

**SPECIFIC CONDITIONS M2 – MOBILE NETWORK SERVICES**

These Specific Conditions govern the Mobile Network Services that may be provided by the Company under an Order Form, together with any other document or terms and conditions referred to in the Order Form including but not limited to the General Terms & Conditions for the Supply of Products and/or Services (the “Conditions”), which shall be deemed to be incorporated into the Contract for the performance of any Mobile Network Services performed under these Specific Conditions.

**1 DEFINITIONS**

1.1 Capitalised terms used in these Specific Conditions shall have the following meanings for the purposes of these Specific Conditions only:

“Airtime Credit”	means a subsidy fund provided by the Company to the Customer as specified in the Order Form for use during the Minimum Term. If a month number is specified, the Airtime Credit will not become available until the start of that month of the Minimum Term;
“Assignee”	means an assignee of all or any part of the Company’s rights under a Contract, in accordance with clause 22.11 of the Conditions, including without limitation the Company’s rights and title in and to Equipment;
“Bar” “Barring” and “Barred”	means the act of barring the Customer from making or receiving certain services on the Equipment;
“Commencement Date”	has the meaning given to it in paragraph 3.1;
“Connection” and “Connected”	means the connection of the Equipment or SIM Card to the selected tariffs and Systems;
“Contract Buy-out”	means the fee paid or payable by the Customer to a Previous Service Provider, solely in respect of termination of the relevant contract between them, and excluding accrued call charges, line rental charges and other charges or liabilities in respect of the period prior to termination of that contract;
“CPE”	means the customer premises equipment made available by the Company for the Customer’s use in connection with Data Only Mobile Network Services during the Term as set out in the Order Form;
“Credit”	means any Airtime Credit, Termination Credit, Hardware Credit, free of charge Equipment, or any subsidy, variation or reduction to the Company’s Fees, in each case which is applied to or provided with the Mobile Network Services;
“Damage Charges”	means, in respect of Equipment, the amount (if any) payable by the Customer for failing to return the Equipment in Good Working Order and Condition calculated in accordance with the Company’s prevailing standard rates;
“Data Only Connection”	means Mobile Network Services that are for data and/or mobile broadband only as provided in accordance with paragraph 6;
“Encumbrance”	means an interest in, right or any form of security over property, including, but not limited to (a) any mortgage, pledge, lien or charge; or (b) any other security or preferential interest or arrangement of any kind with any creditor to have its claim satisfied in priority to creditors;
“Equipment”	means any handset or other device made available by the Company for the Customer’s use in connection with the Mobile Network Services during the Term as set out in the Order Form;
“Equipment Charge”	means, in respect of any Equipment, the monthly recurring fixed charge specified in the relevant Order Form and payable by the Customer to the Company (in addition to the Service Charges) for each month (or part thereof) during the Term for the right to use and rent the Equipment;
“Fee”	means the applicable fee or tariff in accordance with the Company’s standard rates from time to time, which is available from the Company on request;
“Gateway”	means equipment which has been designed or adapted to contain a SIM Card with the capability of routing calls from fixed communications apparatus to mobile equipment by establishing a mobile to mobile call or SMS delivery;
“General Conditions”	means, the general conditions of entitlement set by OFCOM, in accordance with section 45 of the Communications Act 2003, as may be amended, modified or replaced from time to time;
“Good Working Order and Condition”	means, the condition and components of the Equipment as at the time the Contract was entered into, but subject to fair wear and tear over the Minimum Term and the subsequent element of the Term (if any) as reasonably determined by the Company;
“Hardware Credit”	means a subsidy fund which may be provided by the Company for the purchase of Equipment by the Customer during a Minimum Term, as specified in the Order Form. If a month number is specified, the Hardware Credit will not become available until the start of that month of a Minimum Term;
“Insolvency Event”	means any event referred to in clauses 12.3.1 – 12.3.8 of the Conditions;
“Migrate” and “Migration”	means the transfer of a mobile number to any alternative service provider on the same network;
“Minimum Term”	has the meaning given to it in paragraph 4.2;
“Mobile Bill Cap”	means the cap on certain Charges for Mobile Network Services per Connection (as further detailed at <a href="https://daisyuk.tech/mobilebills/limits/">https://daisyuk.tech/mobilebills/limits/</a> or such other website address as notified to the Customer from time to time), which are over and above the Customer’s Tariff, and which has been applied to the Customer’s account in accordance with paragraph 5.9;
“Mobile Network Services”	means the provision of a Connection with airtime, short message service (SMS), multi-media message (MMS) and/or data, by means of the Systems in accordance with these Specific Conditions and includes Data Only Connections;
“Non-Return Charge”	means in respect of Equipment, the amount (if any) payable by the Customer for failing to return the Equipment calculated in accordance with the Company’s prevailing standard rates;
“OFCOM”	means the Office of Communications and/or any successor body;
“Overseas Data Cap”	means the cap on overseas data usage of £45 per month per Connection that will be automatically applied to the Customer’s account;
“Port” and “Porting”	means the transfer of a mobile number or Mobile Network Service to any alternative mobile service provider and/or mobile service operator;
“Previous Service Provider”	means a third party that provides the Customer with telecommunications services prior to connection with the Company for any telephone number specified in the Order Form;
“Service Charges”	means the charges payable by the Customer for Mobile Network Services as described and at the rates specified in the Tariff, including without limitation any call charge, access charge, connection charge, minimum charge and value added service charge;



"SIM Card"	means the subscriber identity modules provided by the Company to enable access to the Mobile Network Services, which contain a unique identifier number and are capable of storing Customer and/or End User data;
"Small Business Customer"	means a Customer who has been identified in the Order Form as being a customer who (i) is not a communications provider; and (ii) has 10 or less workers (whether as employees or volunteers or otherwise);
"System(s)"	means the public telecommunications systems that the Company makes available to the Customer;
"Tariff"	means the Company's tariff for each of the Mobile Network Services that is provided to the Customer and/or set out at <a href="https://daisyuk.tech">https://daisyuk.tech</a> or at such other web address as is notified to the Customer by the Company from time to time and/or used by the Company to calculate the Charges;
"Termination Charge"	means the total Charges that are still to fall due or that would, but for termination of the Contract, have become due under the relevant Contract plus any costs incurred by the Company in terminating any funding arrangements entered into by the Company in connection with the Equipment;
"Termination Credit"	means the subsidy fund provided by the Company to the Customer in respect of the Contract Buy-out;
"Total Connections"	means the minimum aggregate number of Connections as specified in the Order Form; and
"Upgrade"	means any supply of Equipment.

1.2 All other capitalised terms used in these Specific Conditions that are not defined in paragraph 1 have the meanings stated in the Conditions.

## **2 CONTRACT FORMATION**

- 2.1 The Customer's obligation to rent any Equipment and pay the relevant Equipment Charge shall be separate to the Customer's obligation to obtain any Mobile Network Services and pay the relevant Service Charges. The Customer may not terminate the rental of Equipment under a Contract as a result of any failure by the Company to provide any Mobile Network Services.
- 2.2 The Contract shall be conditional upon the credit status of the Customer being to the satisfaction of the Company (in its sole and absolute discretion).
- 2.3 The Customer warrants and undertakes to the Company that it is entering into a Contract for the purposes of its trade, business and/or profession and is not acting as a consumer.
- 2.4 In connection with Customer's application for Mobile Network Services or Equipment, the Customer shall procure that its owners, directors, officers and assigns are made aware of, the Company, its Assignee(s) and/or its potential Assignees carrying out searches with credit reference agencies relating to the credit worthiness of the Customer and/or its owners, directors, officers and assigns and the Customer undertakes to supply or procure the supply of all information requested for a credit search with a credit reference agency.

## **3 COMMENCEMENT DATE**

- 3.1 The Commencement Date of the Mobile Network Services or Connection shall be the date on which (i) any Mobile Network Services requested in the Order Form are available for use by the Customer; and/or (ii) any Equipment requested in the Order Form is delivered to the Customer in accordance with these Specific Conditions, whichever is the earlier date, and shall continue for the duration of the Term in accordance with paragraph 4.2.

## **4 DURATION**

- 4.1 In consideration of the Company providing the Mobile Network Services in accordance with the Order Form, the Customer agrees to:
- 4.1.1 meet or exceed the Total Connections set out in the Order Form;
- 4.1.2 use each Connection until expiry of its Minimum Term; and
- 4.1.3 pay the Charges for each Connection during each month of the Minimum Term.
- 4.2 The Minimum Term of each Connection shall be the Minimum Term for the Mobile Network Services as set out in the Order Form or, if no Minimum Term is specified, 24 (twenty-four) calendar months from the Commencement Date of the Mobile Network Services. The provisions of paragraphs 3.1 and 4.2 are applicable to all mobile numbers and/or handsets and/or mobile devices (including any Equipment) connected to Mobile Network Services provided by the Company and to any subsequent Connections or Upgrades from the applicable date of the subsequent Connection or Upgrade.
- 4.3 Any changes to the Mobile Network Services to another Tariff will be subject to availability of mobile numbers and a minimum spend by the Customer. Such changes remain subject to the approval of the Company, and nothing in this paragraph 4.3 shall be construed as an obligation for the Company to change the Customer's existing Tariff to another Tariff. For the avoidance of doubt, any change to the Tariff shall be without prejudice to the Customer's obligations under this Contract with regards to the Equipment or the Equipment Charge.
- 4.4 Subject to paragraph 4.5, the Contract shall continue for the Minimum Term, and shall (subject to any other termination right) continue indefinitely thereafter until terminated by either Party giving not less than thirty (30) days' prior written notice, such notice not to expire sooner than the expiry of the Minimum Term.
- 4.5 In the event the Customer wishes to Port or Migrate 24 Connections or less following the Minimum Term, termination shall take effect from the date such Porting or Migration occurs.
- 4.6 Without prejudice to any of the Company's other rights or remedies, within sixty (60) days of the Commencement Date if the Total Connections is not achieved (through no act or omission of the Company) or the parties agree after the Commencement Date to reduce the Total Connections by more than 10%, then the Company may reduce any related Credit and adjust the Order Form at its reasonable discretion.

## **5 CONNECTION TO THE SYSTEM AND PROVISION OF THE MOBILE NETWORK SERVICES**

- 5.1 Subject to these Specific Conditions, the Company will provide the SIM Cards and Connection and maintain the Connection of the Equipment to the System and, subject to the geographical coverage of the System from time to time and any other limiting factors not under the Company's control, the Company will use its reasonable endeavours to make the Mobile Network Services available to the Customer throughout the Term.
- 5.2 The Company shall be entitled, at its absolute discretion to transfer the Customer to another Carrier, provided that the transfer does not result in the Customer incurring any additional costs. Wherever practicable, thirty days (30) days written notice shall be given by the Company of such changes prior to them being made.
- 5.3 The Customer recognises and acknowledges that the Mobile Network Services depend on the availability of the Systems, which may from time to time, by their very nature, be adversely affected by physical features, atmospheric conditions and other causes of interference and that accordingly the Mobile Network Services and/or Systems may fail (including without limitation if there is a power failure or a power cut affecting the whole or part of the Mobile Network Services and/or Systems) or require maintenance without notice.
- 5.4 Subject always to paragraph 5.6 and 5.9, the Customer hereby elects (unless otherwise stated in the Order Form) to waive any rights it may enjoy in respect of any cap on the volume and/or charges that may accrue in respect of its usage of the Mobile Network Services outside the United Kingdom. Unless otherwise stated in the Order Form, the Mobile Network Services are provided without a Bar on premium rate and international calls or any other usage (excluding data usage that is subject to paragraph 5.6) made whilst in the United Kingdom and/or overseas unless the Customer has specifically requested in writing that the Company disables these calls and/or usage or the Company elects to disable such calls and/or usage for its own commercial purposes.
- 5.5 Subject to paragraph 5.6, any calls, messages and data received or sent whilst outside of the UK shall be billed to the Customer at rates as may be set out in the Tariff and any calls will be charged in per second increments. Premium rate calls can be charged at rates as may be set out in the Tariff for premium rate calls from time to time and such calls are not included in any bundle of inclusive calls that may form part of the Tariff for the Mobile Network Services. The Customer shall provide information upon request by the Company regarding the usage of roaming services, if the Company believes that such usage is not in

line with the Company's fair usage policy, which can be found at <https://daisyuk.tech/price-info/new-fair-usage-policy-inclusive-roaming-allowances/> or such other website address as notified to the Customer from time to time.

- 5.6 Unless otherwise stated in the Order Form or otherwise agreed in writing between the parties, all Connections of the Customer shall be automatically opted into the Overseas Data Cap. The Customer may opt out of such Overseas Data Cap on a per Connection basis as agreed with the Company. Any data usage over and above this Overseas Data Cap shall be automatically Barred, unless otherwise requested by the Customer to remove such Bar.
- 5.7 The Company bears no liability to the Customer whatsoever in connection with any services provided by an overseas network, third party provider or premium rate provider.
- 5.8 For the avoidance of doubt, any unavailability of the Mobile Network Services or the transfer of the Customer to another Carrier shall not affect the Customer's obligations under the relevant Contract with regards to the Equipment or the Equipment Charge.
- 5.9 The Customer can elect to opt into the Mobile Bill Cap and set the value of such Mobile Bill Cap via the Order Form. If this option has not been chosen by the Customer or no Mobile Bill Cap has been stated, a Mobile Bill Cap will not be applied to the Customer's account unless otherwise agreed with the Company. Where the Customer has opted into the Mobile Bill Cap, any usage of certain Mobile Network Services (as further detailed at <https://daisyuk.tech/mobilebilllimits/> or such other website address as notified to the Customer from time to time) over and above the specified Mobile Bill Cap will be automatically barred.
- 5.10 Where the Customer is a Small Business Customer it shall be entitled to refer any dispute to the Ombudsman Services: Communications in accordance with the Company's complaints procedure.

## **6 DATA ONLY CONNECTIONS**

- 6.1 Where stipulated in the Order Form that the Company is providing a Data Only Connection, the Company will provide a data only SIM Card for the CPE to connect to the System and, subject to the geographical coverage of that System from time to time and any other limiting factors not under the Company's control, the Company will use its reasonable endeavours to maintain that Connection and make the Connection available to the Customer in accordance with this paragraph 6.
- 6.2 Where a Data Only Connection is being provided as a primary data circuit, as identified in the Order Form, the Customer shall be entitled to use such Services in accordance with and subject to the agreed data allowances as set out in the Order Form throughout the term of this Contract and any usage in excess of the agreed data allowance shall be charged in addition in accordance with the relevant Tariff.
- 6.3 Where a Data Only Connection is being provided as a quick start solution, as identified in the Order Form, the Customer shall be entitled to use such Services in accordance with the agreed data allowances as set out in the Order Form for a minimum period of 3 (three) months and then on a rolling monthly basis and the Customer shall be entitled to terminate such Services at any time following the end of such minimum period of 3 (three) months, provided that it gives not less than 1 (one) months' notice to the Company in writing at any time.
- 6.4 Where a Data Only Connection is being provided as a failover solution for other primary data connectivity services, it shall only be used by the Customer for any necessary failover of those primary circuits and not further or otherwise. Regular or other unreasonable usage of Data Only Connections that are intended as a failover option, shall be charged in addition in accordance with the relevant Tariff.

## **7 CHARGES AND PAYMENT**

- 7.1 Subject to paragraph 7.2, the Tariff chosen by the Customer in respect of the Mobile Network Services on commencement of a Contract will remain the minimum Tariff selected for the Minimum Term and the terms and conditions relating to the selected Tariff shall apply.
- 7.2 Without prejudice to clause 6.3 of the Conditions, the Company may on not less than thirty (30) days' notice to the Customer, change the rates in any Tariff or price list, such change not to become effective during the Minimum Term of the relevant Mobile Network Services unless the change arises due to:
- a change in the costs to the Company due to a requirement or direction of OFCOM; and/or
  - a change in the costs charged to the Company by its suppliers.
- 7.3 Where the Company provides Equipment to the Customer under a Contract, a separate Equipment Charge will be payable to the Company for each month (or part thereof) during the Minimum Term and any element of the Term thereafter.
- 7.4 The Customer must pay the Company the Equipment Charge, for the duration of the Minimum Term and any element of the Term thereafter, without any deduction, withholding, set-off, counterclaim or appropriation whatsoever. For the avoidance of doubt, the Equipment Charge is payable to the Company or its Assignee even if the Equipment cannot be used for any reason whatsoever and regardless of any problems or disputes relating to any Mobile Network Services, the Systems and/or the Carrier. The Equipment Charge is a separate and independent obligation of the Customer that, once paid, is not refundable for any reason save in the case of error.
- 7.5 The Customer shall be invoiced monthly in arrears for any usage based Charges (such as the Service Charges) and monthly in advance for any monthly access or other fixed Charges (including Equipment Charge) and shall pay the Charges within thirty (30) days of the date of the invoice (unless otherwise expressly agreed with the Company and set out in the Order Form) (the "Payment Date").
- 7.6 The Customer will pay any agreed initial Charges, the Service Charges, the Equipment Charge and any other fixed monthly Charges (each as defined in the applicable Order Form), on or before the Payment Date in each month.
- 7.7 The Tariff and/or Equipment Charge that the Company makes available to the Customer are subject to the length of contract chosen by the Customer in the Order Form and the terms applicable to such Tariff and/or Equipment and are based upon the predicted or anticipated revenue over the Customer's contract term for Mobile Network Services (including any notice period). In the event that the Customer fails to make payment for the Mobile Network Services for (or otherwise breach the Contract during) the Minimum Term, and fails to make payment of any early termination charges (including without limitation, those Charges set out in paragraph 9.6, the Company reserves the right to invoice the Customer for such predicted or anticipated revenue at full retail price without discount, over the full applicable contract term including notice period and to recover any benefits received and losses incurred. Notwithstanding the foregoing, nothing in this paragraph 7.7 shall apply to Equipment and/or reduce the amounts payable by the Customer in the form of the Equipment Charge.
- 7.8 The Customer shall pay all Charges (namely usage in excess of any allowances or bundles that may be comprised in the monthly Charge but without rebate for any unused element of such allowances or bundles, which shall not be carried forward) including without limitation any of the following: any charges incurred from other networks, virtual networks, premium rate and overseas cellular and network operators (without discount) and any handling charges set out in the Tariff. UK calls are billed per second and rounded up to the nearest penny. In addition, the Carriers may apply a fixed or minimum call charge, details of which can be found in the tariff terms and conditions on the relevant Carrier websites.
- 7.9 Any delay by the Company in invoicing any Charges shall not prohibit the Company from raising an invoice at a later date in respect of the same nor shall it relieve the Customer of liability to pay for the same.
- 7.10 Where the Customer is a Small Business Customer, then unless otherwise stated in the Order Form, in the event of any omission or delay by the Company in invoicing the Charges for Mobile Network Services in accordance with the Contract ("Delayed Charges") the Company shall not be prohibited from invoicing the Customer (and the Customer shall continue to be liable to pay the Company) for Delayed Charges, provided that such Delayed Charges are invoiced no later than:
- the fourth monthly invoice after the month in which the Delayed Charges were incurred by the Customer (where the Customer is invoiced monthly for the applicable Charges); or
  - the next invoice after the invoice on which the Customer should have been invoiced for the Delayed Charges in accordance with the Contract (where the Customer is invoiced quarterly or less frequently than quarterly for the applicable Charges).
- 7.11 Unless the Customer is a Small Business Customer (in which case see paragraph 7.10), any omission or delay by the Company in invoicing the Charges for Mobile Network Services shall not prohibit the Company from raising an invoice at a later date in respect of the same nor shall it relieve the Customer of liability to pay the same.

- 7.12 The Customer's obligation to pay any Equipment Charge, any Termination Charge, Non-Return Charge or Damage Charges for Equipment, shall be a separate standalone debt obligation of the Customer.
- 7.13 Without prejudice to any of the Company's other rights and remedies, within sixty (60) days of the Commencement Date if the total Connections set out in the Order Form are not achieved (through no act or omission of the Company), then the Company may adjust the Charges at its reasonable discretion.

## **8 OBLIGATIONS OF THE CUSTOMER**

- 8.1 The Customer acknowledges that the System is operated under license and by agreement with the Carriers and that the provisions of the said licenses and agreements apply to the use of the Mobile Network Services by the Customer. The Customer hereby undertakes:
- a) not to use or permit the use of the System or any Equipment for (a) any unlawful, immoral or improper purpose including without limitation the use of unlawful or unauthorised SIM gateways, (b) any purpose not recommended by the Equipment manufacturer, or (c) any other purpose as notified by the Carriers or the Company from time to time;
  - b) to comply with any reasonable instructions issued by the Company relating to the System, the Equipment or the Mobile Network Services and to use only equipment approved by the Carriers and the British Approvals Board of Telecommunications;
  - c) not to reverse, or permit anyone else to reverse, the charges on any telephone call;
  - d) not to act, or omit to act, in any way that may injure or damage any persons, property or the System or cause the quality of the Mobile Network Services to be impaired;
  - e) not to sell or resell or distribute the Mobile Network Services or Equipment;
  - f) not to directly or indirectly be involved, or knowingly, recklessly or negligently permit any other person to be involved, in any fraud, illegal or immoral activity in connection with the Customer's use of the Mobile Network Services or Equipment and shall notify the Company immediately upon becoming aware of any such activity;
  - g) not to use any Data Only Mobile Network Services for voice (other than VoIP) services;
  - h) to carry out such routine day-to-day preventative maintenance measures as may be recommended in the operating instructions and manufacturer's written recommendations supplied with the Equipment ("**User Instructions**"); and
  - i) to ensure that the environmental conditions for the Equipment are maintained in accordance with the User Instructions.
- 8.2 The Customer will promptly advise the Carrier and the Company, by phone and in writing in the event of loss or theft of the Equipment.
- 8.3 The Customer acknowledges that the Company will accept, and act on behalf of, any instruction received from the Customer, and accept and rely on any additional orders placed with the Company, regardless of authority and/or position, unless levels of authorisation have been pre-advised to and agreed by the Company in writing.
- 8.4 Porting and Migration requests of mobile numbers made during the Minimum Term do not relieve the Customer from any contractual obligations to pay any of the Charges (including without limitation any early termination charges) due under this Contract. Where the Company provides Porting and Migration the procedure and costs for such services are set out in the Tariff. Information relating to Porting and Migration and associated charges may be found at <https://dcs.tech> or such other address as notified to the Customer from time to time.
- 8.5 The Customer agrees not to contravene the General Conditions or any other relevant regulations or licences granted thereunder and otherwise not to contravene, and not by any act or omission or use of the Mobile Network Services, cause the Company to contravene, any Relevant Laws or the General Conditions.

## **9 EQUIPMENT**

- 9.1 The Company will use its reasonable endeavours to deliver the Equipment in accordance with the delivery dates (if any) as stated in the Order Form.
- 9.2 Risk in the Equipment shall pass to the Customer when the Equipment is delivered to the Customer at the address provided to the Company by the Customer.
- 9.3 Title to the Equipment shall pass to the Customer as follows:
- 10.3.1 for purchased Equipment, when the Company has received full payment for the Equipment, provided that no other sums are then overdue to the Company from the Customer on any account; or
  - 10.3.2 where Equipment is provided to the Customer using Hardware Credit or on a free of charge basis, once all charges incurred during the Minimum Term have been paid.
- 9.4 Otherwise, the Equipment shall at all times remain the property of the Company (or its Assignee).
- 9.5 Until ownership of the Equipment has passed to the Customer, the Customer must:
- a) hold the Equipment on a fiduciary basis as the Company's or its Assignee's bailee;
  - b) protect the interests of the Company in the Equipment and this Contract, and must not do anything inconsistent with those interests, including attempting to sell or dispose, grant any interest or Encumbrance, part possession with, or place any plates, stickers or marks on, the Equipment;
  - c) keep, and return (in accordance with paragraph 10), the Equipment in Good Working Order and Condition;
  - d) store the Equipment (at no cost to the Company) separately from all other goods of the Customer or any third party in such a way that they remain readily identifiable as the Company's property;
  - e) not destroy, deface or obscure any identifying mark or packaging on or relating to the Equipment; and
  - f) insure the Equipment on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Customer shall produce the policy of insurance to the Company.
- 9.6 Any shortfall in the Equipment delivered, non-delivery of Equipment or damage to the Equipment in transit (where the Company is arranging carriage) must be notified in writing to the Company within 3 (three) Business Days of the date that the Equipment was due to arrive (if notified by the Company), or of delivery at the Customer's address, as applicable. In the absence of such notice, the Equipment shall be deemed to have been delivered in full and without fault or damage.
- 9.7 In the event of the Equipment being defective, the Company shall, for a period of 12 (twelve) months from the date of delivery of any Equipment, at its option and without cost to the Customer return the applicable Equipment to the manufacturer of the Equipment who shall either repair or replace any defective Equipment to make good any defect that shall be proved to the satisfaction of the Company to be the result of faulty design, materials or manufacture, provided that the Company shall have no liability for such defects unless the Customer notifies the Company within 5 (five) Business Days from the date of delivery and within 24 (twenty four) hours of any latent defect arising within such 12 (twelve) month period. If the Company repairs or arranges for the repair of any Equipment outside such 12 (twelve) month period, the Customer shall pay the Company for any such service at the Company's then prevailing rates.
- 9.8 If the supplier or manufacturer of the Equipment has given the Company warranties for the Equipment then the Company shall (so far as it is able to do so, and at the Customer's cost) assign the benefit of such warranties to the Customer so that, to the full extent permitted by law, the Customer can make any claim on the supplier or manufacturer that the Company could have made.
- 9.9 If the Company repairs or arranges for the replacement and/or repair of any Equipment and/or parts beyond the scope of any warranties, the Customer shall pay the Company for any such service at the Company's then prevailing rates. The replacement Equipment and/or parts will be deemed to become part of the Equipment and the property of the Company and the Customer shall ensure that title to such Equipment is vested in the Company.
- 9.10 If the Company repairs, or arranges for the repair of, any Equipment pursuant to paragraph 9.5 and/or 9.7, the Customer shall ensure that any data stored on the Equipment is appropriately backed-up to another device and thereafter deleted from the Equipment before the Equipment is sent to the Company or the manufacturer of the Equipment for repair.

- 9.11 Notwithstanding the foregoing, the Company shall not be liable for or obligated to defend any claims or damages arising out of or related to:
- a change, alteration or modification of any Equipment not performed by the Company or the manufacturer of the Equipment;
  - combination of the Equipment with any other equipment, data, documentation, items or products not supplied by the Company;
  - the use of any Equipment in a manner or for a purpose for which it was not intended;
  - failure to use or implement an upgrade or replacement version of any Equipment when such upgrade or replacement version is made available by the Company or relevant manufacturer;
  - the import or export of any Equipment in violation of applicable export control requirements, regulations or laws;
  - use or exportation of any Equipment into any countries identified on any US Government embargoed countries list; or
  - use of any Equipment in a manner or for a purpose not authorised under the applicable end user license agreement (if any).
- 9.12 In each of the instances set out in paragraph 9.11, the Customer shall be obligated to indemnify and hold harmless the Company, its manufacturers and all members of the Company's Group and their respective officers, directors, employees and agents, in respect of any liability, loss, injury, damage, demand, claim, cost charge or expense that may be incurred by or awarded against the Company, its manufactures and all members of the Company's Group, by reason of or arising directly or indirectly out of or in respect of against any claim or liability arising out of such conduct.
- 10 RETURN OF EQUIPMENT**
- 10.1 Within 10 (ten) days following the last day of the Term, or any earlier termination, the Customer must at its own expense (which includes all transport, insurance and related costs), deliver the Equipment to Company or any person nominated by Company in Good Working Order and Condition to a place nominated by Company.
- 10.2 If the Equipment is not returned in accordance with paragraph 10, the Customer must pay the Company an amount equal to 2 (two) days' Equipment Charge for each day during which the Equipment is not returned unless the Company otherwise agrees in writing. If the Equipment is not returned within 20 (twenty) days following the last day of the Term, then the Customer shall pay a Non-Return Charge to the Company.
- 10.3 If the Equipment is returned to Company but not in Good Working Order and Condition, then the Customer must pay the relevant Damage Charges to the Company.
- 11 EQUIPMENT TERMINATION**
- 11.1 The Customer's right to possession of the Equipment shall terminate immediately in the event that the Company has the right to suspend and/or terminate the Mobile Network Services.
- 11.2 If any Mobile Network Services are terminated for any reason, the Customer must immediately return all of the relevant Equipment pursuant to paragraph 10.1 and where termination takes place before expiry of the Minimum Term the Customer must pay the Termination Charge for the Equipment (together with any Damage Charges or Non-Return Charge that might be payable under paragraphs 10.2 or 10.3).
- 11.3 The Customer shall, notwithstanding that ownership of any of the Equipment has not passed to the Customer, remain liable for all Service Charges incurred during a period of theft, damage or loss of the Equipment until such theft, damage or loss is reported to the Carrier and the Company, and will remain liable for any Equipment Charge, Termination Charge, Damage Charges and/or Non-Return Charge depending on whether the Equipment is replaced or the Contract is terminated.
- 11.4 The Customer grants the Company, its agents and employees an irrevocable licence at any reasonable time to enter any premises where the Equipment is or may be stored in order to inspect, or, where the Customer's right to possession has terminated, to recover the Equipment that is still owned by the Company.
- 11.5 Nothing in any Contract shall entitle the Customer to sell or enter into a contract to sell goods on behalf of any Carrier or the Company. It is recognised by the parties that the Carriers retain legal title in any SIM Cards supplied. Accordingly, the parties do not intend that the Customer be entitled to make any claim against any Carrier or the Company for loss of agency rights or loss of goodwill resulting from the termination of this Contract.
- 11.6 The Customer shall be liable for the repair of Equipment that becomes faulty or damaged and is outside the manufacturer's warranty. All Customer obligations under this Contract shall remain in force during any period where Equipment is undergoing repair.
- 12 TERMINATION AND SUSPENSION OF THE MOBILE NETWORK SERVICES**
- 12.1 Subject to clause 12.2 of the Conditions and paragraphs 11.4 and 11.5 of these Specific Conditions and without prejudice to any specific termination rights set out elsewhere in these Specific Conditions, the Customer shall not be entitled (once an Order Form has been accepted by the Company pursuant to the Conditions) to change or cancel an Order Form:
- at all in respect of Equipment; or
  - except for termination in accordance with these Specific Conditions relating to the serving of notice to terminate the relevant Mobile Network Services, which shall take effect in accordance with the applicable Specific Conditions, unless otherwise agreed in writing with the Company.
- 12.2 In the event of any termination or expiry of the Mobile Network Services or any Connection, the Customer shall:
- return all Equipment in accordance with paragraph 10.1;
  - be liable for any Charges that become payable under paragraphs 10.2 and 10.3;
  - pay the Termination Charge for the Equipment if the Mobile Network Services or Connection is terminated before the end of the Minimum Term; and
  - indemnify the Company in full against all loss including, but not limited to, all losses incurred by the Company as a result of the Customer terminating the relevant Mobile Network Services or Connection before the end of the Minimum Term or where the Contract or Connection has continued beyond the Minimum Term before the end of the relevant notice period.
- 12.3 Notwithstanding anything to the contrary in this paragraph 12.3, the Company shall be entitled to suspend all or part of the Mobile Network Services (including without limitation any individual Connection) without liability upon the occurrence of any of the following events:
- if any information given to the Company by the Customer is false or misleading;
  - if the Customer does, or allows to be done, anything that in the Carrier's or the Company's reasonable opinion may have the effect of jeopardising the operation of the Mobile Network Services;
  - if the Customer permits the use of the Mobile Network Services or uses the Mobile Network Services for illegal purposes including (without limitation) the use of illegal or unauthorised Gateways (or the Carrier or the Company believes the same);
  - if, in the Company's or the Carrier's absolute discretion, the Charges incurred in any given period show unreasonable, low or excessive usage of Mobile Network Services or unusual calling patterns or that cause network congestion;
  - if the Company is unable, for whatever reason, to provide the Mobile Network Services or if the Company is required to terminate this Contract by a competent administrative or regulatory authority (including without limit OFCOM) and/or the Carrier;
  - if the Customer exceeds the credit limits set by the Company and/or the Tariff.
- 12.4 Termination, suspension, disconnection or Barring under this paragraph 12 shall be without prejudice to the Company's rights accrued up to and beyond the date of termination, suspension, disconnection or Barring.
- 12.5 In the event of termination of the Mobile Network Services or Connection by the Company, in addition to its obligations pertaining to Equipment termination and relevant Charges in paragraph 11, the Customer shall, within 14 (fourteen) days of receipt of the notice of termination, pay to the Company all outstanding Charges including (without limitation) the amount that would have been payable for the remainder of the Term for the Mobile Network Services or Connection.

- 12.6 Upon termination of the Mobile Network Services or Connection if the Customer made a deposit, the Company will only return any surplus to the Customer after deduction of all unpaid Charges. Any request for repayment must be made in writing.
- 12.7 After disconnection, suspension or Barring of the Equipment from the System and/or consequent upon the termination of the Mobile Network Services or Connection, the Customer shall pay on demand all Charges outstanding at the time of disconnection, suspension or Barring including (without limitation) any reasonable disconnection or Barring fee that the Company may wish to charge in its sole discretion. Should the Company elect to disconnect and/or reconnect the Equipment from or to the System, then the Company having regard to the circumstances at the time of disconnection or reconnection may elect to charge a fee of up to £30.00 for such disconnection or reconnection. Should the Company elect to bar and/or unbar the Equipment from the System, the Company may, in its absolute discretion, charge an unbarring fee of up to £25.00 per SIM Card for such barring or unbarring.
- 12.8 Should termination take place part way through a month, no credit will be given for the post termination part of the month's access Charge(s).
- 12.9 The Customer will remain liable for all Charges incurred prior to termination regardless of when they are invoiced.
- 12.10 Subject to paragraph 9 of the Conditions, if the Customer is unable to use all of the Mobile Network Services for a continuous period of more than three (3) days due to any technical failure (including (without limitation) power cuts, improvement, modification or maintenance of the Mobile Network Services or the Systems) and if the Carrier offers this to the Company, on application the Customer may receive a credit against the Service Charges, which will represent that part of the Service Charges for the period of non-availability.
- 13 FRAUD AND SECURITY**
- 13.1 The Customer will inform the Company immediately of any subsequent changes to the information the Customer supplies to the Company in connection with the Contract.
- 13.2 The Customer acknowledges that the Company has no control of a Customer's equipment configuration, voice mail security or other feature services.
- 13.3 The Company shall not be responsible for Charges or other charges resulting from fraudulent and/or unauthorised use of the Equipment or Mobile Network Services by the Customer, its End Users or any third parties (who are not employees of the Company) and the Customer agrees to pay all charges related to such fraudulent and/or unauthorised use.
- 14 CREDITS**
- 14.1 The Company reserves the right to withhold or withdraw Credits and charge the Customer the applicable Fee if the Company continues to provide the Mobile Network Services, at its absolute discretion, following any Insolvency Event.
- 14.2 Unless otherwise stated in the Order Form, the Company will credit line rental Airtime Credits pro-rata to the Customer's invoice during the Minimum Term.
- 14.3 The Customer may offset the remaining balance of:
- 14.3.1 non-line rental Airtime Credits against any relevant charges incurred after the first six (6) months of the Minimum Term; and
- 14.3.2 a Hardware Credit against the cost of Equipment purchased from the Company only and not against other charges relating to the Mobile Network Services.
- 14.4 The remaining balance of a Hardware Credit or Airtime Credit cannot be redeemed for cash and will be forfeited on the original date of expiry of the Minimum Term (excluding any subsequent renewal or extension) and line rental Airtime Credits will cease to be applied. Any subsidy fund provided under a previous agreement between the Company and the Customer shall be deemed to expire on the Commencement Date.
- 14.5 Credits specified in the Order Form shall not apply to an additional order unless expressly agreed in writing.
- 14.6 If the Customer breaches any term of the Contract, or there is any dispute as to the charges payable by the Customer, then without prejudice to the Company's other rights and remedies the Company may, on notice to the Customer, suspend access to any or all Hardware Credits and Airtime Credits until the breach is rectified or the dispute is resolved (as applicable).
- 14.7 If the parties have agreed a Termination Credit, the Customer shall provide to the Company reasonable evidence of the Contract Buy-out within six (6) months of the date of the first connection with the Company under the Contract. Following receipt of this evidence, the Company shall provide the Customer with the Termination Credit.
- 15 GENERAL**
- 15.1 The Customer consents to the disclosure to any Carrier of its name, address and details of the Mobile Network Services and Equipment provided to it pursuant to this Contract.