

SoHo & SME Mobile

Background:

You (Customer named in the Order Form) and We (Virgin Media Business Limited of 500 Brook Drive, Reading, RG2 6UU) agree to supply to You certain business mobile communications services on the terms and conditions of this Agreement.

The Parties agree as follows:

1. Agreement Structure

1.1 This Agreement is composed of the following documents, which apply in decreasing order of priority in the event of conflict:

- 1.1.1 any Contract Change Note; addendum or notice served by Us under clause 13;
- 1.1.2 the Commercial Terms;
- 1.1.3 these Standard Terms and Conditions;
- 1.1.4 the Price Guide; and
- 1.1.5 any other document attached to or explicitly referred to in this Agreement.

2. Definitions and Interpretation

2.1 In the Agreement, unless the context otherwise requires:

Agreement means this agreement comprised of the documents set out or referenced in clause 1;

Anti-Corruption Laws means any applicable foreign or domestic anti-bribery and anti-corruption laws and regulations, as amended from time to time, including the UK Bribery Act 2010, the US Foreign Corrupt Practices Act 1977 and any laws intended to implement the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions;

Call Data Records means in relation to the conveyance of any call or other communication over the Network, any data that constitutes traffic data as defined in the Privacy and Electronic Communications (EC Directive) Regulations 2003.

Charges means all monies payable by You to Us under this Agreement as set out in the Commercial Terms or (if silent) in the Price Guide (as may be varied pursuant to clause 13 of this Agreement) including without limitation any:

- (a) monthly or periodic charges payable by You to access the Services (Subscription Charges);
- (b) variable charges for voice, data and text usage and any other services and other non-recurring charges payable by You (Usage Charges); and
- (c) lump sum termination charges set out in the Commercial Terms payable on termination of a Service or Disconnection of a Connection before completion of the relevant Minimum Connection Period (Termination Charges);
- (d) additional fees set out in the Price Guide for specified administration or account activity (Additional Charges), including without limitation, Suspension Lifting Fees.

Commercial Terms means the terms and conditions in schedules 1- 4 (inclusive) hereto:

Confidential Information means any commercial or technical information in whatever form which is disclosed by one Party to the other Party and which would be regarded as confidential by a reasonable business person including, without limitation, all business, statistical, financial, marketing and personnel information, customer or supplier details, know-how, designs, trade secrets or software of the disclosing Party or any member of its Group;

Standard terms and conditions

Connection means a connection by which we give You access to the Network via a SIM Card that has been configured to attach to the Network. Re-Connection, Connect and Connected each have a corresponding meaning. A Connection may (without limitation) be a Connection:

- (a) with some inbound or outbound communications activity and which is not an Inactive Connection (**Active Connection**);
- (b) which is already Connected at the commencement of this Agreement (**Existing Connection**);
- (c) which is Connected under this Agreement over and above the Connections specified in the Initial Order, but which is not a Re-Connection or transfer or reallocation of a Connection between Users (**Future New Connection**); or
- (d) with no inbound or outbound communications traffic in any consecutive 3 month period (**Inactive Connection**);

Contract Change Note means the communication issued by Us detailing a requested change to this Agreement;

Customer Equipment means any equipment and/or software used by You which is not provided by Us;

Customer Services means our customer services helpdesk which can be contacted by telephone on 0800 052 0800 (or such other number as we may advise in writing from time to time) in the circumstances set out in this Agreement.

Data Controller has the meaning set out in the GDPR.

Data Processor has the meaning set out in the GDPR.

Data Protection Directive means Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995.

Data Protection Legislation means any applicable law relating to the processing, privacy and use of Personal Data, as applicable to the Data Controller, the

Data Processor or the Services, including the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any laws or regulations implementing the Data Protection Directive or the e-Privacy Directive and the GDPR.

Data Subject means any information relating to an identified or identifiable natural person.

Disconnect means the removal of access to the Network of a Connection. Disconnection shall have a corresponding meaning;

EE means EE Limited, a company with registered address Trident Place Mosquito Way Hatfield Hertfordshire AL10 9BW and registered number 02382161;

EE Software means any software, excluding End User Licensed Software, that is owned by EE or licensed by EE on behalf of a third party, and which may be updated from time to time;

End User Licensed Software means software licensed to You by a separate agreement with the licensor of such software, as set out in these Standard Terms and Conditions or by any 'shrink wrap' or 'click through' licence agreement or in box documentation provided;

e-Privacy Directive means the Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002.

GDPR means the regulation (EU) 2016/679 of the European Parliament and of the Council of 12 July 2002.

Group means all entities or persons controlled by, controlling or under common control with Us or You (as applicable), from time to time. For the purpose of this definition the term 'control' means ownership, directly or indirectly, of: (i) equity securities entitling it to exercise, in aggregate, 50% or more of the voting power in such corporation or other entity; (ii) 50% or more of the interest in the profit or income in the case of a business entity other than a corporation; or (iii) in the case of a partnership, any other comparable interest in the general partnership;

Standard terms and conditions

Initial Order means the initial order for Services and SIM Card which You commit to take and We commit to supply You upon commencement of this Agreement, as set out in the Commercial Terms;

Insolvency Event means an event where either Party:

- (a) ceases, threatens to cease or suspends trading or carrying on business (other than temporarily by reason of a strike); or
- (b) suspends payment of its debts or is or becomes unable to pay its debts (within the meaning of s123 of the Insolvency Act 1986) or commits any act of insolvency, or enters into a composition or voluntary arrangement with its creditors, or has a receiver or administrator appointed over the whole or any part of its business or assets, or has a creditor's winding up petition advertised against it in the appropriate Gazette, or passes a resolution to wind up (other than for the purposes of a solvent amalgamation or reconstruction), or is the subject of any action or procedure commenced in any jurisdiction which is similar to or analogous with any above-mentioned action or procedure;

Intellectual Property Rights means copyright, database rights, design rights, patents, trade marks, service marks, domain names (whether or not any of the same are registered and including applications for registration of the same) and confidential information, know-how and all other intellectual property or forms of protection of similar nature or having equivalent or similar effect to any of the same, which may subsist in any part of the world;

List Price means Our standard prices for Services and SIM Card as current at the time the price needs to be determined;

Material means any material in whatever form (including documentary, magnetic, electronic, graphic or digitised) including any software, data sheets, processes, reports, manuals, drawings, information and instructions;

Minimum Agreement Term means the minimum term of this Agreement, as detailed in the Commercial Terms;

Minimum Connection Period means the minimum period for which You commit to receive a particular Service or keep a Connection Connected to the Network from the relevant Service Commencement Date;

Model Contract Clauses means the standard clauses approved by the European Union for use when Personal Data is transferred outside of the European Economic Area.

Network means the electronic communications systems by which We make Services available in the United Kingdom and any other type of communications system which may be provided by Us;

Party means You or Us, and Parties means You and Us;

Personal Data has the meaning set out in the Data Protection Legislation.

Price Guide means the applicable list of current standard prices as updated from time to time and published at www.virginmediabusiness.co.uk/Global/Mobile_Price_Guide.pdf to the extent that there is any conflict between the Price Guide and any other point of sale pricing information, the Price Guide takes precedence;

Processing has the meaning set out in the Data Protection Legislation and **Process, Processes** and **Processed** shall be construed accordingly.

Roaming means the means by which You can use a SIM Card to connect to another network whilst outside of the UK;

Service(s) means the service(s) set out in the Initial Order and any other services that may be agreed between the Parties from time to time;

Service Commencement Date means the date on which We commence supply of a particular Service to You;

SIM Card means a subscriber identity module supplied to You by Us to enable You to access the Services;

Standard terms and conditions

Software means EE Software and End User Licensed Software, as updated from time to time;

Standard Terms and Conditions means the terms and conditions in the main body of this Agreement, as varied from time to time in accordance with the Agreement;

Sub-contractor(s) means any person appointed by Us, EE or any of our suppliers to perform Our obligations under this Agreement to You on Our behalf;

User means You or anyone who is permitted by You to use the Service(s) under this Agreement; and

Working Day means 09.00 to 17.30 on any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in the UK.

2.2 References in the Agreement:

2.2.1 to a statutory or regulatory requirement will: (a) include any relevant Act of Parliament, subordinate legislation or other enforceable right; and (b) be construed as a reference to that requirement as may be amended, replaced, extended or consolidated from time to time;

2.2.2 to a 'person' includes any person, partnership, firm, company, body corporate, corporation, government, state or agency of a government or state, joint venture, trust, association or organisation;

2.2.3 to a Party includes its respective successors and permitted assigns and their respective employees and agents;

2.2.4 to You, Your or the Customer includes any other person who We reasonably believe is acting with Your knowledge or authority; and

2.2.5 to any word in the singular includes the plural and vice versa.

2.3 References in these Standard Terms and Conditions to clauses are unless otherwise stated to clauses in these Standard Terms and Conditions.

2.4 Headings are for convenience only and do not affect the interpretation of the Agreement.

2.5 Where in the Agreement You agree not to do any act or thing You also agree not to allow and to take all reasonable measures to prevent any other person doing that act or thing.

2.6 Any reference to the plural includes the singular and vice versa.

2.7 General words will not be given a restrictive meaning where they follow one or more specific terms indicating a particular category of act, matter or thing or where they are followed by examples. The words 'including' and 'in particular' (or similar) will not limit the generality of any preceding words.

3. Commencement and Term

3.1 This Agreement shall commence:

3.1.1 48 hours after we have emailed You an order form which we have filled in for You on Your instructions and with information You have provided;

3.1.2 When You start using the Service;

3.1.3 When We make the Service available to You;

Whichever is earlier, and shall continue until the last remaining Service provided to You expires or is terminated by either Party in accordance with this Agreement.

4. Supply of Services and Agreement

4.1 We agree to supply, and You agree to receive, the Services and SIM Card subject to the provisions of this Agreement.

4.2 The provision of Services and SIM Card by Us to You is subject to:

Standard terms and conditions

- 4.2.1 Your satisfactory credit status as set out in clause 6.5; and
- 4.2.2 satisfactory identity checks as set out in clause 21.5.
- 4.3 We shall supply each Service from its Service Commencement Date for its Minimum Connection Period and thereafter until the Service expires or is terminated by either Party in accordance with this Agreement.
- 4.4 Any lead times referenced in the Agreement or otherwise notified to You are general estimates only and are not binding on Us.
- 4.5 You agree that You are procuring the Services and SIM Card for Your own use and for the benefit of Your Users as authorised by and in accordance with this Agreement and You will not re-sell, re-supply or otherwise distribute the Services and SIM Card or allow Users to do so.

5. Standard of Service

- 5.1 We will use Our reasonable endeavours to provide the Services where technically possible within the range of the base stations that make up the Network, however We are unable to guarantee a continuous fault-free service and have no obligation to provide any Services outside the range of these base stations.
- 5.2 You acknowledge that, as Network design is an on-going process, the range of base stations making up the Network may change from time to time, at Our discretion, and that at any time the Network may comprise of different technologies. The Services are made available provided You are in the range of base stations forming part of the relevant technological Network when trying to use any particular Service. Any coverage maps are Our estimate of outdoor coverage and do not guarantee Service coverage which may vary depending on location.
- 5.3 The quality and availability of the Services is also subject to:
 - 5.3.1 local geography and topography;
 - 5.3.2 weather and/or atmospheric conditions;
 - 5.3.3 degradation, congestion or maintenance requirements of the Network including but not limited to re-positioning and/or decommissioning of base stations;
 - 5.3.4 other physical or electromagnetic obstructions or interference;
 - 5.3.5 faults in other telecommunication networks to which the Network is connected; and
 - 5.3.6 the compatibility of SIM Card and/or Customer Equipment used.

6. Charges, Payment and Billing

- 6.1 You are responsible for paying all Charges incurred for Services and SIM Card on Your account and must pay the Charges in full and without any deduction or set off. You are responsible for notifying Your Users if You do not wish Users to incur any particular Charges or use any particular Services.
- 6.2 We will invoice You monthly in advance for Subscription Charges, monthly in arrears for Usage Charges, and after dispatch for any SIM Card ordered from Us. Charges in respect of Services not supplied directly by Us such as (but not limited to) Roaming may be invoiced several months in arrears by Us.
- 6.3 Further billing terms apply as set out in the Price Guide.
- 6.4 You will notify Us in writing of any disputed invoice within 14 days of the date of such invoice, including the full facts of the dispute. You must pay the undisputed portion of the invoice in accordance with the terms of this Agreement and in good faith co-operate with Us to resolve the dispute. Any sum agreed to have been correctly invoiced will be paid and any sum incorrectly invoiced will be resolved by appropriate credit to Your account (in each case within 7 days of resolution).
- 6.5 If any payment is not made when due, We may charge interest on all sums

Standard terms and conditions

outstanding from the date they fell due at the rate of 4% per annum above the base rate of National Westminster Bank plc from time to time in force. This interest shall accrue on a daily basis both before and after settlement or judgment until payment is made. We may further take any or all of the following actions until payment for Charges not the subject of a dispute in good faith is received:

- 6.5.1 withhold and set-off any sums owed by Us to You (including any Credit) against the sums owed by You to Us;
 - 6.5.2 suspend the Service(s) in relation to which the Charges are outstanding in accordance with clause 14.4; and/or
 - 6.5.3 issue a notice pursuant to clause 15.3.1 on the basis that the Parties agree that such non-payment shall be a material breach of this Agreement.
- 6.6 Notwithstanding any other provision in the Agreement, We may delay or bring forward the sending of invoices to coincide with Our billing cycles from time to time. You acknowledge that the first and last invoice in relation to a particular Service may include Charges due for more or less than one complete billing cycle according to when such Service is connected and/or terminated.
- 6.7 If You pay the Charges by Direct Debit We may alter Your Direct Debit instruction according to the relevant Charges from time to time applicable to the Service. On proper termination of the Agreement You will be responsible for the cancellation of any Direct Debit instructions or other authorisations for periodic payment to Us. Except on proper termination of the Agreement You must inform Us immediately if You cancel any Direct Debit instructions. Cancellation of any Direct Debit instruction shall entitle Us to suspend and/or terminate the Agreement without notice.
- 6.8 We shall be entitled to carry out credit checks on You. We accept no liability for the accuracy or otherwise of information provided to Us by credit reference agencies (CRAs). If at any time before or during the term of the Agreement You fail

to meet the standard of creditworthiness We deem acceptable, We shall be entitled:

- 6.8.1 to terminate the Agreement, in whole or in part immediately on giving You written notice;
- 6.8.2 to require You to make such regular instalment payments in advance on account of any future charges as We deem appropriate;
- 6.8.3 to impose credit limits on You in respect of Charges and to suspend the Service at any time when such limits are reached until payment in full of such outstanding Charges has been made; and
- 6.8.4 to impose such other measures on Your right to use any of the Services as We shall deem appropriate.

7. New Orders and Changes

- 7.1 New orders submitted by You shall constitute Your offer to amend this Agreement and may be submitted by You at any time during the term of this Agreement. Such orders will be subject to acceptance by Us at Our sole discretion. Amendments of the Agreement pursuant to such new orders shall become effective upon Our express acceptance of the relevant order form (each, an Amend Form) and which must be in our then current standard Amend Form format.
- 7.2 The Amend Form shall not incorporate or be subject to any additional terms unless by prior agreement between the Parties in writing, and any terms attached by You or purported to be incorporated by You shall not apply.
- 7.3 Changes requested by You shall become effective upon agreement by the Parties of a Contract Change Note or execution of an addendum.

Standard terms and conditions

8. Use of the Services and SIM Card

8.1	You shall, and shall procure that Your Users shall:		accordance with the Service terms;
8.1.1	keep confidential and do not disclose to any third party any account password, personal identification code, number or name issued by Us permitting access to the Services and SIM Card;	8.1.6	comply with all licence terms as required from time to time for any Software;
8.1.2	provide in a timely manner any information and/or assistance We require in order to supply the Services and SIM Card, ensuring the continuing accuracy and completeness of such information;	8.1.7	not use, nor knowingly allow the SIM Card or Services to be used: <ul style="list-style-type: none">(a) for any unlawful or improper purpose or in such a manner that will or may impair the operation of the Network or Our provision of the Services to You or other users,(b) in any way which causes annoyance, inconvenience or needless anxiety as set out in the Communications Act 2003, nor use the Network or the Services to send spam or unsolicited communications without the receiver's consent,(c) to send, store, communicate or knowingly receive content which is abusive, indecent, defamatory, obscene, menacing, unlawful or a nuisance, or(d) in any way that breaches the provisions of clauses 18 and 19 or contravenes the Intellectual Property Rights of Our Group, EE or any third party;
8.1.3	comply with any manuals, guidance and any reasonable instructions issued by Us or relevant third party manufacturer or supplier concerning the use of the SIM Card, Services and Network and co-operate with Our reasonable security and other checks (which may include Our making calls or sending communications to Users);		
8.1.4	inform Us upon becoming aware of any suspected or actual unauthorised use of the Services or SIM Card and take all steps necessary, including any steps requested by Us, to prevent such use;		
8.1.5	not operate, whether directly or through a third party, any device to route or re-route voice, data or other Services on, from or to the Network, including without limitation: <ul style="list-style-type: none">(a) any GSM Gateway, or(b) any device used to forward or divert calls with the intention of reducing Charges for that call except where a Device is supplied as part of a Service by Us and used by You in	8.1.8	not knowingly distribute malicious software or permit the hacking or unauthorised modification of any SIM Card or Software or the Network;
		8.1.9	comply with any applicable fair use policy that We may issue from time to time; and
		8.1.10	comply with all applicable regulatory provisions, laws,

Standard terms and conditions

codes of conduct and guidelines.

- 8.2 The Services may enable access to the internet, use of which is solely at Your risk. We have no control over and are not responsible or liable in any way for any content offered by third parties on or through the Services. You agree that You retain responsibility for, and control of, content which You send or pass over the Network.
- 8.3 Use of the Services and SIM Card or any content accessed through them in a country other than the UK may be subject to different laws and regulations. You are responsible for ensuring compliance with such laws or regulations and We are not liable for any failure of Yours or Your Users to do so.
- 8.4 You shall be responsible for implementing Your own data archiving and data back-up processes. You acknowledge that You may be required to restore data from Your back-up to relevant systems to enable a Service to continue to be provided.
- 8.5 You acknowledge and agree that We may monitor and record calls or other communications to emergency services and calls or other communications relating to Our customer services and telemarketing.

9. Risk and Title

- 9.1 Unless otherwise agreed in writing, title and property in any SIM Cards and Software shall remain vested in Us, EE or the appropriate third party and You are hereby granted a licence to use any SIM Cards only for accessing the Services during the term of this Agreement.
- 9.2 All risks in any SIM Card, and Software pass to You on delivery or, in the case of. Any SIM Card, SIM Card or Software returned to Us shall be done so at Your risk until received by Us.

10. SIM Card

- 10.1 You must satisfy Yourself that the SIM Card is suitable for its intended purpose and requirements. We will use reasonable endeavours to provide the SIM Card. Certain Services may require

specific SIM Cards and You acknowledge that You may have to purchase a certain SIM Card to benefit from the full functionality and range of Services.

- 10.2 Not used.
- 10.3 Not used.
- 10.4 You must inform Us immediately if You become aware of the loss, theft or damage of any SIM Card, and shall remain liable for all Charges incurred by the use of any lost or stolen SIM Card until reported to Us. Data on any lost or stolen SIM Card is at Your risk and the sending of any command for remote wiping of data (such as a device management solution) is Your responsibility. You must send any remote wipe command prior to reporting the Device lost or stolen and We will use reasonable endeavours to carry such command across the Network. You acknowledge that once the loss or theft of the SIM Card is notified to Us, We will terminate the ability of the Device to communicate with the Network.
- 10.5 We may recall, update or have access to the SIM Card as reasonably required to enhance or maintain the quality of Services or to update Software, but will endeavour to minimise any disruption caused to You.
- 10.6 Notwithstanding clause 8.1.4, You acknowledge that You have carried out Your own investigations as to the suitability of any Customer Equipment used with the SIM Card and that We have made no representations or warranties in relation to the suitability of the SIM Card for use with the Customer Equipment (or vice versa). You will ensure that any Customer Equipment is compatible with the Network and adheres to any technical parameters and guidelines issued by Us from time to time.

11. Warranty

- 11.1 SIM Cards which are defective due to faulty materials or workmanship will be replaced by Us at no charge for the duration of this Agreement. You understand and acknowledge that SIM cards have a limited lifespan and may need replacing from time to time.

Standard terms and conditions

- 11.2 We warrant that the EE Software shall conform in all material respects to the manufacturer's specification for a period of 3 months from the date of delivery of the EE Software. Our sole obligation and liability for breach of this warranty will be to promptly repair or replace (at Our expense) the defective EE Software.
- 11.3 The above warranties are subject to compliance by You and other Users in all material respects with all relevant licences, specifications, user manuals, any other user guidelines and any manufacturer's conditions specified in the warranty. We shall not be liable for faults in or malfunction of any SIM Card or EE Software to the extent caused by:
- 11.3.1 You or any Users failing to comply with such licences, specifications, manuals, guidelines or conditions; or
- 11.3.2 any alteration, modification or addition made to the SIM Card or EE Software without Our prior written consent.

12. Mobile Services

- 12.1 Each Service and Connection under this Agreement shall remain Connected for its Minimum Connection Period and in consideration of the offer set out in the Commercial Terms You agree that any Existing Connections shall start a new Minimum Connection Period from commencement of this Agreement.
- 12.2 All SIM Cards shall be supplied by Us pre-Connected. We will use Our reasonable endeavours to provide You with the SIM card within 7 working days from Our acceptance of Your order. You must start using SIM Cards as Active Connections within 30 days of delivery. If you inform us within this period that you are unable to use the SIM card within 30 days of delivery, We will determine at Our sole discretion whether there is a justifiable reason for You to delay using SIM Cards. We reserve the right to Disconnect Inactive Connections or to re-allocate these where You request new Connections, to enable the proper management of Inactive Connections.
- 12.3 Where a regulatory authority requires the re-allocation or change of phone

numbers, We reserve the right (without liability) to change the phone numbers allocated to You to access the Services, but shall use Our reasonable endeavours to minimise the disruption caused.

13. Variations by Us

- 13.1 We may by written notice to You vary the provisions of this Agreement where such variation is required as a result of:
- 13.1.1 any legislation, statutory instrument, government regulation, regulatory requirement or licence;
- 13.1.2 changes imposed by third party manufacturers or suppliers; or
- 13.1.3 a change to EE's or Our operations provided such change is also implemented in relation to the majority of (as applicable) EE's or Our business customers.
- 13.2 Where any variation by Us to this Agreement is likely to be of material detriment to You, We will give You at least one month's written notice of the variation (save where this is not practicable due to a change imposed by a legal or regulatory body) and You will have the right to terminate the relevant Service and/or SIM Card in accordance with clause 15.5.
- 13.3 For the purposes of this clause, the Parties agree that an increase in the Charges (as a percentage) equal to or less than any increase in the retail prices index (also calculated as a percentage) or any other statistical measure of inflation published by any government body authorised to publish measures of inflation from time to time, in the 12 month period before any increase shall not constitute a material detriment to You.
- 13.4 Subject to clause 13.2, We may also from time to time vary:
- 13.4.1 the Charges; and/or
- 13.4.2 the terms and conditions; and/or

Standard terms and conditions

- 13.4.3 the prices set out within the Price Guide. the Network or to reduce fraud.
- 13.5 Any variation pursuant to clause 13.4 shall take effect from the date We notify You that the variation is to take effect. Where the Charges are set out in the Commercial Terms, such variation shall take effect from the date the variation is notified to You to take effect. You agree that variations to the Price Guide shall take effect from the date the variation is published at www.virginmediabusiness.co.uk/Global/Mobile_Price_Guide.pdf and that such publication shall constitute adequate notification of the variation. It shall be Your responsibility to review the Price Guide and any relevant online Solution Terms periodically. We recommend that the review of the Price Guide is carried out by the Customer no less than every 30 days.
- 13.6 Subject to clause 13.2, We may at any time, withdraw any Service or SIM Card and terminate the Agreement with respect to that Service or SIM Card where We are either no longer able to provide the Service or SIM Card because Our nominated third party supplier no longer provides the Service or SIM Card to Us, or where We have decided that the Service or SIM Card is no longer suitable to Our business operations, provided We give You at least 60 days' notice of such withdrawal or termination. We shall not be liable to pay any Termination Charges in respect of the relevant Service or SIM Card where We exercise Our rights under this clause.
- 14.2 We shall use Our reasonable endeavours to keep any suspensions under clause 14.1 to a minimum, to provide prior notice where possible and to restore the Services as soon as reasonably practicable.
- 14.3 Where a User has caused You to be in breach of any of Your obligations under clause 8, We may suspend the Services to that specific User, but where practicable shall use Our reasonable endeavours to notify You in advance of such suspension to allow the opportunity for the alleged breach to be remedied.
- 14.4 Without prejudice to Our other rights under this Agreement, We may additionally suspend Your and/or all the Users' access to the relevant Service(s) where We have not received payment of outstanding Charges (including any accrued interest) within 7 days of the due date of the invoice, and where those Charges are not being disputed in good faith, or where any agreed credit limit on the Charges has been exceeded by You.
- 14.5 You shall remain liable for all Charges during any period of suspension, and where the suspension has been implemented under clauses 14.3 or 14.4, You shall also pay all reasonable costs and expenses incurred by Us in the implementation of the Suspension and a Suspension Lifting Fee per suspended SIM Card. We shall restore the Services as soon as the circumstances which gave rise to the suspension are remedied.

14. Suspension

- 14.1 We may, without liability to You, suspend Your and/or any or all Users' access to any relevant part, or where necessary all, of the Services:
- 14.1.1 during any technical failure, modification or maintenance of the Network;
- 14.1.2 upon instruction by emergency services or any government, regulatory or appropriate authority; or
- 14.1.3 where necessary to safeguard the integrity and security of

15. Termination

- 15.1 Subject to the remainder of this clause 15, You may terminate this Agreement in whole or in part and may Disconnect any individual Connection at any time by giving Us 30 days' written notice.
- 15.2 Without prejudice to clause 13, We may terminate this Agreement in whole or in part by giving You 30 days' written notice, provided such notice does not expire before the end of the Minimum Agreement Term.
- 15.3 Either Party may terminate this Agreement in whole or in part at any time by notice in writing if the other Party:

Standard terms and conditions

- 15.3.1 is in material or persistent breach of any of the terms of this Agreement, by giving written notice specifying the breach and (if capable of remedy) requiring it to be remedied. If the breach is not remedied within 30 days of the date of the notice, this Agreement shall end on the expiry of the 30 day notice period. If the breach is not remediable, termination will take effect immediately; or
- 15.3.2 becomes subject to an Insolvency Event.
- 15.4 Termination Charges will be payable where:
- 15.4.1 a Service is terminated during its Minimum Connection Period by You under clause 15.1 or by Us under clause 15.3; or
- 15.4.2 a Connection is Disconnected prior to completion of its Minimum Connection Period by You under clause 15.1 or by Us under clause 12.3.
- You acknowledge that the Termination Charges represent a genuine pre-estimate of the loss suffered by Us due to early termination, having regard to the overall commercial deal between the Parties, and that the Termination Charges do not represent a penalty.
- 15.5 You may terminate a Service or an order for SIM Card without liability for Termination Charges by giving Us 30 days' written notice where We have varied the terms of, or increased the Charges under, this Agreement pursuant to clause 13 in relation to that specific Service or SIM Card to Your material detriment. This right to terminate ends 60 days after the date on which the variation became effective.
- 15.6 Without prejudice to Our other rights and remedies under this Agreement, We may recover any Credits paid to You if You fail to comply with any term of this Agreement.

16. Consequences of Termination

- 16.1 Upon expiry or termination of this Agreement (in whole or in part) for any reason, the following shall apply (and where terminated in part, shall apply to that part) subject to clause 16.2:
- 16.1.1 You shall pay all Charges due and payable;
- 16.1.2 We shall no longer supply and You shall immediately cease to use the Services (except for EE Software embedded in such SIM Card to which You have title: (i) which cannot reasonably be removed or deleted from that SIM Card; (ii) to the extent strictly necessary for the ongoing use of that SIM Card; and (iii) subject to clause 19.3) and Your Connections will be Disconnected;
- 16.1.3 the Parties must promptly on request return or destroy all Confidential Information (except that We may retain such information where required for regulatory purposes) and also return any property belonging to the other (and where requested provide written confirmation of this); and
- 16.1.4 all Installed SIM Card or any other SIM Card in which title has not passed to You must be returned to Us in full working order. Where it is not returned, or if in Our reasonable opinion is not returned in good working order, You must pay the List Price for such SIM Card.
- 16.2 Notwithstanding the above, where all or part of this Agreement has been terminated:
- 16.2.1 prior to the completion of the relevant Minimum Connection Period by You pursuant to clause 15.3.1 (material or persistent breach), clause 15.3.2 (insolvency), by Us

Standard terms and conditions

- under clauses 13.5 (withdrawal of Services), or by either Party under clause 25.1 (events outside Parties' reasonable control); or
- 16.2.2 at any time by You pursuant to clause 15.5 (variations),
- 16.3 You shall only be obliged to pay the Charges due up until the date of termination We will provide reasonable assistance to You in accordance with standard telecommunications industry practice in relation to any transfer of Services to another telecommunications operator.
- 16.4 Termination or expiry of this Agreement (or any part of it) will not affect either Party's accrued rights or liabilities and provisions of this Agreement which are intended by their nature to survive termination shall continue in force together with any other provisions necessary for their enforcement or interpretation.
- ### 17. Liability
- 17.1 The express terms of this Agreement are in lieu of all warranties, conditions and other terms implied by statute, common law, custom, trade, course of dealing or otherwise, all of which are excluded to the fullest extent permitted by law, including any implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.
- 17.2 Subject to clause 17.3:
- 17.2.1 subject to clauses 17.2.2 and 17.2.3 the total liability of each Party under or arising in connection with this Agreement in contract, tort (including negligence), breach of statutory duty or otherwise in each 12 month period of this Agreement beginning on the commencement date and each anniversary thereafter (each a Liability Period), will be limited to the greater of £100,000 or 100% of the Charges paid or payable by You in that Liability Period;
- 17.2.2 Our liability for a failed SIM Card is limited to the cost of a replacement SIM Card;
- 17.2.3 neither Party will be liable to the other in contract or tort (including negligence) or otherwise for:
- (a) any loss or damage, whether direct or indirect:
- (i) of business, use, production or anticipated savings, or
- (ii) of goodwill, opportunity or contracts; or
- (iii) of revenue; or
- (iv) of profits; or
- (v) from any loss or corruption of data or software or business interruption, or
- (b) any indirect or consequential loss or damage whatsoever arising under or in connection with this Agreement.
- 17.3 Nothing in this Agreement limits or excludes:
- 17.3.1 either Party's liability for death or personal injury caused by the negligence of its employees, agents or sub-contractors, for fraud or fraudulent misrepresentation or for any other matter in respect of which liability cannot lawfully be limited or excluded; or
- 17.3.2 Your obligation to: (i) pay the Charges and (ii) pay any Termination Charges.
- 17.4 We will not be liable for any breach of this Agreement to the extent that any delay or failure by Us to perform Our obligations results from:
- 17.4.1 an act, omission or delay of You, Your agents, sub-contractors, consultants or employees resulting in

Standard terms and conditions

- negligence or breach of law, or which is contrary to the terms of this Agreement;
- 17.4.2 acts, omissions or negligence of other providers of telecommunication services, except where such providers are Sub-contractors; or
- 17.4.3 acts, defaults, omissions or negligence of third party suppliers or manufacturers, except where such providers are Sub-contractors.
- 17.5 You acknowledge that the exclusions and limitations of Our liability in the Agreement are reasonable.
- 17.6 The provisions of this clause 17 shall survive termination of the Agreement for any reason whatsoever.

18. Intellectual Property

- 18.1 All Intellectual Property Rights used by or subsisting in the Services and SIM Card shall remain the sole property of Us, EE or the relevant third party rights owner as applicable.
- 18.2 Where Materials are created during or as a result of the supply of the Services and/or SIM Card to You, all legal and beneficial rights therein (including Intellectual Property Rights) shall be owned by Us, EE or the third party rights owner as applicable. Where We provide such Material to You to enable You to use the Services and/or SIM Card, We grant You a non-exclusive non-transferable licence to use the Material for such purpose only.
- 18.3 You must:
- 18.3.1 treat the Material under clause 18.2 as Confidential Information and comply with the provisions of clause 20 in relation to it;
- 18.3.2 not do anything or allow anything to be done which might jeopardise Our or Our licensors' Intellectual Property Rights;
- 18.3.3 not dispute or challenge Our or EE's rights or the rights of

- the relevant third party rights owner; or
- 18.3.4 not apply for, or obtain, registration in any country of any trade or service mark or any other Intellectual Property Rights which consist of, or comprises of, or are confusingly similar to, the trade marks or Intellectual Property Rights of Us, EE or Our or its licensors.
- 18.4 We warrant that Your use of any EE Intellectual Property Rights in accordance with the terms of this Agreement will not infringe the Intellectual Property Rights of any third party. We hereby indemnify and shall hold You harmless from and against any and all claims, losses, liabilities, damages, expenses and any reasonable legal cost to the extent caused by Our breach of the warranty in this clause 18.4 (IPR Claims). In the case of any IPR Claim, We shall have sole authority to defend or settle such claim and You shall:
- 18.4.1 provide such assistance related to the defence or settlement of such IPR Claim as We may reasonably request, at Our cost;
- 18.4.2 assist Us in enforcing any settlement or order made in connection with such IPR Claim, provided that We shall reimburse the expenses reasonably incurred by You in providing such assistance in accordance with the Our requests for the same; and
- 18.4.3 not make any admission of liability, agreement or compromise in relation to the IPR Claim without Our prior written consent.

19. Software Licence

- 19.1 The Services and SIM Card provided under this Agreement may contain or use EE Software or End User Licensed Software. Where EE Software is provided, We grant You a non-exclusive, revocable, non-transferable licence (without the right to sub-licence) to use

Standard terms and conditions

- any such EE Software in object code form for the purpose of properly accessing the Services in accordance with this Agreement. Any End User Licensed Software provided or accessed shall be governed by the terms of the relevant licence which shall comprise Your sole rights and remedies in respect of such End User Licensed Software.
- 19.2 If You do not accept the licence terms relating to the End User Licensed Software, You shall not use the relevant feature of the Service to which the End User Licensed Software relates and We shall not be required to deliver the relevant Service.
- 19.3 The licence granted under this Agreement to use EE Software may be terminated if You dispute the ownership of any Intellectual Property Rights under this Agreement, fail to comply with any term of this Agreement or if the continued use or possession of EE Software infringes the rights of any third party. The licence shall further be subject to You undertaking:
- 19.3.1 not to copy, reproduce, translate, adapt, vary, modify, sub-license, decompile, reverse engineer or create derivative works from or allow any third party access to EE Software (or any part of it) unless expressly permitted to do so by Us or by relevant law; and
- 19.3.2 not to use EE Software with anything other than the SIM Card, unless otherwise expressly specified or approved by Us.
- 19.4 EE Software delivered to You by electronic means cannot be reissued and You shall ensure that correct email addresses are provided for these purposes and that any firewall or other protection will not prevent such delivery.

20. Confidentiality

- 20.1 Each Party undertakes that it shall not at any time during this Agreement, and for a period of 3 years after termination of this Agreement, disclose to any person any

Confidential Information, except as permitted by clause 20.2.

- 20.2 Disclosure of Confidential Information is permitted:
- 20.2.1 by each Party to such of its employees, officers, representatives, advisers, contractors and suppliers who need to know such information for the purposes of the implementation and/or performance of this Agreement, provided always that the disclosing Party ensures such recipients comply with this clause 20;
- 20.2.2 as may be required by law, court order or any governmental or regulatory authority;
- 20.2.3 by Us to any debt collection agency, credit reference agency, credit or fraud monitoring scheme, security agency or credit provider of any information relating to Your account and performance under this Agreement, and to any member of our Group, for fraud prevention, credit checks, debt recovery, crime and money laundering prevention and account management;
- 20.2.4 by Us as may be permitted pursuant to Data Protection Legislation;
- 20.2.5 with the consent of the disclosing Party; and/or
- 20.2.6 to the extent that information has come into the public domain through no fault of the receiving Party.

21. Marketing and Your Information

- 21.1 When You wish Us to provide a Service and/or SIM Card to You, We will check the following records about You, Your Group and Your business partners:
- 21.1.1 Our own records;

Standard terms and conditions

- 21.1.2 personal and business records at CRAs. When CRAs receive a search from Us they will place a search footprint on Your business credit file that may be seen by other companies. They supply to Us both public (including the electoral register) and shared credit and fraud prevention information;
- 21.1.3 those at fraud prevention agencies (FPAs); and
- 21.1.4 If You are a director, We will seek confirmation, from CRAs, that the residential address that You provide is the same as that shown on the restricted register of directors' usual addresses at Companies House.
- 21.2 We will make checks such as assessing Your application for Service and/or SIM Card and verifying identities to prevent and detect crime and money laundering. We may also make periodic searches at CRAs and FPAs to manage Your account with Us.
- 21.3 Information You give Us will be sent to CRAs and will be recorded by them, including information on Your business and its proprietors and CRAs may create a record of the name and address of Your business and its proprietors if there is not one already. We will give details of Your account(s) and how You manage it/them to CRAs.
- 21.4 If You do not pay amounts due in full and on time, CRAs will record the outstanding debt. This information may be supplied to other organisations by CRAs and FPAs to perform similar checks and to trace Your whereabouts and recover debts that You owe. Records remain on file for 6 years after they are closed, whether settled by You or defaulted. If You do not make payments that You owe Us, We will trace Your whereabouts and recover debts.
- 21.5 We will carry out a search to verify Your identity. This involves checking the details You supply against those held on any databases CRAs have access to, including information from the Electoral Register and FPAs. A record of this search will be kept that may be used to help other companies to verify Your identity. We may also pass information to financial and other organisations involved in fraud prevention to protect Us and Our customers from theft and fraud. If You give Us false or inaccurate information and We suspect fraud, We will record this and share this information with other organisations.
- 21.6 If You give Us false or inaccurate information and We suspect or identify fraud We will record this and may also pass this information to FPAs and other organisations involved in crime and fraud prevention. We and other organisations may access and use from other countries the information recorded by FPAs.
- 21.7 In order to maintain quality and for training purposes We may monitor and record Our telephone conversations with You.
- 21.8 We shall be entitled to communicate information that describes the habits or usage patterns or demographics of the whole or a part of Our customer base (including You) but which is anonymous and does not describe or reveal the identity of any particular customer to any third party.
- 21.9 Unless You otherwise notify Us in writing, We may:
- 21.9.1 use information provided by You to supply You with information about other products or services We or Our Group have available; and
- 21.9.2 provide information supplied by You to third parties to enable them to supply You with information about their products or services.
- 21.10 For the purpose of providing the Service and/or the SIM Card or by using them You give Us Your consent to use Your personal information together with other information for the purposes of providing You with the Service and/or the SIM Card, service information and updates, administration, credit scoring, identity checks, fraud prevention, customer services, training, tracking use of the Service and/or the SIM Card for so long

Standard terms and conditions

as You are a customer and for as long as is necessary for these specified purposes after You cancel the Service or after termination of the Agreement.

Occasionally, third parties may be used to process Your personal information in the ways outlined above. These third parties are permitted to use the data only in accordance with Our instructions.

21.11 We may use any information supplied by You for the purposes set out in this clause 22, for other purposes for which You give Your specific permission, or for any other purpose required by law. Without limitation We shall be entitled to disclose information provided by You to any member of Our Group and to EE, debt collection agencies, CRAs, credit or fraud monitoring schemes, security agencies or credit providers.

21.12 For the purposes of this clause 22 and without prejudice to the provisions of clause 23 below, references to Your personal information shall be deemed to include personal information of Your employees, agents, officers and Sub-contractors. You agree to obtain all necessary consents from such employees, agents, officers and Sub-contractors, and to indemnify Us and keep Us indemnified against any damages (including costs) awarded against Us or to be paid by Us in connection with failure to obtain such consents.

22. Users' Personal Data

22.1 You shall ensure that Users' Personal Data is accurate and up to date when disclosed to Us.

22.2 You shall ensure that You have complied with all Data Protection Legislation in respect of Your use of the Service and obtained all necessary consents under Data Protection Legislation to disclose Your Users' Personal Data to Us and/or EE, for Us to disclose Your Users' Personal Data to EE and for Us or EE to process Users' Personal Data for the purposes of Our provision to You of the Services and of this Agreement. You shall ensure You have the right to collect, provide access to or transfer the Personal Data to Us under this Agreement. You shall ensure that You

will not disclose (or permit any Data Subject to disclose) any special categories of data to Us for Processing.

22.3 You acknowledge and agree that We are the Data Controller of Users' Personal Data except in the limited circumstances where We or EE (as applicable) process any Users' Personal Data for You and on Your behalf.

22.4 We and EE will process Users' Personal Data:

22.4.1 as required for the provision of the Services (and for these purposes We and EE may share such Personal Data with (as applicable) Our or EE's suppliers, Sub-contractors and service partners);

22.4.2 for the purpose of fulfilling Our obligations under this Agreement;

22.4.3 as may be required by law, court order or any governmental or regulatory authority; and

22.4.4 in the case of EE's processing, in accordance with EE's privacy policy (as amended from time to time and which is available at www.ee.co.uk/business/terms) and You agree that You will bring EE's privacy policy to the attention of Your Users.

22.5 To the extent We and/or EE are required to Process Personal Data under this Agreement, We and EE shall take the following security measures:

22.5.1 comply with the Data Protection Legislation at all times.

22.5.2 implement appropriate technical and organisational security measures to protect the Personal Data from accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access (a **Data Breach**).

22.5.3 Upon becoming aware of a Data Breach, We and EE will notify You without undue

Standard terms and conditions

- delay. We will make reasonable efforts to identify the cause of the Data Breach and to take such steps as We deem necessary and reasonable to mitigate the effects of such Data Breach, to the extent that such steps are within Our control.
- 22.5.4 We will make reasonable efforts to provide such information as You may reasonably require to enable You to fulfil any Data Breach reporting obligations under the GDPR.
- 22.6 You agree that We and EE may engage our Group companies and third party sub-processors (Sub-processors) to Process Personal Data in connection with the provision of Services provided that:
- 22.6.1 We maintain an up-to-date list of Sub-processors which will be available on request;
- 22.6.2 We impose on such Sub-processors data protection terms that require them to protect Personal Data to the standard required by Data Protection Legislation.
- 22.6.3 We remain liable for any breach of the Data Protection Legislation caused by our Sub-processor when Processing Personal Data under this Agreement.
- 22.7 You agree to Us keeping You and Your Users informed about the range of products, services and offers available across Our Group;
- 22.7.1 Us sharing Your and Your Users' information with other members of Our Group;
- 22.7.2 Us sharing Your and Your Users' information with service partners for data analytics and third party marketing purposes;
- 22.7.3 Us, a member of Our Group contacting You and Your Users by telephone, mail or electronically (e.g. text message or email), to let You and/or Your Users know about products, services or offers that may be of particular interest.
- 22.8 EE shall not transfer any Personal Data disclosed by You to any country outside of the European Economic Area or to any international organisations unless We or EE have appropriate assurances from that third party that the Personal Data will only be Processed in compliance with the Data Protection Legislation (which will be satisfied and evidenced by Us and EE entering into a contract with that third party which contains the Model Contract Clauses).
- 22.9 Taking into account the nature of the Processing and information available to us, We and/or EE will provide reasonable assistance to You to allow You to comply with Your obligations in relation to (i) security measures (ii) notifying Data Breaches; and (iii) data privacy assessments.
- We and EE will be entitled to recover Our reasonable costs of providing such assistance to You.
- 22.10 We will make available to you all information reasonably requested by you in writing to demonstrate our compliance with the obligations set out in this clause 27, and we will contribute to audits, including inspections, to verify compliance with such obligations conducted by you or an independent third party auditor acting under your direction. Such audits or inspections may take place no more than once per calendar year and will be at your cost. You will give us not less than 30 days' prior written notice of any such audit or inspection, and such audit or inspection will be carried out during our normal working hours with minimal disruption to our business.
- 22.11 Upon expiry or termination of this Agreement, we will, at your request, delete or return to You the Personal Data Processed under this Agreement, unless storage is required by law.
- 22.12 Any disclosure of Users' Call Data Records by EE to You will be subject to:

Standard terms and conditions

- 22.12.1 You completing and submitting to Us and/or EE a request for those records;
- 22.12.2 EE's policies for disclosures of Call Data Records as amended from time to time; and
- 22.12.3 any applicable legal and regulatory restrictions.

Any such disclosure request to Us and/or EE must be in writing using EE's current standard format (which is available on request).

23. Legal Compliance

- 23.1 Neither Party shall, directly or indirectly, pay, offer, promise to pay or authorise the payment of, any money or financial or other advantage in violation of any Anti-Corruption Laws. Neither Party has taken or will take, directly or indirectly, any action that would cause either Party or its officers, directors, employees and/or members of its Group to be in violation of Anti-Corruption Laws.
- 23.2 The SIM Card and/or Software may be subject to export control laws and regulations. You agree to comply with any applicable export laws, regulations, prohibitions or embargoes of any country and agree to obtain written authority from the relevant licensing authority where necessary.
- 23.3 We do not represent that any necessary export approvals and/or licences have been obtained or will be granted in respect of the SIM Card or the Software.

24. Notices

- 24.1 All notices required to be given under this Agreement will be in writing and will be sent to the recipient at the addresses set out in your order form or to such other addresses as the recipient may designate by notice given in accordance with this clause 24.1. Any such notice may be delivered by hand, first class pre-paid post or facsimile transmission and will be deemed to have been received:

- 24.1.1 if by hand, upon delivery;
- 24.1.2 if by first class pre-paid post, 48 hours after the date of posting; and
- 24.1.3 if by facsimile transmission, immediately upon transmission provided a confirmatory copy is sent by first class pre-paid post by the end of the next Working Day.

- 24.2 References to notices in clause 25.1 are to written notices. For the avoidance of doubt if in this Agreement notice is not stated to be required in writing, this clause 25 shall not apply to such notice.

25. Matters Outside Reasonable Control

- 25.1 Except for Your payment obligations, neither Party shall be liable for any breach of its obligations under the Agreement (other than in relation to payment of sums due) where it is hindered, delayed or prevented from carrying out its obligations by any cause outside its reasonable control including: any act of God, inclement weather, failure or shortage of power supplies, natural disaster, flood, drought, lightning or fire, subsidence or earthquake, epidemic or pandemic, strike, lock-out, trade dispute or labour disturbance, the act or omission of local or central government, highways authorities or other competent authorities, legal or regulatory restrictions, terrorism, war, military operations or riot, or difficulty, delay or failure in manufacture, production or supply by third parties of any service or SIM Card or any part thereof (to the extent only that such difficulty, delay or failure resulted from causes outside that third party's reasonable control). In such circumstances, the affected Party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for 60 days, either Party may terminate this Agreement on 14 days' written notice to the other.

26. Test or Trial Services and Promotional Offers

- 26.1 We may from time to time supply test or trial services and/or promotional offers (Offers) to some or all of Our customers. Such Offers shall be subject to any terms and conditions (Promotional Terms and Conditions) We notify to Our customers. Unless otherwise stated in the Promotional Terms and Conditions We shall not incur any liability under the Agreement in relation to such Offers. Promotional Terms and Conditions may require a variation to the Agreement in which case You will be deemed to have accepted in writing such variation on acceptance of the Offer. Unless otherwise stated in the Promotional Terms and Conditions an Offer may be amended or withdrawn by Us (in relation to some or all of Our customers) at any time and without notice. For the avoidance of doubt We are not obliged to include You in any Offer We make to Our other customers.

27. Assignment and Sub-Contracting

- 27.1 You shall not assign, novate, delegate or otherwise deal with all or any of Your rights or obligations under this Agreement without Our prior written consent, such consent not to be unreasonably withheld.
- 27.2 We may assign or novate all or any of Our rights or obligations under the Agreement to any member of Our Group. At Our request You shall enter into a novation agreement with Us and any such member of Our Group to whom Our rights and obligations are to be novated.
- 27.3 We may sub-contract Our obligations under the Agreement. Any such sub-contracting shall not release Us from Our obligations under the Agreement. Where the Agreement requires You to provide information, assistance or access to Us or requires You to comply with Our instructions, You acknowledge that You will be required to provide equal co-operation to Our Sub-contractors.

28. Entire Agreement

- 28.1 The Agreement represents the entire understanding between the Parties in relation to the provision of the Service and Sim Cards and supersedes and extinguishes all other agreements or representations (except fraudulent misrepresentations) made by either Party, whether oral or written in respect thereto. In particular We shall not be bound by any oral or written representation (except fraudulent misrepresentation) made by Our representatives unless specifically incorporated into the Agreement in writing.

29. Miscellaneous

- 29.1 No waiver by Us of any default by You under the Agreement shall operate or be construed as a waiver by Us of any future defaults, whether of a like or different character. No granting of time or other forbearance or indulgence We grant You shall imply a waiver of Our rights or shall in any way release, discharge or otherwise affect Your liability under the Agreement.
- 29.2 If any provision of the Agreement shall be prohibited or adjudged by a court of competent jurisdiction to be unlawful, void or unenforceable, such provision shall to the extent required be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement and shall not in any way affect any other circumstances or the validity or enforcement of the Agreement.
- 29.3 Subject to clause 29.4 and save for the rights of the insurer under any Insurance Terms and Conditions the Parties do not intend that the Agreement be enforceable by any person not a party to the Agreement under the Contracts (Rights of Third Parties) Act 1999.
- 29.4 EE shall have the right under the Contracts (Rights of Third Parties) Act 1999 to enforce against You those elements of this Agreement which relate to Your use of the SIM Cards, Services and/or EE Software and all modifications, upgrades and enhancements thereto.

Standard terms and conditions

- 29.5 In the event that any court makes a declaration of ineffectiveness or orders that the Minimum Connection Period of any Service under the Agreement be shortened, then that Service will be terminated and You shall pay the Termination Charges.

30. Governing Law and Dispute Resolution

- 30.1 The Agreement shall be governed by and construed in accordance with the laws of England and subject to clause 30.2, the Parties agree to submit to the exclusive jurisdiction of the English courts.
- 30.2 Any dispute arising under the Agreement which does not involve either a complicated issue of law or a sum exceeding £5,000 may be referred to arbitration or such other means of dispute resolution as may be applicable and available from time to time.
- 30.3 We are fully committed to addressing all complaints, fully and fairly, and in a reasonable time frame. If you'd like to find out how We do this, please see Our Complaint Resolution Code of Practice which is available within the 'Code of Practice' section on Our Website, or ask Our team.
- 30.4 Where a Party (Damaged Party) is subject to a third party claim which gives a right of action against the other Party (Liable Party), the Damaged Party shall promptly notify the Liable Party of the details of the claim and allow (at the Liable Party's expense) the Liable Party to defend or direct the defence of such third party claim and shall provide all reasonable co-operation to avoid or minimise such claim. The Damaged Party must not make any admission of liability, agreement or compromise in relation to the claim unless directed to do so in writing by the Liable Party

SCHEDULE 1 – SERVICES AND SIM CARD

1. Additional Terms and Conditions

- 1.1 Additional terms and conditions for the Services and/or SIM Card referred to in 1.2 below apply to the Initial Order.
- 1.2 Out of bundle usage will be charged at the standard rates set out within the Price Guide at www.virginmediabusiness.co.uk/Global/Mobile_Price_Guide.pdf We shall be entitled to invoice You for any out of bundle usage at any time after the associated charges have been incurred.

2. Documents at www.ee.co.uk/business/terms

- 2.1 References in documents at www.ee.co.uk/business/terms as are incorporated in this Agreement (including references to 'EE', 'Customer' and otherwise) shall be construed to give proper effect to the Services and SIM Card being provided under this Agreement constituting provision, by Us to You, of substantially the same by EE to Us for such onward provision to You.
- 2.2 For the purposes of determining incorporation into the Agreement of documents at www.ee.co.uk/business/terms, but subject always to clause 2.3 (below),:
- 2.2.1 this Agreement shall be treated as if it were an 'EE Business Agreement'; and
- 2.2.2 You shall be treated as if You were an 'EE business customer'.
- 2.3 Any reference to Price Guide in any document at www.ee.co.uk/business/terms shall mean Our Price Guide which can be found at www.virginmediabusiness.co.uk/Global/Mobile_Price_Guide.pdf.

3. Additional Information

- 3.1 Additional information in respect of the Service, as specified in Ofcom General Condition 9.2, is set out in Schedule 5 hereto for your information.

SCHEDULE 2 – ADDITIONAL TERMS

1. Priority

- 1.1 Any additional terms and conditions detailed below take priority over all other provisions of the Commercial Terms.

2. Our Re-sale of Service and SIM Card Made Available Directly by EE

- 2.1 You acknowledge that the Service and/or SIM Card ordered by You under this Agreement shall be made available to You directly by EE.
- 2.2 The Parties acknowledge that the provision of the Services and/or SIM Card under this Agreement constitutes a re-sale, by Us to You, of the Service and/or SIM Card supplied by EE to Us for the purpose of such re-sale. Consequently, notwithstanding anything to the contrary in this Agreement We shall not be obliged to supply the Service or SIM Card under this Agreement until and unless EE has accepted Our order for the same issued by Us to EE pursuant to the Parties entering into this Agreement.

3. Variations to the Agreement in respect of customers with 10 or less employees

- 3.1 Where you have indicated to us in the order form that you have 10 or less employees, clauses 13.2 – 13.5 inclusive shall be deleted and restated as set out

Standard terms and conditions

below and a new clause 13.7 (below) incorporated into the Agreement:-

- 13.2 Where any variation by Us to this Agreement is likely to be of material detriment to You, We will give You at least one month's written notice of the variation (save where this is not practicable due to a change imposed by a legal or regulatory body) and You will have the right to terminate the relevant Service and/or SIM Card in accordance with clause 13.5A.
- 13.3 Not used
- 13.4 Subject to clause 13.5A and 13.5B, We may also from time to time vary:
- 13.4.1 the Charges; and/or
- 13.4.2 the prices, terms and conditions set out within the Price Guide.
- 13.5(A) If (a) we increase our charges under this Agreement (b) we make significant changes to the Services so the Services you are entitled to receive in return for the charges you pay are significantly altered or reduced; or (c) we make significant changes to the terms and conditions of this Agreement, you may cancel those Services affected without liability to pay termination charges by giving us at least 30 days' notice in writing, such notice must be given within 30 days of the increase in charges or changes to the Services or this Agreement being notified to you. If you were not notified of these changes in advance, you must give notice of cancellation of the Services affected to us within 30 days of receipt of your first bill following such increase in charges. If you cancel any Services in these circumstances, the increased charges will not apply to those Services during the 30-day notice period and you will not be liable to pay any Termination Charges if you cancel before the end of the Minimum Connection Period.

13.5(B) If you do not give notice of cancellation within the period specified in clause 13.5A (above), you will be deemed to have accepted the increase in charges and/or the changes to the Service and this agreement and You will be liable to pay us Termination Charges calculated in accordance with Clause 2.1 of Schedule 3 if You give us notice of cancellation after expiry of the notice period specified in clause 13.5A

13.7 For the purpose of clause 13.4, You agree that notice variations to the Price Guide shall be effective from the date the variation is published at [VMB link] and that such publication shall constitute adequate notification of the variation. It shall be Your responsibility to review the Price Guide periodically. We recommend that the review of the Price Guide is carried out by the Customer no less than every 30 days.

SCHEDULE 3 – TERMINATION CHARGES

1. Your Acknowledgement

1.1 You acknowledge that the provisions set out in these Commercial Terms apply on the basis that You have agreed to receive each Service for its Minimum Connection Period and to pay the Subscription and other Charges for the duration of the Minimum Agreement Term.

2. Termination Charges

2.1 You shall pay us the following Termination Charges (excluding VAT and on which VAT is not applicable) in accordance with the Agreement upon early termination of a Service and/or early Disconnection of a Connection:

Subscription Charges x number of months remaining in the Minimum Connection Period for each Connection or Service.

SCHEDULE 4 – BILLING TERMS

1. Billing Terms

Item or Description	Detail
VAT	Unless specified otherwise all Charges due under the Agreement are exclusive of Value Added Tax or any other applicable tax which shall be paid for by You
Payment Terms	You shall pay Us (or such person as We direct) all Charges within 30 days of the date of the relevant invoice.
Making Payments	We will confirm Our mandatory or preferred method of payment of the Charges. If You make a payment which is not in accordance with such method, We may decline it or impose an additional administrative fee.
Use in UK	All Charges are for UK use only unless otherwise specified and deliveries of SIM Card will be to Your UK address set out in the order form.
Peak and Off-Peak	UK peak times are 7.00 am to 7.00 pm Mondays to Fridays. UK off-peak times are all other times including English bank holidays and public holidays.
Minimum Call Duration	A minimum call charge of 30 seconds applies for all mobile calls from the UK to customers of UK mobile networks (including to EE, Orange and T-Mobile customers), to UK landlines beginning with 01, 02 and 03 (including calls to the Channel Islands and the Isle of Man.
Charges for Roaming, IDD and special numbers	Unless otherwise specified in the Commercial Terms provisions in schedule 1, Charges for Roaming, International Direct Dial (IDD) and other special numbers will be the standard charges set out in the Price Guide.
Use outside of notified limits	Certain Services may be subject to a fair use policy and/or limits on usage, including use within a specified period of time. If Your use of the Service(s) exceeds any limits on usage and/or any fair use policy notified to You by Us from time to time, in order to protect the Network for other Users, We reserve the right: (i) to charge the applicable out of bundle rate and/or (ii) to reduce Your access to such Services. We have no obligation to monitor Your use of the Services to ensure that You do not exceed the fair use policies or any applicable limits.
Roaming	Roaming services are subject to connection to foreign networks, over which We have no control, and therefore the availability and quality of Roaming services cannot be guaranteed. Charges incurred whilst Roaming may be billed several months in arrears. For Roaming outside of the EU, we will cut off Your data Roaming session when You have incurred Roaming Charges in the amount of £42. However, You may increase the limit by contacting Customer Services. Please refer to the Price Guide to check for the latest limits.
Credits	Credits may only be used during the Minimum Agreement Term. Any balance outstanding at the end of the Minimum Agreement Term shall be forfeited. Credits may be used to pay for airtime (as specified) under this Agreement. Credits payable in instalments may be rounded to a number decided by Us for account administration purposes, with any balancing amount being applied as a one-off Credit to Your account under this Agreement in a month of Your choosing during the Minimum Agreement Term.
Variations	Where the Charges under this Agreement are varied, there may be a delay in those changes becoming effective due to billing cycles. There may also be a delay in any bespoke Roaming, IDD solution or international data bundle being implemented.
Additional Charges	The current values of Additional Charges are set out in the Price Guide.

Standard terms and conditions

SCHEDULE 5

Ofcom General Condition 9.2: Additional Information

Communications Provider information

9.2 (a) the identity and address of the Communications Provider (Us) is set out in the background to these SoHo & SME mobile terms and conditions.

Services and Contacting Emergency Services

9.2 (b) the Services provided are defined in Clause 2.1(Definitions) of these SoHo & SME mobile terms and conditions and are set out in the order form. The Customer (You) may contact the emergency services through the Service for free by calling 999 or 112 (or by sending an SMS to 999 if You are registered to contact emergency services by SMS) provided You are in range of a base station forming part of EE's Network. If You are not within range of one of EE's base stations, or if EE's base station is not transmitting for any reason, You may try to use another mobile network to connect the call to the emergency services. Depending on Your Device, your approximate location using certain location data may be provided to the emergency services. Access to Emergency Services is not possible where the Service is withdrawn by Us for non-payment or breach by You, withdrawal of a Service or Equipment by Us, or where there is no coverage from any network operator. Access to Emergency Services is also not possible where We have to suspend access to the Services due to (i) technical failure, modification or maintenance of the Network, (ii) upon instruction by emergency services or any government, regulatory or appropriate authority or (iii) where it is necessary to safeguard the integrity and security of the Network or to reduce fraud. The provision of Caller Location Information is not specified in the terms and conditions but caller location is relayed to Emergency Services as required under General Condition 4 of the General Conditions of Entitlement.

Other Conditions Limiting Access

9.2 (c) other conditions limiting access to and/or use of the Services and applications (where such conditions are permitted under national law) are set out in Clauses 5.2 and 5.3 of these SoHo & SME terms and conditions. The Services are provided to You on the basis that You comply with the terms and conditions of the SoHo & SME mobile terms and conditions.

Minimum Service Quality Levels

9.2 (d) details of the minimum service quality levels offered, including the time for initial connection and any other quality of service parameters as directed by Ofcom are set out below:-

- a. Clauses 5.2 and 5.3 of these SoHo & SME mobile terms and conditions in respect of service quality levels offered.
- b. Clause 12.2 of the SoHo & SME mobile terms and conditions which state that all SIM Cards are supplied pre-Connected.
- c. Quality of service parameters are not included in the terms, however customers can check coverage/service levels pre-sale and at any time during the Service through the coverage checker tools which can be found at www.ee.co.uk/business/terms.and used in pre-sale coverage discussions.

Network Management Procedures

9.2(e) to avoid overfilling the network link, fair use policies are put in place and can be found in the Price Guide. Where necessary, other packages have a defined usage limit to avoid overfilling a network link. Fair use policies are incorporated by cross reference (see clause 8.1.9 of these SoHo & SME mobile terms and conditions). Information on any relevant network controls are included in the network management help and support documents which can be found at www.ee.co.uk/business/terms.

Customer Support Services

9.2(f) support for the Services is limited to the provision of a replacement SIM Card where the same is defective due to faulty materials or workmanship as set out in clause 11.1 of these SoHo & SME mobile terms and conditions.

Restrictions on the use of terminal equipment supplied

9.2(g) We will not provide you with Terminal equipment as part of the Services.

Recording Personal Data in Directories

9.2(h) You have the option to elect for Your entire account to be included in the BT directory (or any equivalent directory). If, during the life of the contract You want Your account to be included in the BT directory You may contact Customer Services to action this.

Standard terms and conditions

Prices, Tariffs and Payment

9.2 (i) Price tariffs are contained in the Price Guide, as updated from time to time. Payment methods are set out in the order form.

Contract Term, Renewals and Termination

9.2 (j) Clause 3.1 of these SoHo & SME mobile terms and conditions set out the duration of the Agreement. The Agreement continues until it is terminated (or until the last remaining Service expires). Clauses 15 and 16 of these SoHo & SME mobile terms and conditions set out the position in respect of termination and the consequences of termination.

Minimum usage or duration required to benefit from promotional terms;

9.2 (k) Promotional terms and any minimum usage or duration required for benefits are covered in the Price Guide.

Charges for Portability/Other Identifiers

9.2 (l) You will not be charged for portability of numbers.

Termination Charges

9.2 (m) Charges due on termination of the Agreement are set out in clause 15.4 and paragraph 2.1 of Schedule 3 of these SoHo & SME mobile terms and conditions

Remedies for Service Level Failures

9.2 (n) there is a process in place within Customer Services for failed or delayed porting. If You have issues with porting You should contact Customer Services.

Settling Contractual Disputes

9.2 (o) Clauses 30.2 and 30.3 of these SoHo & SME mobile terms and conditions set out the procedures for the settlement of disputes in respect of the contract.

Our Response to Security or Integrity Incidents or Threats and Vulnerabilities.

9.2 (p) Security measures against unauthorised or unlawful processing of Users' Personal Data and against accidental loss or destruction of or damage to Users' Personal Data is covered by clause 22.5 of these SoHo & SME mobile terms and conditions. In the event of a Personal Data security breach by Us that affects You, We will notify the relevant authorities and You in writing. A security breach of a Users' Personal Data does not give You the right to terminate the Agreement.

Thank you

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BUSINESS