code of access to the system, provided to the User.

52.3. The User shall keep the code for access to the system provided by NEXCOM. In case of transfer of the code to third parties, the User shall be accountable for the use of the service by those third parties and for payment of all related amounts.

XII. AMENDMENTS AND SUPPLEMENTS TO THE GENERAL TERMS AND CONDITIONS

53. These General Terms and Conditions may be amended at the initiative of NEXCOM , Users or the Commission on Regulation of Communications.

54. The amendments to the General Terms and Conditions shall be done pursuant to the Telecommunications Act, and shall be automatically applied to the relations between NEXCOM and the Users.

55. NEXCOM shall publish the agreed General Terms and Conditions on the Internet, at <http://www.nexcom.bg>, as well as a notice of the place where the agreed text can be found, at least in one central newspaper within 7 days of their initial agreement or amendment.

56. NEXCOM shall make the General Terms and Conditions public to its Users, placing them on suitable generally accessible places in all its offices in the territory of the service, during the whole period its license is effective, and shall provide them to the Users at signing of the contract.

57. These General Terms and Conditions, as well as any future amendments to the General Terms and Conditions, shall also be applied to the found Users as of the date of their effectiveness. In case within 5 days of the publication of the General Terms and Conditions or their amendments pursuant to cl.5, the User does not file in writing a demand for re-negotiation of the contract signed with it, it is considered that this contract has been extended and effective, pursuant to the provisions of the General Terms and Conditions or their amendments. In case of filed demand for re-negotiation by a User, in the signing of a new contract with it, NEXCOM shall observe the principle for providing of services to all Users under equal conditions.

XIII. FINAL PROVISIONS

58. The written correspondence between NEXCOM and the Users shall be done by return registered mail, fax messages or electronic mail with electronic signature.

59 . In case one of the parties shall change the address stated in the individual contract and does not notify the other party in writing no later than 7 days of the amendment, then the notices shall be deemed dully sent and taken as per the individual contract and these General Terms and Conditions.

60 . To matters not settled in these General Terms and Conditions shall be applied the provisions of the effective legislation of the Republic of Bulgaria.