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## **MOBILE TERMS AND CONDITIONS**

### **DEFINITIONS**

In these Conditions the following terms shall have the following meanings: -

**ACS:** means ACS Business Supplies Ltd (Company Reg 06584936).

**Subscriber:** means the Customer.

**Network:** means any telecommunications network available from ACS.

**Services:** means the telecommunications services provided by means of the Network.

**Call Charge:** means a predetermined charge unit of time costed at the rates set out in the Tariff Sheets published by ACS from time to time, which are available on request from ACS.

**Connection Charge:** means the relevant one-off sum to be charged for connection to the Service.

**Connection:** means the connection of the Mobile Phone/SIM Card to the Network.

**Connection Date:** means the date of connection.

**Invoice Date:** means the same date as appears on the invoice raised by ACS.

**Monthly Charge:** means the relevant sum for access to the Network and provision of certain Services as set out in the Contract under Service Information and Charges, or any additional Services requested.

**SIM Card:** means the Subscriber Identity Module, which is a unique card containing information and when used with an ACS Mobile Phone, enables access to the Services.

**Mobile Phone:** is the equipment used on the Digital GSM Specification Network.

**Credit Limit:** means a monthly financial limit applied for charges incurred under this Agreement.

**Equipment/Device Subsidy:** means the subsidy applicable to any item of equipment for the relevant Minimum Period.

**Disconnection Notice:** means a notice to disconnect one or more items of equipment or devices from the wireless services.

**Groupworker Service:** means the Service more particularly described in the price list/proposal which uses certain wireless extension technology and that enables certain devices pursuant to the terms of this agreement to operate as part of the Customer's wireless virtual private network.

**Minimum Term:** means the number of months stated overleaf during which you agree to take the Service from ACS commencing on the date of connection, port, migration, or upgrade of equipment.

**Minimum Period:** means in respect of each item of equipment the term stated overleaf from the commencement date or the date of supply of new or upgrade of such equipment or the date of a port or migration (whichever is the later).

**Termination Fee:** means the Line Rental Charges to the end of the Minimum Period (as detailed in 10.2) in respect of each device or SIM Card disconnected from the wireless service, and if appropriate any additional fees which may arise from network charges.

Early termination can only be agreed between the Customer and ACS with network approval.

**Termination Notice:** means the notice to terminate this Agreement served pursuant to Clause 11 which should be submitted in accordance with the Termination Notice process and using the Termination Notice Form or as may otherwise be made available to the Customer by the ACS Customer Services Desk.

**Value Added Services:** means the value-added services such as installations, insurance, field services, repair etc as may be made available from time to time by ACS to the Customer on non-discriminating basis and details of which appear on the Price List.

**System:** means the cellular GSM UK Network.

**MNO:** means the mobile network operator providing network services to ACS.

## **CONTRACT INFORMATION**

### **1 Agreement for the Sale and Purchasing of Equipment:**

#### **1.1 ACS agrees:**

1.1.1 To use its reasonable endeavours to ensure that all equipment when delivered is in full working order; and performs in accordance with the manufacturer's description and specification.

1.1.2 Its obligation to sell and supply equipment shall cease as and from the date of the Termination Notice (although ACS may thereafter sell and supply equipment at its discretion).

1.2 Acceptance of the equipment by the Customer shall take place when the Customer takes delivery or possession of the equipment.

1.3 Where equipment is provided to the Customer on a free of charge basis, then notwithstanding delivery and acceptance of the equipment title in the equipment shall remain with ACS until minimum contract is served. Following any upgrade of equipment or disconnection the equipment from the wireless service ACS shall reserve the right to request the safe return of the equipment from the Customer to ACS. The Customer shall keep the equipment in good working order during the period of use by the Customer.

1.3.1 ACS reserves the right to charge the Customer any applicable replacement or repair charges as set out from time to time in the PRICE LIST/PROPOSAL for any equipment that is not returned to ACS in accordance with the provisions of this clause.

1.4 Notwithstanding Clause 1.2, risk in the equipment will pass to the Customer upon delivery who will be liable for any loss or damage of the same and from the time when the equipment is delivered to the delivery location specified in the sales order/proposal unless the damage is caused by the negligence of ACS or any third party used by ACS.

## **2 AGREEMENT FOR THE SALE AND PURCHASE OF AIRTIME, WIRELESS SERVICES AND ANY ADDITIONAL WIRELESS SERVICES**

### **2.1 The Customer agrees;**

2.1.1 That any telecommunications equipment provided by ACS for the purpose of providing the ACS airtime service shall remain the property of ACS and the Customer shall be responsible for its proper use. If any part of such telecommunication equipment is lost or destroyed, (except for fair wear and tear) the Customer shall pay ACS its replacement value. The Customer shall not interfere with or permit any third party to interfere with such telecommunication equipment.

2.1.2 It is your responsibility to make sure the SIMs are only used to access Services as permitted in this agreement.

#### **2.1.3 The Customer agrees in using the SMS Services:**

2.1.4 Via the Customer's ACS airtime or other leased, or in ACS access to a device which is not connected to the ACS airtime may incur additional inter-connect charges in respect of transfer of messages to another mobile network operator service and ACS reserve the right to invoice the Customer, and the Customer agrees to pay such charges.

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2.1.5 That each device or equipment is capable of receiving SMS text messages which may originate from a variety of sources and where ACS are acting as a Service provider and as much as has no knowledge of involvement with, or liability for the specific content of any SMS text messages sent to the Customer's equipment or device, which originate from such sources.

2.1.6 Our network provider or its MNO owns each SIM and each SIM remains their property at all times. You are being allowed to use the SIM by us on a limited licence to enable you to access Services, in accordance with the terms of this agreement. We or they may recall the SIM(s) at any time for upgrades, modifications, misuse or when your agreement ends. You can only use our SIM to obtain Services from us.

2.1.7 Each SIM may only be used in Handsets which are enabled for Services and are authorised by us for Connection to our network. Any attempt to use the SIM in other Handsets may result in serious damage to the Handset and may prevent you from being able to use it, including the making of emergency calls. In these instances, we, our network provider, or its MNO, are not responsible for any such damage or usage problems.

2.2 ACS Agrees to:

2.2.1 ACS will endeavour to supply a reliable service of engineers for Services rendered by ACS. ACS will not be responsible for any repairs or equipment failed to work when third party engineers have been designated to complete a job requested by the Customer or any party with authority to the mobile account.

2.2.2 ACS will not be responsible for any loss of Service or business, if any third-party supplier does not show for the job or the job is not of high calibre. ACS is only the supplier for the Service rendered and will not be responsible for any damages.

2.3 ACS may amend the tariffs as set out in ACS's published tariffs and this document by giving written notice. Where the change is due to a change in the rates payable by or to ACS, ACS will provide as much notice as possible. In all other cases, ACS will provide four (4) weeks' notice.

### **3 DELIVERY AND RISK OF EQUIPMENT**

3.1 Property in goods: The goods shall remain the property of ACS until paid for in full by subscriber and the minimum term is completed.

3.2 A 20% re-stocking fee will be charged for non-defective products returned by the Customer. Returning equipment requires an authorised ACS Returns Number and must be accompanied by all accessories and chargers; original undamaged outer packaging for a credit note to be issued.

3.3 Upon receipt of goods by a Customer or any representative of, if a product shortfall, alleged defect, or discrepancy is identified then ACS must be notified within 2 business working days of receipt otherwise a claim for product shortfall will not be valid.

3.4 Except as expressly provided in this agreement by ACS all warranties, conditions of terms, (whether expressed or implied by statute or common law or otherwise) as to the quality of their Services or their fitness for any particular purposes are hereby excluded to the fullest permitted by law.

3.5 ACS shall not be liable for any indirect or consequential cost, claims damages or expenses arising out of the any negligent or tortuous act or omission or any breach of contract or statutory duty.

3.6 ACS shall not be liable to the Subscriber or be deemed to be in breach of the Agreement by reason of any delay in performing or failure to perform any of its obligations if the delay or failure was due to any cause beyond the reasonable control of ACS.

3.7 Nothing herein shall have the effect of excluding or restricting the liability of ACS for death or personal injury resulting from its negligence.

3.8 ACS reserve the right to charge carriage in circumstances where the subscriber refuses to accept delivery of goods supplied by ACS in response to a duly authorised order received from the subscriber.

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#### 4. SERVICE STANDARDS

4.1 The Customer acknowledges that ACS is entirely dependent on its suppliers and the Network operators in relation to the quality of airtime, in terms of line clarity and call interference; and the geographic extent of the airtime coverage, and local geography, topography and/or atmospheric conditions and/or other causes of physical electromagnetic interference that may from time to time adversely affect the provision of airtime.

4.2 ACS may, where ever reasonable from time to time and without notice suspend the wireless services and provision of customer services in accordance with the service charter and at its discretion suspend the provision of the wireless service to the device in any of the following circumstances without prejudice to its right hereunder, provided that it shall use reasonable endeavours to restore the wireless service, the service charter and reconnect the device as soon as reasonably practicable:

4.2.1 During technical failure, modification, or maintenance of the telecommunication systems by which the wireless service is provided; and

4.2.2 During technical failure, modification, or maintenance of the ACS systems by which the customer service in line with the service charter are provided; and

4.2.3 If the Customer fails to comply with the terms of this agreement after being given written notice of its failure (including but not limited to failure to pay any sums due hereunder) until such failure to comply is remedied; and

4.2.4 If the Customer allows anything to be done which in ACS's reasonable opinion may have the effect of jeopardising the operation of the wireless services, or the ACS System or attainment of the service charter; and

4.2.5 If in the reasonable opinion of ACS, the wireless service is being used in a manner prejudicial to the interest of the Customer and/or ACS; and

4.2.6 At its discretion ACS may suspend any device from making calls (other than to the emergency service) and disconnect the Device if ACS has reasonable cause to suspect fraudulent use of any payment method, the device's SIM card or the device itself, or the device is identified as having been stolen.

4.2.7 Because of an emergency or upon instruction by emergency services or any government or appropriate authority (including the Network operator) or for the Customer's own security.

4.3 During any period of suspension arising from the circumstances detailed 4.2.3 to 4.2.6 inclusive, the Customer shall remain liable for all charges levied in accordance with this agreement.

4.4 If ACS agrees in their sole discretion to re-instate the Service following a suspension of disconnection, the Customer may be liable for a re-connection fee if the suspension or disconnection is due to the default of the Customer.

4.5 The Subscriber should be aware that the current statutory provisions relating to wireless telegraphy and telecommunications services apply to the use of Services via the Mobile Phone/SIM Card and in addition the Subscriber must generally observe the Wireless Telegraphy Act of 1949 to 1967, The Telegraphy Act 1984, the other relevant legislation, statutory instruments, and comply with any directions made by the Director General of the Office of Telecommunications of the Secretary of State.

4.5.1 Not use or allow others to use the Service for any improper or immoral or unlawful purpose.

4.5.2 Not act or omit to act in any way in which may injure or damage any personal property or the Network or howsoever cause the quality of the Service to be impaired.

4.5.3 Comply with any reasonable instructions issued by ACS which concern the Subscriber's use of the Service or Mobile Phone/SIM Card or connected matters.

4.5.4 Provide ACS with all such necessary information that ACS may reasonably require and:

4.5.5 Only use the Mobile Phone/SIM Card supplied under this Agreement, which is approved for use with the Network.

4.6 ACS's minimum call charge is in line with the networks and is available on ACS's Tariff Sheet.

4.7 Once you are Connected, we will provide you with access to our Services. The Services will include Premium Services, provided you ask for them and we approve, and may also include Age Restricted Services, provided you are 18 or over and you do not show or send any content from the Age Restricted Services to anyone under 18.

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4.8 You will also be able to upload and send your own content using the Services. You grant us, our network provider, or its MNO, a royalty free, perpetual, and worldwide licence to store, transmit or otherwise deal with any content you upload on the Services.

4.9 We may:

- (a) change or withdraw some, or part, of the Services from time to time. This may be because of changing technologies, obsolescence, new or different product features, changing content providers or the need to remove, replace or modify content. Subject to Section 2, you can end the agreement if this variation is likely to be of detriment to you as explained in Section 10; and
- (b) also determine how Services are presented and delivered to the Handset or are otherwise made available to you. We can change the way they are presented, delivered, or otherwise made available to you at any time.

## **5 SALES ORDER**

5.1 At any time after the commencement date of the agreement, the Customer may by means of a sales order request a change or variation to the wireless services (but not a disconnection). In placing the sales order, the Customer makes use of the agreement originally advised of.

5.2 All sales orders shall be subject to the terms of this agreement. Any alternative terms appearing on or referred to in any other communication, (whether oral, in writing or by electronic means) by the Customer for the purpose of placing sales orders shall be ineffective.

5.3 The Customer undertakes to use its reasonable endeavours to keep ACS informed whenever reasonably practicable of likely future sales orders.

5.4 ACS undertakes to use all reasonable endeavours to fulfil the sales order as soon as reasonably practicable and if possible, by the requested dates for delivery/commencement but cannot be held responsible for failure to do so.

5.5 As and from the date of any termination notice ACS shall have no obligation to fulfil any sales order but may in its discretion choose to do so and for the avoidance of any doubt any device supplied under the terms of this agreement will be charged to the Customer at its full price as appears on the Price List without the benefit of any Device Subsidy.

## **6 DISCONNECTION OF DEVICES**

6.1 Upon giving of a disconnection notice ACS will disconnect the relevant number or numbers from the wireless service in accordance with the Disconnection Notice upon the expiry date of 30 days from the date of receipt of the Disconnection Notice. The Agreement will remain in full force and effect in relation to all other equipment and in relation to the provisions of Airtime to such other equipment.

6.2 In the event that the Customer gives Disconnection Notice to take effect (and resulting in disconnections) prior to the expiry of the Minimum term (see 10.2) for the particular number concerned, the Customer will pay to ACS any applicable Termination Fee.

6.3 In the event of the Subscriber terminating the agreement before the term specified the following will apply:

6.3.1 ACS's standard line rental, until the end of the specified term, will be charged on each number within the fleet.

6.3.2 In early termination an administration fee will be charged subject to the discretion of ACS.

6.3.3 Any equipment supplied free of charge or as part of the discount package will be the property of ACS and will be returned by the Customer or invoiced to the Customer at ACS's price list at time of early termination.

6.3.4 Any commission paid, or line rental discount provided as part of a discount package may be subject to clawback.

6.4 In the event of the Network providing call data after the disconnection of the device the subscriber will be liable for all outstanding charges at any time after the disconnection date.

## **7 BASIS OF CHARGES**

7.1 Except in the circumstances described in clause 4.3 the process and tariffs payable by the Customer to ACS for equipment and airtime are as set out in the business mobile airtime agreement. Upon expiration of the Minimum Term and should the customer decide not to sign an extension agreement with ACS. ACS shall be entitled to remove any line rental and airtime discounts given and charge the Network RRP for that tariff.

7.2 The Customer hereby agrees to pay the charges in full without any deduction or set off to ACS within 14 days following the date of the invoice for such charges.

7.3 The charges are exclusive of Value Added Tax.

7.4 The charges detailed on the Business Mobile Airtime Agreement are available subject to the Customer achieving the minimum holding within three months of the commencement date and maintaining the minimum holding for the duration of the service period.

7.5 Where the number of devices connected to the service falls below the minimum holding for a consecutive period of three months ACS reserve the right to amend the charges accordingly.

## **8 BILLING ARRANGEMENTS**

8.1 Without prejudice to any other rights of ACS in the event of the Customer failing to pay any sums due to ACS on time or at all notwithstanding delivery of written reminder to the Customer ACS shall be entitled to:

8.1.1 Reclaim from the Customer all costs and expenses (including legal costs) incurred in the collection of overdue amounts from the Customer; and

8.1.2 Suspend the provision of the wireless service, the performance of Customer services to the service charter and/or disconnect devices or equipment from wireless service; until such time that all payments due including all interests incurred has been paid and satisfied in full.

8.2 ACS reserves the right to review any credit applied to this Agreement.

8.2.1 ACS may require from the Customer a deposit as security for payment charges. The Customer may request the return of any deposit paid at the expiry of the 13 months period but the decision to return any deposit prior to termination of the agreement will be at the discretion of ACS. ACS reserves the right to set off any deposit against the charges. ACS may require the Customer to pay by ACS Debit. If the parties agree that payments by the Customer to ACS are to be made by credit card and if payment of charges are not made on the due date ACS is authorised to debit the Customer's nominated Credit Card Company with all charges due and payable to ACS.

8.3 ACS reserve the right to withhold or withdraw discount on any invoices that remain unpaid in accordance with Clause 6.2.

8.4 Payment Terms:

8.4.1 Payment for all Services will be as follows:

8.4.2 ACS Debit payment for airtime and subscription charges (line rental etc.) is compulsory,

8.4.3 ACS Debit payments will be collected within 10 days of the invoice date unless with agreed exception.

8.4.4 Charges for non-direct debit is £5.00 + VAT per account per month until a direct debit form is fully completed and received by ACS or of the duration of the airtime Agreement.

8.4.5 Should the direct debit fail and it is deemed to be the Customer's responsibility, a charge of £10 + 2% of the invoices value will be charged

8.4.6 If the Subscriber fails to pay any part of the aforesaid charges within 10 days from the invoice date ACS reserves the right to charge interest at the rate of 6% above the Bank of England base rate from time to time calculated from the 10th day until the date payment is made.

8.4.7 Call charges are submitted monthly in arrears and subscription charges (including any applicable subscription charge for mobile extension) are submitted monthly in advance.

8.5 Other charges:

8.5.1 For the purchase of any hardware, or airtime there is a £5.00 minimum order charge.

8.5.2 ACS reserves the right to charge £2.50 per invoice if the Subscriber requests a copy invoice when the original has already been sent.

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8.5.3 Carriage charges are also chargeable; please refer to the price list available on ACS's website or ACS Customer Services. Prices are subject to change.

8.5.4 All invoices will be provided electronically.

8.6 Any dispute should be registered with ACS within 5 working days of the date of invoice otherwise payment in full is due on the due date.

## **9 OBLIGATIONS OF THE CUSTOMER**

9.1 This Agreement shall commence on the date of the Connection of each number and shall continue thereafter unless terminated.

9.1.1 To give ACS not less than thirty (30) days written notice of termination after the minimum period.

9.2 Will undertake with ACS that throughout the Service period it will:

9.2.1 Not permit or suffer its employees to act or omit to act in any way, which may injure or damage any persons' property or in any way, which may cause the quality of the wireless service or any aspect of them to be suspended; and

9.2.2 Not use or allow its employees to use the equipment or have access to the wireless service for any improper, immoral, or unlawful purpose; and

9.2.3 Comply with all statutory requirements in relation to the use of the equipment and the Wireless service; and

9.2.4 Provide ACS with such information as ACS reasonably request in connection with this agreement; and

9.2.5 Not use the equipment and the wireless for any purpose other than that for which it was designed or intended, or for self-provision of wireless telecommunications service; and

9.2.6 Notify ACS immediately (and to confirm in writing) on becoming aware that any equipment or device has been lost or stolen or that any person is making improper or illegal use of the equipment or the wireless services.

9.3 The Customer will be responsible for any charges incurred as a result of unauthorised use of any devices, or SIM Card, or the information contained within a SIM Card, until ACS have suspended the Service; and

9.3.1 Not damage or tamper with the equipment so as to invalidate any warranty provided by the equipment manufacturer and to pay the standard charges levied by ACS from time to time applicable to repair work on equipment which is outside (in scope or time) the warranty provided by the manufacturer of the equipment; and

9.3.2 Not damaged or tamper with any software to invalidate any warranty provided by the supplier of the same; and

9.3.3 Use the equipment and any software in accordance with any user guide or other reasonable instructions of any manufacturer or supplier of the same or reasonable instruction of ACS and not to copy (save as permitted by law) reverse engineer or modify the software in any way.

9.4 The term of this Agreement shall also apply to any sales orders placed by any subsidiaries or group companies of the Customer (unless the parties agree in writing otherwise). The Customer agrees that it is the authorised agent of its subsidiary and group companies and will be liable to ACS for all claims, losses and expenses arising out of breach of the term of this Agreement by any subsidiary or group companies.

9.5 The Subscriber agrees that these terms and conditions shall govern this Agreement between ACS and the Subscriber to the exclusion of any other terms and conditions oral or written and all representations for communications between the parties regarding the Agreement.

9.6 The Subscriber must promptly advise ACS of any change of address in writing and by recorded delivery. Any notice hereunder sent by ACS to the Subscriber should deem the Subscriber to be served within 48 hours of posting to the last address notified in writing to ACS.

9.7 Our network provider or its MNO owns the SIM and it remains their property at all times, you must ensure that you keep the SIM safe and secure whilst it is in your possession and you must ensure that you are able to return it to us, if required to do so by us at any time, as set out in these terms. There will be a charge for any replacement SIM, unless it is defective through faulty design or workmanship.

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9.8 You must keep all PINs and passwords secure and confidential. You are also responsible for the security of your Handset and must ensure that you keep it secure (refer to the Handset manufacturer's user guide for details of how to keep your Handset secure).

9.9 You should immediately change your PIN or password if you become aware that someone is accessing Services on your account without your permission.

9.10 You may only use Services:

- (a) as laid out in this agreement; and
- (b) for your own personal use. This means you must not resell or commercially exploit any of the Services or content.

9.11 You must not use Services, the SIM or phone number or allow anyone else to use Services, the SIM or phone number for illegal or improper uses. For example:

- (a) for fraudulent, criminal, or other illegal activity.
- (b) in any way which breaches another person's rights, including copyright or other intellectual property rights.
- (c) to copy, store, modify, publish, or distribute Services or content (including ringtones), except where we give you permission.
- (d) to download, send or upload content of an excessive size, quantity, or frequency. We will contact you if your use is excessive.
- (e) in any way which breaches any security or other safeguards or in any other way which harms or interferes with our network, the networks or systems of others or Services.
- (f) to falsify or delete any author attributions, legal or other proper notices or proprietary designation or labels of the origin or source of software or other content contained in a file that you upload; and
- (g) to use or provide to others any directory or details about customers.

9.12 You must always co-operate with us and follow our reasonable instructions to ensure the proper use and security of the Services and your account. You must only use Handsets authorised by us for Connection to our network and comply with all relevant legislation relating to their use.

9.13 We may publish an acceptable use policy which provides more detail about the rules for use of certain Services in order to ensure that use of Services is not excessive, to combat fraud and where Services we may introduce require certain rules to ensure they can be enjoyed by our customers. If we publish a policy, we will let you know – such a policy may be amended from time to time – for instance, if we discover that the Services are being used fraudulently or for fraudulent purposes, or the excessive use of certain Services is causing problems for us, our network provider, or its MNO, its systems or for other users or if we introduce new services which may require certain rules to ensure that such new services can be enjoyed by our customers, again, we will let you know if this happens.

9.14 While using the Messaging Services, you must not send or upload:

- (a) anything that is copyright protected, unless you have permission.
- (b) unsolicited bulk or commercial communications or other unauthorised communications, or knowingly send any viruses; or
- (c) anything that is obscene, offensive, abusive, defamatory, menacing, harassing, threatening or is unlawful in any other way.

9.15 We may put limits on the use of certain services, such as Messaging Services or Storage Services. For example, we may limit the size of messages or storage space.

9.16 While we have no obligation to monitor the Messaging Services or Storage Services, if you exceed our use limits set out in our fair use policy, or we are made aware of any issues with your use of these Services, (for example, if we are made aware that you are using Services in any of the ways prohibited in Section 4.8 above) we reserve the right to remove or refuse to send or store content on your behalf.

9.17 If you are under 18, you are not permitted to access our Age Restricted Services (if any). If you are 18 or over and you access the Age Restricted Services, you must not show or send content from the Age Restricted Services to anyone under 18. You must also ensure that you have deactivated any access to Age Restricted Services if you let anyone under 18 use your Handset.

9.18 If you use Services from a country outside the UK, your use of the Services may be subject to laws and regulations that apply in that other country. We are not liable for your failure to comply with those laws or regulations.

#### 9.19 Conditions of Tariff

9.19.1 The length of the Agreement term and the mobile number remain connected until expiry of the Agreement term.

9.19.2 That the Customer fulfils the full term of the contract. That the payment terms are strictly adhered to throughout the term of the contract.

#### 9.20 Fair Usage Policy – unlimited plan:

UK local/national calls and UK SMS policy of 10,000 minutes or texts.

Inclusive UK calls to standard UK landlines (starting 01,02 and 03), standard UK mobiles, Group Conferencing and GSM WAP.

If a number regularly uses 650GB of data per month or tethers 12 or more devices, we may consider this to be none permitted use and have the right to move you to a more suitable plan.

EU roaming data subject to network terms and conditions.

## 10 DURATION OF AGREEMENT

10.1 This Agreement shall commence on the day of each Connection and shall continue for the minimum term and thereafter until the same is ended by means of a Termination Notice.

10.2 Minimum Terms; each mobile phone number connected shall have the Minimum Term as stated under this Agreement and/or supporting documentation provided. The minimum stated is for each mobile number from its individual connection date. Where the Minimum Term relates to a re-sign of an existing number, the Minimum Term starts once the previous Minimum Term has expired.

## 11 TERMINATIONS

Termination Notice.

11.1 May be given by either party if the other party is in material breach, and the breach is capable of remedy and the party in breach shall have failed to remedy the breach within thirty - (30) days of written notice specifying the breach and require it's remedy, or the breach is not capable of remedy.

11.2 In addition Termination Notice may be given by ACS at any time on the grounds that:

11.2.1 The Customer has persistently failed to pay monies properly due to ACS under this Agreement; or

11.2.2 The Customer is otherwise materially or persistently in breach of the Agreement; or

11.2.3 Bankruptcy or insolvency proceedings are brought against the Customer, or if an agreement with creditors is made, or a receiver or administrator is appointed over any of the Customer's assets, or the Customer goes into liquidation; or

11.2.4 Airtime becomes unavailable due to the termination of any of ACS's agreement with the Network Operator(s).

11.3 Without prejudice to any other claims or remedies which ACS may have against the Subscriber, ACS may terminate this Agreement by giving notice to the Subscriber with immediate effect in any of the following circumstances:

11.3.1 If the Subscribers do or allow to be done anything which in ACS's opinion will or may have the effect of jeopardising the operation of the Services.

11.3.2 If the Subscriber provides false or misleading information.

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11.4 Upon the termination of this Agreement ACS shall disconnect the Mobile Phone/SIM Card from the System. If ACS at their sole discretion agree to reconnect the Subscriber following such disconnection and such disconnection arises as a result of circumstances set out in Clauses 6.2,6.2.1,6.2.2 and 6.2.3 the Subscriber shall be liable for a reconnection charge equal to the Connection charge or a minimum of thirty-five pound (£35) and this agreement shall be deemed to continue.

11.5 ACS reserves the right to add the reasonable costs incurred in receiving any outstanding debt due from the Subscriber.

## **12 CONFIDENTIALITY AND DATA PROTECTION**

12.1 The parties will each keep confidential any proprietary information and/or any information obtained from the other in connection with this Agreement (including for the avoidance of doubt details of the Customer's employees) which is reasonably identified by either party as commercially confidential or which is obviously confidential in nature and neither will divulge the same to any third party except such of its employees contractors and agents as may need to know the same for the purpose of the implementation of this Agreement and who agree to be bound by the provisions of this clause without consent in writing of the other.

### **12.2 Data Protection:**

12.2.1 The subscriber acknowledges that details of the Subscribers name, address, and payment record may be submitted to a credit reference agency.

12.2.2 ACS operates in accordance with the Data Protection Act 1998 as updated or amended from time to time. The Customer agrees that its details, or those of its users, may be used by ACS for marketing purposes and to inform the Customer of its users from time to time about other wireless telecommunication service or associated technologies. If the Customer does not want its details, or those of its users to be used in this way then the Customer should contact ACS Business Supplies Ltd, Kismet Buildings, Otley Road, Baildon, BD17 7HB.

### **12.3 Privacy Notice and your Information:**

12.3.1 We may pass and share your organisation's information and user's personal information to our network provider, or its MNO, other communications service providers and network operators for the detection and prevention of theft and fraud, and to carry out any activities or disclosures to comply with any regulatory, government or legal requirement.

12.3.2 If you use Services from a country outside the UK it may be necessary to transfer your information to that country. If that country is outside of the EEA, the treatment of your personal information may be subject to laws and regulations applying in that country and which may not protect your information to the same standards applying in the UK and the EEA.

12.3.3 You must keep any passwords and PIN numbers relating to your account and the Services safe and secure. You must not share them with anyone else. If you find or suspect that anyone else knows your passwords or PIN numbers, or can guess them, you must contact us immediately and ask us to change them. This is your responsibility.

## **13 TRANSFER OF LIABILITY AND ASSIGNMENT**

13.1 ACS may at any time assign its rights under this Agreement to any third party and may subcontract the performance of all or part of the same Agreement.

13.2 The Subscriber cannot transfer their obligations to pay charges under this Agreement without ACS's express consent. Any proposed transfer should be notified to ACS in advance. If a new user or the Mobile Phone/SIM Card is accepted by ACS and enters into a new Agreement, satisfactory to ACS, then it is ACS's policy to release the existing Subscriber from liability for future charges.

13.3 ACS's acceptance of payment from another person other than the Subscriber does not imply that ACS has amended any of its rights or obligations of the Subscriber.

13.4 The Customer shall not assign or transfer the benefit of this Agreement to any third party without the prior written consent of ACS, such consent not to be unreasonably withheld or delayed.

## **14 VARIATIONS**

14.1 ACS may vary all or any of its charges by publishing of such variations in its Tariff Sheets. Such variances to have immediate effect under this Agreement unless otherwise stipulated therein. ACS may vary the conditions of this Agreement to take account of new Legislation, statutory instrument, Government Regulations or Licenses or similar matters provided that the Subscriber is notified of any such variances in writing or by publishing such variation at ACS's principal place of business.

14.2 It is the policy of ACS to continually review the charges it makes, its service charter and terms upon which it contracts with Customers in order to maintain a competitive advantage over the other providers of similar service and ACS accordingly reserves the right to vary its process and tariffs as set out in its price list, its service charter and these terms from time to time in accordance with the policy.

## **15 MISCELLANEOUS**

### **15.1 Invalidity.**

If any of the provisions of this agreement is or becomes invalid, illegal, or unenforceable, the validity or enforceability of the remaining provisions shall not in any way be affected by or impaired. In any such circumstances the parties shall negotiate in good faith in order to agree the terms of mutual satisfactory provision, achieving as nearly as possible the same commercial effect, to be substituted for the provision, which is found to be invalid, illegal or enforceable.

## **16 WAIVER**

16.1 The failure or delay by either party to this Agreement to exercise or enforce any right, power or remedy under this Agreement shall not be deemed to operate as a waiver of any such right, power or remedy; nor shall any single or partial exercises by any party operate to bar the exercise or enforcement thereof or of any right, power, or remedy on any later occasion.

## **17 NO THIRD-PARTY RIGHTS**

17.1 Provided by this Agreement a person who is not a party to this Agreement has no rights under the contracts (Rights of Third Parties) Act 1999 to enforce any term agreement, but this does not affect any right or remedy of third party which exists available apart from by the Act.

## **18 OPERATIVE LAW**

18.1 This Agreement shall be considered as a contract made in England and according to English Law and subject to the exclusive jurisdiction of the English courts to which both parties hereby submit.

## **19 NOTICES**

19.1 Any notice or other communication required or permitted under this Agreement to be given in writing to the address of the recipient stipulated therein or as notified from time to time and will be deemed to have been given or made when delivered personally if properly addressed and posted by first class mail in England within two business days of posting and/or if sent by facsimile upon being sent or if sent by e-mail or other electronic means upon such communication being acknowledged has having been received.

19.2 Notices given to ACS will only be accepted in writing to ACS's registered address or by email to [telecoms@acsacs.co.uk](mailto:telecoms@acsacs.co.uk)

## **20 ENTIRE AGREEMENT**

20.1 Basis of Agreement.

20.2 This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, representation, proposal understanding and agreements whether written or oral relating to the matter of this Agreement.

20.3 The subscriber agrees that these terms and conditions shall govern this Agreement between ACS and the Subscriber to the exclusion of any other terms and conditions oral or written and all representations for communications between the parties regarding the Agreement.

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20.4 Provision of the Services does constitute acceptance of the terms of this Agreement. Each Mobile Phone/SIM Card and ancillary Service connected by ACS to the Network shall be governed by the terms and conditions hereunder. This Agreement shall be deemed to commence on the date of each mobile phone connection.

20.5 The Subscriber must promptly advise ACS of any change of address in writing and by recorded delivery. Any notice hereunder sent by ACS to the Subscriber should deem the Subscriber to be served within 48 hours of posting to the last address notified in writing to ACS. This Agreement shall be governed by and constructed in accordance with English Law.

20.6 The entire Agreement between the Subscriber and ACS will commence only after appropriate credit checks are completed.

20.7 If you, or we or our network provider, or its MNO, delay, or do not take action to enforce our respective rights under this agreement, this does not stop you, or us or them, from acting later.

20.8 In exceptional circumstances, a government authority may order the reallocation or change of phone numbers, in which case we may have to change your phone number for Services.

20.9 You confirm that you have full contractual capacity to agree to the agreement.

## **21 OUR RIGHTS – INTELLECTUAL PROPERTY**

21.1 All rights, including copyright in Services and their content, belong to us, our network provider, its MNO, or our licensed source, such as a content provider. We and they reserve all our and their rights.

## **22 EFFECT OF THIS AGREEMENT ENDING**

22.1 If this agreement ends, we will close your account and Disconnect you and you will not be able to use Services or make emergency calls.

22.2 You must immediately pay all Charges you owe up to the date the agreement ends. If we end the agreement due to your conduct or if you end your agreement within the Minimum Term, the Charges will include a Cancellation Fee.

## **23 THIRD PARTY RIGHTS**

23.1 This agreement is entered into by us for the benefit of us, our network provider, and its MNO.

23.2 For the purposes of the Contracts (Rights of Third Parties) Act 1999 it is intended that our network provider and its MNO will have the right to enforce any rights conferred on it under this agreement and to that extent its MNO will have the same rights against you as would be available if they were a party to this agreement. ACS Business Supplies Ltd, Kismet Buildings, Otley Road, Baildon, BD17 7HB.