

# STANDARD TERMS FOR 4G MOBILES AND DATA LTD T/A CONNECT COMMS FOR THE SUPPLY OF GOODS AND SERVICES. THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 13 (LIMITATION OF LIABILITY).

## 1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

### 1.1. Definitions:

**Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Commencement Date:** has the meaning given in clause 2.2.

**Company:** 4G Mobiles and Data Ltd incorporated and registered in England and Wales with company number 08605009 whose registered office is at Manor House, 35 St. Thomas's Road, Chorley, Lancashire, England, PR7 1HP

**Company Materials:** has the meaning given in clause 8.1(i).

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 17.8.

**Connection:** means any of the following:

- a SIP Trunk;
- a hosted licence ;
- a broadband connection, including FTTC, FTTP, ADSL, leased line, satellite broadband;
- a SOGIEA connection;
- a PSTN line.

**Contract:** the contract between the Company and the Customer for the supply of Services and/or Products and/or Mobile Devices in accordance with these Conditions.

**Control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly.

**Customer:** the business who purchases the Services and/or Mobile Devices and/or Products from the Company as detailed overleaf

**Delivery Location:** has the meaning given in clause 4.2.

**Equipment:** means any apparatus or equipment owned by Connect Comms and supplied to the Customer to facilitate the provision of the Services

**Force Majeure Event:** means any circumstance not within a party's reasonable control including, without limitation:

- (a) acts of God, flood, drought, earthquake or other natural disaster;
- (b) epidemic or pandemic;
- (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (d) nuclear, chemical or biological contamination or sonic boom;
- (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- (f) collapse of buildings, fire, explosion or accident; and
- (g) any labour or trade dispute, strikes, industrial action or lockouts;

- (h) non-performance by suppliers or subcontractors; and
- (i) interruption or failure of utility service.

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Mobile Devices:** the mobile devices provided by the Company in connection with the provision of Services, as set out in the Customer Order Form at section 10.

**Order:** the Customer's order for the supply of Services and/or Mobile Devices and /or Products set out in the Company's Customer Order Form signed by an authorised signatory of the Customer (overleaf).

**Products:** the products (or any part of them) set out in the Customer Order Form that are supplied by the Company (including any Mobile Devices detailed at Section 10 which are being purchased other than under a mobile contract detailed at Section 4 overleaf, and any cabling identified at Section 8 overleaf). Please note that any products detailed at Section 9A – Product Details: Hardware/ Software (Leasing Company) overleaf are provided under a separate rental agreement and are subject to the terms and conditions set out in that rental agreement, and not these terms and conditions

**Products and Devices Specification:** any specification for the Products and/or Mobile Devices, including any relevant plans or drawings, that is agreed in writing by the Customer and the Company and summarised in the Customer Order Form.

**Services:** the services supplied by the Company to the Customer as set out in the Customer Order Form (including the system, broadband, lines, mobile contracts, mobile broadband and maintenance as detailed at Section 2 to Section 7 inclusive, overleaf)

**Service Specification:** the description or specification for the services provided in writing by the Company to the Customer and summarised in the Customer Order Form.

**Initial Term:** the number of months identified as the 'duration' on the Customer Order Form overleaf

### 1.2. Interpretation:

- (a) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors and permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (e) A reference to **writing** or **written** includes email but not fax.

## 2. Basis of contract

- 2.1. The Order constitutes an offer by the Customer to purchase Products or Services or Products and Services in accordance with these Conditions.
- 2.2. The contract will commence and will be deemed as accepted from the date of customer signature. (**Commencement Date**).
- 2.3. Any samples, drawings, descriptive matter or advertising issued by the Company and any descriptions of the Products, Mobile Devices or illustrations or descriptions of the Services contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Mobile Devices and/or Products described in them. They shall not form part of the Contract nor have any contractual force.
- 2.4. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.5. Any quotation given by the Company shall not constitute an offer, and is only valid for a period of 28 Business Days from its date of issue.
- 2.6. All of these Conditions shall apply to the supply of the Products, Mobile Devices and Services by the Company.

## 3. Products and Mobile Devices

- 3.1. The Products and Mobile Devices are described in the Products and Devices Specification.
- 3.2. To the extent that the Products are to be manufactured in accordance with a Products Specification supplied by the Customer, the Customer shall indemnify the Company against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Company arising out of or in connection with any claim made against the Company for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Company's use of the Products Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3. The Company reserves the right to amend the Products and Devices Specification if required by any applicable statutory or regulatory requirement, and the Company shall notify the Customer in any such event.

## 4. Delivery of Products and Mobile Devices

- 4.1. The Company shall ensure that each delivery of the Products and/or Mobile Devices is accompanied by a delivery note which shows the description of the Products and/or Mobile Devices and the quantity being delivered and, if the Order is being delivered by instalments, the outstanding balance of Products and/or Mobile Devices remaining to be delivered.
- 4.2. The Company shall deliver the Products and/or Mobile Devices to such location in mainland UK only as the parties may agree (**Delivery Location**) at any time after the Company notifies the Customer that the Products and/or Mobile Devices are ready.
- 4.3. Delivery of the Products and/or Mobile Devices shall be completed on the completion of unloading of the Products and/or Mobile Devices at the Delivery Location.
- 4.4. Any dates quoted for delivery of the Products and/or Mobile Devices are approximate only, and the time of delivery is not of the essence. The Company shall not be liable for any delay in delivery of the Products and/or Mobile Devices that is caused by a Force Majeure Event or the Customer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Products and/or Mobile Devices.
- 4.5. If the Company fails to deliver the Products and/or Mobile Devices, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Products and/or Mobile Devices. The Company shall have no liability for any failure to deliver the Products and/or Mobile Devices to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Company with adequate delivery instructions for the Products and/or Mobile Device or any relevant instruction related to the supply of the Products and/or Mobile Devices.
- 4.6. If the Customer fails to take or accept delivery of the Products and/or Mobile Devices within five Business Days of the Company notifying the Customer that the Products and/or Mobile Devices are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Company's failure to comply with its obligations under the Contract in respect of the Products and/or Mobile Devices:
  - (a) delivery of the Products and/or Mobile Devices shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Company notified the Customer that the Products and/or Mobile Devices were ready; and
  - (b) the Company shall store the Products and/or Mobile Devices until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 4.7. If ten Business Days after the day on which the Company notified the Customer that the Products and/or Mobile Devices were ready for delivery the Customer has not taken or accepted delivery of them, the Company may resell or otherwise dispose of part or all of the Products and/or Mobile Devices or and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Products and/or Mobile Devices or charge the Customer for any shortfall below the price of the Products and/or Mobile Devices.

- 4.8. If the Company delivers up to the Customer less than the quantity of Products and/or Mobile Devices ordered the Customer may not reject them, but on receipt of notice from the Customer that the wrong quantity of Products and/or Mobile Devices was delivered, the Company shall make a pro rata adjustment to the invoice for the Products and/or Mobile Devices.
- 4.9. The Company may deliver Products by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

## 5. Quality of Products and Mobile Devices

- 5.1. The Company warrants that on delivery, and for a period of 14 days from the date of delivery (the Warranty Period) the Products and Mobile Devices shall:
  - (a) conform in all material respects with the Products and Devices Specification; and
  - (b) be free from material defects in design, material and workmanship.
- 5.2. Subject to clause 5.4, the Company shall, at its option, arrange for repair or replace the defective Products or Mobile Devices, if:
  - (a) the Customer gives notice in writing during the Warranty Period within a reasonable time of discovery that some or all of the Products and/or Mobile Devices do not comply with the warranty set out in clause 5.1;
  - (b) the Company is given a reasonable opportunity of examining such Products and/or Mobile Devices; and
  - (c) the Customer (if asked to do so by the Company) returns such Products and/or Mobile Devices to the Company's place of business at the Customer's cost.
- 5.3. Subject to clause 5.4, if the Products or Mobile Devices develop a material defect after the Warranty Period, but no more than 12 months after the Commencement Date, the Company shall arrange for repair of the defective Products or Mobile Devices by the manufacturer and in line with the manufacturers repairs policy and timescales, if:
  - (a) the Customer gives notice in writing within a reasonable time of discovery that some or all of the Products and/or Mobile Devices have developed a material defect;
  - (b) the Company is given a reasonable opportunity of examining such Products and/or Mobile Devices; and
  - (c) the Customer (if asked to do so by the Company) returns such Products and/or Mobile Devices to the Company's place of business or the manufacturer of the Products and/or Mobile Devices at the Customer's cost.
- 5.4. The Company shall not be liable for the Products' and/or Mobile Devices' failure to comply with the warranty in clause 5.1, or a material defect in the Products and/or Mobile Devices arising after the Warranty Period but no more than 12 months after the commencement Date, or any other defect, if:
  - (a) the Customer makes any further use of such Products and/or Mobile Devices after giving a notice in accordance with clause 5.2 or clause 5.3;
  - (b) the defect arises because the Customer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Products and/or Mobile Devices or (if there are none) good trade practice;
  - (c) the defect arises as a result of the Company following any drawing, design or Products and Device Specification supplied by the Customer;
  - (d) the Customer alters or repairs such Products and/or Mobile Devices without the written consent of the Company;

- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
- (f) the Products and/or Mobile Devices differ from the Products and Devices Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

- 5.5. Except as provided in this clause 5, the Company shall have no liability to the Customer in respect of the Products' failure to comply with the warranty set out in clause 5.1 or any other defect.
- 5.6. The terms of these Conditions shall apply to any repaired or replacement Products and/or Mobile Devices supplied by the Company.

## 6. Title and risk

- 6.1. The risk in the Products shall pass to the Customer on completion of delivery.
- 6.2. The risk in the Mobile Devices shall pass to the Customer on completion of delivery.
- 6.3. Title to the Products shall not pass to the Customer until the Company receives payment in full (in cash or cleared funds) for the Products and any other products that the Company has supplied to the Customer in respect of which payment has become due, in which case title to the Products shall pass at the time of payment of all such sums.
- 6.4. Subject to the Company having received payment in full (in cash or cleared funds) for all contracted Services and Mobile Devices during the whole of the Term, title to the Mobile Devices shall pass to the Customer at the end of the Term.
- 6.5. Until title to the Products and/or Mobile Devices has passed to the Customer, the Customer shall:
  - (a) store the Products and/or Mobile Devices separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property;
  - (b) not remove, deface or obscure any identifying mark on or relating to the Products and/or Mobile Devices;
  - (c) maintain the Products and/or Mobile Devices in satisfactory condition and keep them insured against all risks for their full price on the Company's behalf from the date of delivery;
  - (d) notify the Company immediately if it becomes subject to any of the events listed in clause 14.5(b) to clause 14.5(d); and
  - (e) give the Company such information as the Company may reasonably require from time to time relating to:
    - (i) the Products; and
    - (ii) the Mobile Devices; and
    - (iii) the ongoing financial position of the Customer.

- 6.4. At any time before title to the Products and/or Mobile Devices passes to the Customer, the Company may require the Customer to deliver up all Products and/or Mobile Devices in its possession and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Products and/or Mobile Devices are stored in order to recover them.

## 7. Supply of Services

- 7.1. Subject to clause 7.2, the Company shall supply the Services to the Customer in accordance with the Service Specification in all material respects.
- 7.2. The Company shall use reasonable endeavours to meet any performance dates for the provision of Services as specified in the Service Specification but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 7.3. The Company reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Company shall notify the Customer in any such event.
- 7.4. The Company warrants to the Customer that the Services will be provided using reasonable care and skill.

## 8. Customer's obligations

- 8.1. The Customer shall:
  - (a) ensure that the terms of the Order and any information it provides in the Service Specification and the Products and Devices Specification are complete and accurate;
  - (b) co-operate with the Company in all matters relating to the Services and the provision of the Products and Mobile Devices;
  - (c) provide the Company, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Company to provide the Services and install any Products;
  - (d) provide the Company with such information and materials as the Company may reasonably require in order to supply the Services and install any Products, and ensure that such information is complete and accurate in all material respects;
  - (e) prepare the Customer's premises for the supply of the Services and the installation of any Products and/or any products and equipment detailed in Section 9A overleaf;
  - (f) ensure the Company (or any other company acting on their behalf) is given full access to the Customer's premises, at a time agreed in advance between the Company and the Customer, to carry out any works required to facilitate the supply of the Services and for the installation of any Products and/or any products and equipment detailed in Section 9A overleaf;
  - (g) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
  - (h) comply with all applicable laws, including health and safety laws;
  - (i) keep all materials, equipment, documents and other property of the Company (**Company Materials**) at the Customer's premises in safe custody at its own risk, maintain the Company Materials in good condition until returned to the Company, and not dispose of or use the Company Materials other than in accordance with the Company's written instructions or authorisation; and
  - (j) comply with any additional obligations as set out in the Service Specification and the Products and Devices Specification.
- 8.2. If the Company's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
  - (a) without limiting or affecting any other right or remedy available to it, the Company shall have the right to suspend performance of the Services and provision of any Mobile Devices or Products until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Company's performance of any of its obligations;
  - (b) the Company shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Company's failure or delay to perform any of its obligations as set out in this clause 8.2; and
  - (c) the Customer shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Customer Default.
- 8.3. If the Customer fails to comply with their obligations under clause 8.1(f) the Company shall be entitled to charge the Customer an 'abortive visit' charge of £200 + VAT in respect of each failure, and the Company will issue an invoice accordingly.

## 9. Charges and payment

- 9.1. The price for Products shall be the price set out in the Order.
- 9.2. The charges for Services and the Mobile Devices during the Term shall be the price set out in the Order.
- 9.3. The Company reserves the right to:
  - (a) increase the charges for the Services and the Mobile Devices on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the Retail Prices Index the preceding 12-month period and the first such increase shall take effect on the first anniversary of the Commencement Date and shall be based on the latest available figure for the percentage increase in the Retail Prices Index
  - (b) increase the price of the Products and/or Mobile Devices, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Products and/or Mobile Devices to the Company that is due to:
    - (i) any factor beyond the control of the Company (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
    - (ii) any request by the Customer to change the delivery date(s), quantities or types of Products or Mobile Devices ordered, or the Products and Devices Specification; or
    - (iii) any delay caused by any instructions of the Customer in respect of the Products or Mobile Devices or failure of the Customer to give the Company adequate or accurate information or instructions in respect of the Products or Mobile Devices.
- 9.4. In respect of Products, the Company shall invoice the Customer on or at any time after completion of delivery.
- 9.5. In respect of Services and Mobile Devices, the Customer shall pay the Company monthly in advance by direct debit on a due date agreed in writing by the Company (unless the Company agrees in writing that payments will be made following the issue of any invoice by the Company to the Customer) and time for payment shall be of the essence of the Contract.
- 9.6. The Customer shall pay each invoice submitted by the Company:
  - (a) within 7 days of the date of the invoice or in accordance with any credit terms agreed by the Company and confirmed in writing to the Customer; and
  - (b) in full and in cleared funds to a bank account nominated in writing by the Company, and time for payment shall be of the essence of the Contract.
- 9.7. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Company to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Company, pay to the Company such additional amounts in respect of VAT as are chargeable on the supply of the Services or Products or Mobile Devices at the same time as payment is due for the supply of the Services or Products or Mobile Devices.
- 9.8. If the Customer fails to make a payment due to the Company under the Contract by the due date, then, without limiting the Company's remedies under clause 14 (Termination), the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 9.8 will accrue each day at 8% a year above the Bank of England's base rate from time to time, but at 8% a year for any period when that base rate is below 0%.
- 9.9. All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 9.10. The following additional charges will be payable by the Customer, and will be invoiced by the Company and become immediately due and payable, as follows:
  - (a) Porting Away activation charge, whether during the Term or otherwise: £150 + VAT
  - (b) Calling Line Identity (CLI) Porting Away charge, whether during the Term or otherwise: £15 + VAT each
  - (c) Divert charge: £500 + VAT
  - (d) Cancellation by a Customer of a direct debit in respect of payment for Services and/or Mobile Devices: £50 + VAT
  - (e) Direct Debit Reclaim: £20 + VAT
  - (f) Provision of a copy of an invoice on request: £10 + VAT
  - (g) Remote Support Request: £65 + VAT per request

## 10. Intellectual property rights

- 10.1. All Intellectual Property Rights in or arising out of, or in connection with, the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Company.
- 10.2. The Customer grants the Company a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to the Company for the term of the Contract for the purpose of providing the Services to the Customer.

## 11. Data protection

- 11.1. The following definitions apply in this clause 11:
  - (a) **Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Legislation.
  - (b) **Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the Data Protection Act 2018 (EU DPA) and the Data Protection Act (DPA) 2018, the Data Protection Act 1998 (DPA 1998) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended
  - (c) **Domestic Law:** the law of the United Kingdom or a part of the United Kingdom.
- 11.2. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 11.3. The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Company is the Processor.
- 11.4. Without prejudice to the generality of clause 11.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Company and/or lawful collection of the Personal Data by the Company on behalf of the Customer for the duration and purposes of the Contract.
- 11.5. Without prejudice to the generality of clause 11.2, the Company shall, in relation to any Personal Data processed in connection with the performance by the Company of its obligations under the Contract:
  - (a) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing such measures;
  - (b) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
  - (c) not transfer any Personal Data outside of the UK unless the prior written consent of the Customer has been obtained;
  - (d) assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
  - (e) notify the Customer without undue delay on becoming aware of a Personal Data Breach;
  - (f) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Domestic Law to store the Personal Data; and
  - (g) maintain complete and accurate records and information to demonstrate its compliance with this clause 11.
- 11.6. The Customer consents to the Company appointing third party processors, including credit reference and leasing companies engaged by the Company from time to time, as third-party processors of Personal Data under the Contract. For details of the companies currently engaged by the Company, please contact our customer service team by email at [customerservice@connectcomms.co.uk](mailto:customerservice@connectcomms.co.uk). The Company confirms that it has entered or (as the case may be) will enter into a written agreement with such third party processors which the Company confirms reflects and will continue to reflect the requirements of the Data Protection Legislation.

## 12. Confidentiality

- 12.1. Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.2.
- 12.2. Each party shall disclose the other party's confidential information to:
  - (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it

discloses the other party's confidential information comply with this clause 12; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

- 12.3. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

## 13. Limitation of liability: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.

- 13.1. The restrictions on liability in this clause 13 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 13.2. Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
  - (a) death or personal injury caused by negligence;
  - (b) fraud or fraudulent misrepresentation;
  - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); and
  - (d) defective products under the Consumer Protection Act 1987.
- 13.3. Subject to clause 13.2, the Company's total liability to the Customer shall not exceed the total cost of the Products provided and the Services provided during the Initial Term.
- 13.4. This clause 13.4 sets out specific heads of excluded loss:
  - (a) Subject to clause 13.2, the types of loss listed in clause 13.4(b) are wholly excluded by the parties.
  - (b) The following types of loss are wholly excluded:
    - (i) loss of profits;
    - (ii) loss of sales or business;
    - (iii) loss of agreements or contracts;
    - (iv) loss of anticipated savings;
    - (v) loss of use or corruption of software, data or information;
    - (vi) loss of or damage to goodwill; and
    - (vii) indirect or consequential loss.
- 13.5. The Company has given commitments as to compliance of the Parts and Services with relevant specifications in clause 5 and clause 7. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 13.6. This clause 13 shall survive termination of the Contract.

## 14. Termination

- 14.1. Without affecting any other right or remedy available to it, either party may terminate the Contract at the end of the Initial Term by giving the other party not less than 90 days' written notice.
- 14.2. If the Contract is not terminated pursuant to clause 14.1, a term will continue for a further 12 months (Extended Term) and the Contract will remain in force on the same terms and conditions.
- 14.3. Unless it is terminated earlier under this clause 14, this Contract shall terminate at the end of the Extended Term.
- 14.4. Without affecting any other right or remedy available to it, either party may terminate the Contract by giving the other party not less than 90 days' written notice to the other party if:
  - (a) the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 45 days after receipt of notice in writing to do so;
  - (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
  - (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
  - (d) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- 14.6. Without affecting any other right or remedy available to it, the Company may suspend the provision of all Services under the Contract, and the supply of any Products and/or Mobile Devices not yet delivered, with immediate effect by giving notice to the Customer (which does not need to be in writing) if the Customer fails to pay any amount due under the Contract on the due date for payment (a Contract Suspension).
- 14.7. Without affecting any other right or remedy available to it, the Company may terminate the Contract with immediate effect by giving written notice to the Customer if:
  - (a) following a Contract Suspension pursuant to clause 14.6, the Customer fails to pay any amount due under the Contract within 30 days from the date on which the Contract Suspension was notified to them; or
  - (b) there is a change of Control of the Customer.
- 14.8. Without affecting any other right or remedy available to it, the Company may suspend the supply of Services or all further deliveries of Products or Mobile Devices under the Contract or any other contract between the Customer and the Company if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 14.5(b) to clause 14.5(d), or the Company reasonably believes that the Customer is about to become subject to any of them.

## 15. Consequences of termination

- 15.1. On termination of the Contract:
  - (a) the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest, in respect of Services and Products and Mobile Devices supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Customer immediately on receipt;
  - (b) the Customer shall return all of the Company Materials and any Products which have not been fully paid for and any Mobile Devices the title for which has not transferred to the Customer pursuant to clause 6.4. If the Customer fails to do so, then the Company may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.
- 15.2. On termination of the Contract by the Customer pursuant to clause 14.4 during the initial Term (but for the avoidance of doubt, not pursuant to clause 14.1) the Company shall submit an invoice to the Customer for the following charges, which shall be payable by the Customer immediately on receipt:
  - (a) £500 + VAT in respect of each Connection; and
  - (b) 100% of the charges which would have otherwise become due under the Contract for Services and Mobile Devices were the Contract to have continued in force until the end of the Initial Term.
- 15.3. Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 15.4. Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.
- 15.5. Termination of mobile contract before the end date will result in charges of up to £300.00 + VAT per connection.

## 16. Force majeure

The Company shall not be in breach of the Contract nor liable for delay in performing or failure to perform any of its obligations under the Contract if such delay or failure results from a **Force Majeure Event**. In such circumstances the Company shall be entitled to a reasonable extension of the time for performing such obligations.

## 17. General

### 17.1. Assignment and other dealings

- (a) The Company may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- (b) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.

### 17.2. Notices.

- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).
- (b) Any notice shall be deemed to have been received:
  - (i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and
  - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- (d) A notice given under the Contract is not valid if sent by email.

- 17.3. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 17.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

- 17.4. **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

- 17.5. **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either