

Standard Terms and Conditions for the provision of Mobile Services and/or Equipment

1. Term

- 1.1. This Contract will come into effect on the Contract Date and will continue until the expiry of all of the Unit Agreements.
- 1.2. The Unit Agreements will commence on the Service Start Date and will continue for the Initial Term. Following the expiry of the Initial Term each Unit Agreement will continue unless and until terminated by either party giving the other no less than 30 days' prior written notice, such notice to expire on or after the expiry of the Initial Term. If You cancel Your order prior to the Service Start Date, We may claim all reasonable costs We incur as a result (in addition to any other rights We may have).
- 1.3. Each time a new service or Mobile Communications Equipment is ordered, a new Unit Agreement shall apply and the Initial Term shall apply to that Unit Agreement.

2. Supply of Mobile Communications Equipment

- 2.1. We will supply to You the Mobile Communications Equipment ordered by You pursuant to clause 4.
- 2.2. You will pay Our then current price for any Mobile Communications Equipment as set out in our Price and Availability List. You will be allocated a Mobile Equipment Fund for each mobile number We connect for you, which You can use to purchase (or part-purchase) Mobile Communications Equipment in accordance with the provisions set out in clauses 2.13 to 2.18 and 6 below.
- 2.3. Risk in the Mobile Communications Equipment will pass to You upon delivery. Delivery of the Mobile Communications Equipment occurs when it is delivered to the address which You specify to Us in the Data Capture Form.
- 2.4. If You:
 - (a) fail to give Us all the necessary instructions and documents to effect delivery of the Mobile Communications Equipment or otherwise cause or request a delay; or
 - (b) fail to take delivery of the Mobile Communications Equipment on the date of delivery,

We will be entitled (but not obliged) to store the Mobile Communications Equipment at Your risk and You will pay all reasonable costs and expenses of such storage and any additional costs of carriage incurred.
- 2.5. Where We are responsible for the transportation and delivery of the Mobile Communications Equipment, You will notify Us of any claim in respect of non-delivery, loss and/or damage to the Mobile Communications Equipment as soon as You become aware (or ought reasonably to have become aware) of such non-delivery, loss or damage and in any event within 3 calendar days of the date (or expected date) of delivery of the Mobile Communications Equipment.
- 2.6. Title in the Mobile Communications Equipment (apart from any SIM card) will pass to You following payment of the Charges pursuant to clause 6.8.
- 2.7. We warrant that subject to clause 2.9 the Mobile Communications Equipment will be of satisfactory quality and fit for the purpose sold. If there is any defect in the Mobile Communications Equipment We will replace the Mobile Communications Equipment provided that:
 - (a) You make a full inspection of the Mobile Communications Equipment as soon as reasonably practicable after delivery and do not tamper with or use the Mobile Communications Equipment in any way except in accordance with the instructions in the User Guide;
 - (b) You notify the Service Desk immediately on becoming aware of any defect; and
 - (c) the Mobile Communications Equipment is returned to Us. If at the time Your replacement is delivered, You do not return the defective Mobile Communications Equipment within 7 days then You will incur a charge of the full wholesale cost of the replacement. If the Mobile Communications Equipment in question is under warranty but the fault can be attributed, in Our reasonable

opinion, to damage caused by You (or any other user) then We shall be entitled to charge You for any repair charges that We incur.

- 2.8. We will have no liability for any defect or breach of warranty under clause 2.7:
 - (a) for Mobile Communications Devices after a period of 24 months; and
 - (b) for Accessories after a period of 12 months; from the Service Start Date of the relevant Unit Agreement or if You have terminated the relevant Unit Agreement prior to the expiry of that 12 month or 24 month period as applicable.
 - 2.9. Please note that replacement Mobile Communications Equipment may occasionally be reconditioned rather than new.
 - 2.10. You agree to pay the Charges for any Advance Replacement Services that We agree to supply to You, pursuant to clause 2.7 or otherwise.
 - 2.11. Any SIM Card supplied by Us will only enable Mobile Communications Equipment to work within the Mobile Network unless Roaming has been added to the Service.
 - 2.12. SIM Cards provided by Us do not belong to You but You must take care of them and do everything reasonable to prevent their theft, loss or unauthorised use. We may recall a SIM Card from You at any time to improve or maintain the quality of Service. On termination of this Contract, if asked by Us, You must return the SIM Card(s) immediately.
 - 2.13. If a SIM Card or any Mobile Communications Equipment is lost, stolen, damaged, destroyed or is likely to be used in an unauthorised way, You must inform the Service Desk promptly, or Our third party network provider, if out of office hours. You will be responsible for all Charges incurred in the period before such notification and We reserve the right to charge You for the cost of a replacement SIM Card. If Your Mobile Communications Equipment is lost or stolen, You must pay for the replacement.
 - 2.14. We will create a Mobile Equipment Fund for You for each mobile number from the point that We connect that number for You to the Mobile Network (whether We have allocated that number to You or You have ported that number to Us from another service provider) ("**Mobile Number**").
 - 2.15. For each additional Mobile Number (thereby creating a Unit Agreement) We will allocate further funds to Your Mobile Equipment Fund. The amount to be credited to the Mobile Equipment Fund will be set out in the Order.
 - 2.16. You will be able to buy Mobile Communications Equipment to use with a Mobile Number from the Mobile Equipment Fund if funds are available. If there are no funds available, or the fund does not cover the total price of the Mobile Communications Equipment (including any accessories) ordered by You for the Mobile Number in question, You will be charged the price of such equipment (or the balance owed once any available funds have been exhausted) at the "SIM free" prices set out in the then current Price and Availability List. You will be invoiced for any amounts due after the delivery of such equipment.
 - 2.17. The Mobile Equipment Fund will also be available to You to cover (or contribute towards) any repair costs for Mobile Communications Equipment that are out of the warranty period set out in clause 2.7.
 - 2.18. If You choose to port or disconnect a Mobile Number during the Initial Term, thereby terminating a Unit Agreement, You will be charged the termination charges set out in clause 9.
 - 2.19. Please note that no cash equivalent of the Mobile Equipment Fund shall be payable to You at the end of any Unit Agreement if it has not been used.
- ### 3. Provision of the Mobile Service
- 3.1. We will use reasonable skill and care in the provision of the Service.
 - 3.2. If You wish to have Mobile Extension or Mobile LAN Access Service
 - (a) Our third party network provider will provide the Link at your request and You must enter

into a separate agreement with that third party network provider for the Link; and

- (b) You must ensure that there is sufficient capacity on the PABX on which the circuit is to be terminated and that You are in possession of a dedicated DLI card.
- 3.3. In order to be able to provide You with the Service You must provide Us with a completed Data Capture Form within a reasonable period prior to the proposed Service Start Date.
- 3.4. We will use reasonable endeavours to provide the Service to You at all times, however, You acknowledge that:
 - (a) the Service is not available in parts of the United Kingdom outside the range of the Mobile Network;
 - (b) quality or availability of the Service may be affected by matters outside our control including, without limitation, physical obstructions, atmospheric conditions, radio interference and faults on other networks;
 - (c) Roaming may not be available in certain areas or certain countries;
 - (d) the Mobile Network may sometimes need maintenance or upgrading and this could mean that the Service will be unavailable from time to time;
 - (e) for operational efficiency We may limit the number and length of any voicemail messages that You may leave on any voicemail facility;
 - (f) We may need to temporarily suspend provision of the Service for operational reasons, in an emergency or for Your security;
 - (g) We may have to alter the number of a Mobile Communications Equipment, or any other name, code or number associated with the Service; and
 - (h) We do not warrant error free or uninterrupted use of the Service.
- 3.5. Unfortunately We cannot guarantee the continuing availability of any particular Service and You acknowledge that We may be dependent upon third parties when providing the Service (including, without limitation, O₂). We are not responsible for any failure related to those Services to the extent that such failure is attributable to such other third parties. Notwithstanding any other provision of this Contract but subject to clause 11.1 We will not be liable to You in contract, tort (including negligence) or otherwise for the actions of any third party (including without limitation acts or omissions of the Network Operator(s)) that affect or impact upon the provision of the Service.
- 3.6. You may submit a request to Us to transfer the telephone number(s) for Mobile Communications Equipment to another network. We will arrange this upon payment of our standard fee for this service. We cannot guarantee that any Mobile Communications Equipment will be able to be used with another Network Operator.
- 3.7. We cannot guarantee that We can provide Services to specific Mobile Communications Equipment number(s) where such number has been transferred by You from another Network Operator or where there are national code or number changes. We will not be liable for any loss or damage You will incur due to Your inability to receive any incoming telephone calls to such Mobile Communications Equipment number.
- 3.8. You acknowledge that We may need to contact Our third party network provider's technical support desk or the manufacturer or supplier of any of the Mobile Communications Equipment with the details of You and any queries or issues You may have. This may delay the resolution of any problem You have.
- 3.9. If You wish to port or migrate a number then You must request the porting authorisation code (PAC) from Your current service provider. We can only port or migrate a number once We have received a valid PAC.

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4. Sales Orders

- 4.1. At any time after the Contract Date You will be entitled to:
 - (a) request additional Mobile Communications Equipment, where it is included in our Price and Availability List; and/or
 - (b) request Additional Services.
- 4.2. All orders are subject to the terms contained in clauses 2.13 – 2.18. Once Mobile Communications Equipment has been ordered, it cannot be exchanged or upgraded.
- 4.3. Any request should be made to Your account manager. You should give details of the Mobile Communications Equipment required, the quantity and the dates from which You would like the Service. We will inform You of any additional Charges and the likely delivery dates.
- 4.4. No order pursuant to clause 4 will be accepted until it has been confirmed by Us to You in writing or by email. We are not obliged to process or accept any order submitted by You.
- 4.5. Unless agreed otherwise in writing any orders will be governed by the terms of this Contract only. If You submit any orders or requests for Additional Services it will always be on the basis that the terms of this Contract apply.
- 4.6. Where You take the OBR Service the terms and conditions set out on the OBR website shall apply in addition to this contract.

5. Use of the Service

- 5.1. You will and will procure that any Users use the Mobile Communications Equipment and the Service only in accordance with our instructions as may be notified in writing from time to time, as described in the User Guide, this Contract and in accordance with relevant provisions of the Acts, any licences (where applicable) and any Legislation and any fair use policy issued by the Network Operator from time to time.
- 5.2. You will not use (or permit or procure any User or third party to use) the Service;
 - (a) to generate AIT;
 - (b) to make nuisance calls or to send unsolicited advertising or promotional material;
 - (c) to transmit any material which is defamatory, offensive, abusive, indecent, obscene or menacing or which does, or is intended to cause annoyance, inconvenience or worry;
 - (d) in any way which is illegal, unlawful, in breach of any statutory provision or regulation, fraudulent, defamatory, an act of treason or intended to be a hoax call to any emergency service or which (in our reasonable opinion) brings Our name into disrepute or in any way which intentionally causes damage or disruption to the Service or the Mobile Network;
 - (e) in any way which contravenes any acceptable use policy or other reasonable requirements which have been communicated to You.
- 5.3. You must not disclose to any third party any personal codes, numbers, names or passwords issued by Us to enable You to access the Service. You must not use the Mobile Communications Equipment for any criminal or other illegal activity.
- 5.4. Both parties agree to co-operate fully with the Police and any other relevant authorities (including, but not limited to, the Inland Revenue, the Trading Standards Service and/or OFCOM and any successor from time to time) in connection with any misuse or suspected misuse of the Service and You consent to Us co-operating with any other telecommunications operators in connection with any fraudulent activity related to or connected with the Service and agree We will be entitled to divulge the name and address of You to any such body and account information relating to the customer to such third parties.
- 5.5. If You intend to install Mobile Communications Equipment in a vehicle it is your responsibility to ensure that the vehicle is suitable and that (where required) its owner agrees to such installation. It must be fitted by a competent installer.
- 5.6. You must not use any SIM card(s) supplied under this Contract with a GSM Gateway Device, unless and until We have obtained consent to such use

from Our Network Provider. If You fail to comply with this clause this will be a material breach and will entitle Us to suspend or terminate this Contract or We may disconnect such GSM Gateway without prior notice or liability to You.

- 5.7. You acknowledge and agree that Fair Usage applies to the Services. Where You exceed the Fair Usage We may raise additional Charges. Where You exceed the Web Bolt On tariff Fair Usage We may request that You upgrade the tariff or the tariff of a Unit Agreement to the Web Max tariff. If You do not consent to such upgrade within 10 Working Days We may immediately terminate such Agreement or Unit Agreement.

6. Charges

- 6.1. You will pay Us all appropriate Charges at the times, frequencies and rates as set out in this clause 6 and/or in the Order and (in respect of Mobile Communications Equipment) at the rates set out in the Price and Availability List.
- 6.2. You are responsible for all Charges accruing from the delivery of the Mobile Communications Equipment whether or not You personally used the Service.

Rental Charges/Airtime Charges
- 6.3. The rental Charges (set out in the Order) will be payable monthly in advance commencing on the Service Start Date unless otherwise stated in the Order. Airtime Charges (set out in the Order) will be payable monthly in arrears. Standard billing times may not apply to roaming or international call charges.

Additional Services Charges
- 6.4. Charges for Additional Services will be payable monthly in arrears unless otherwise agreed between the parties and at the rates set out in the Order.
- 6.5. Save as permitted by clause 6.6 We will be entitled to vary the Charges including any discounts and incentives that may be offered by Us. Such variation will be effective not less than 30 days after We have given You written notice of such changes save that We may introduce changes to the Price and Availability List on less than 30 days' notice.
- 6.6. We will be entitled to vary the call charges and rental Charges at any time if Our third party network provider varies its charges to Us. Such variations will be effective after We have given You notice of them.
- 6.7. Unless We have agreed in writing to provide itemised billing, all airtime Charges and rental Charges will appear as a single item on Your bill.

Mobile Equipment Charges

- 6.8. The Charges for the provision of Mobile Communications Equipment will be payable following delivery.
- 6.9. Unless otherwise agreed You must arrange activation of SIM Cards with Us within 90 days of delivery of any Mobile Communications Equipment. Failure to do so will entitle Us to start charging You rental Charges from the expiry of that 90 day period.
- 6.10. All Charges due will be payable within 30 days of the date of the relevant invoice or bill and must be paid in full without any set-off, deduction or withholding of any kind. We may reserve the right to charge daily interest on any outstanding amounts until payment is received in full from You at a rate of 2% per annum above the base rate of National Westminster Bank plc as current from time to time whether before or after judgment and/or suspend the Service (either in whole or in part) until all Charges have been paid in full.
- 6.11. If at any time during this Contract in our reasonable opinion your financial standing changes adversely or You persistently default in paying the Charges, then We may request a security deposit against non-payment. If You fail to pay such security deposit within 10 Working Days then We reserve the right to suspend and/or terminate this Contract with immediate effect by giving written notice. No interest is payable on any deposit held by Us. We will return the deposit (or any balance of any deposit) to You on termination less any sums due to Us from You.
- 6.12. All Charges are exclusive of value added tax and any other applicable taxes which may be levied from time to time.

- 6.13. Where any Charges or other monies properly due to Us or any member of the KCOM Group under this Contract or any other agreements are outstanding We will be entitled to offset such payments against any payments due from Us or any member of the KCOM Group to You under this Contract or any other agreements under which We or any member of the KCOM Group provide You with telecommunications or data services.
- 6.14. If You wish to disable the Roaming function please give Us a minimum of 5 (five) Working Days' written notice by emailing the Mobile Customer Care team at customer.care.mobile.team@kcom.com

7. Recording

- 7.1. We or Our agents may sometimes monitor or record telephone calls made to the Service Desk for training and quality control purposes. These recordings will not be made available to any third party or used for any other purpose.

8. Suspension of Service

- 8.1. We may at our sole discretion bar Mobile Communications Equipment from receiving or making calls (other than to the emergency services):
 - (a) if We are, or become entitled to terminate this Contract;
 - (b) in accordance with clause 6.11;
 - (c) in the event of loss or theft or suspected fraudulent use of a SIM Card or Mobile Communications Equipment by You or by a User;
 - (d) You are in breach of any other contract that You have with Us or any member of the KCOM Group; or
 - (e) if a complaint is made to Us alleging Your or Our improper use of the Service.
- 8.2. If the Service is temporarily barred for the reason set out in clause 8.1(e), We will carry out an investigation promptly. If the complaint is upheld or Service has been suspended for any other reason stated in clause 8.1 We may charge You a re-connection fee if We are prepared to remove the bar on the Mobile Communications Equipment.
- 8.3. You will remain liable for all Charges accrued during the period of any suspension.

9. Disconnection notices

- 9.1. You may give a Disconnection Notice to the Service Desk at any time during which this Contract is in full force and effect. A Disconnection Notice must be made in writing and will specify the number and particulars of the Mobile Communications Equipment to be disconnected.
- 9.2. Upon receipt of a Disconnection Notice We will disconnect the Mobile Communications Equipment in accordance with the Disconnection Notice upon the expiry of 30 days from the date of the Disconnection Notice.
- 9.3. You will pay all Charges accrued in respect of the Mobile Communications Equipment (in accordance with the terms of clause 6) until the date of expiry of the Disconnection Notice.
- 9.4. If expiry of the Disconnection Notice is before the expiry of the Initial Term of the relevant Unit Agreement You will pay:
 - (a) the rental Charges that would have been payable up to the expiry of the Initial Term had it not been terminated; minus any deduction for costs not incurred by Us (where applicable) and a 5% deduction for early payment of the invoice; and
 - (b) an amount equal to any amount levied on Us by any third party We use to provide the Services to You, including without limitation O₂ in respect of Your termination.
- 9.5. You acknowledge that the Charges have been calculated on the basis that the Unit Agreements will continue until the expiry of the Initial Term, as We have spent money on set up costs, and You accordingly agree that it is reasonable for Us to require payment of the amounts pursuant to this clause 9.
- 9.6. This Contract will remain in full force and effect in relation to all other Mobile Communications Equipment remaining in Service.

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10. Termination

- 10.1. If either party is:
- in breach of any provisions of this Contract (other than any of clauses 5.2, 5.3 or 5.4) and fail to remedy such breach within 30 days of written notice to do so;
 - unable to pay its debts as they fall due or threaten to suffer any resolution to wind up its business or enter into involuntary or compulsory liquidation or have an administrator, administrative receiver, receiver or any analogous officer appointed over all or part of its assets;
- then the other may immediately upon notice in writing (without prejudice to any other rights and remedies it may have) terminate (either in whole or in part) this Contract.
- 10.2. We may terminate this Contract (either in whole or in part) with immediate effect if:
- You are in breach (or We reasonably believe You are in breach) of clauses 5.2, 5.3 or 5.4 as such breach may be a criminal offence and/or cause serious harm to our reputation or if You are in breach of clause 5.6; and/or
 - Our authorisation to provide the Services or any authorisation of Our third party network provider is altered in a way that is material to the Service.
- 10.3. We will continue to provide the Services in accordance with clause 3 until termination of this Contract but if:
- You are late in making any due payment; or
 - We become entitled to terminate this Contract early for any reason; or
 - You break any material term of another contract with Us or another company in the KCOM Group,
- then We may partially or completely suspend the Services without limiting Our ability to enforce other remedies that may be available. While the Services are suspended You must continue to pay the Charges.
- 10.4. Upon termination of this Contract You will cease to use the Service and will pay to Us all outstanding Charges due up to and including the date of termination.
- 10.5. The expiry or termination of this Contract will be without prejudice to any other rights either party may be entitled to and will not affect any accrued rights or liabilities of either party.
- 10.6. Upon termination of this Contract, the provisions of clauses 9.4 and 9.5 shall apply in accordance with their terms.

11. Limitation of liability

- 11.1. Nothing in this Contract shall exclude or limit either party's liability for:
- fraud or fraudulent misrepresentation; or
 - death or personal injury resulting from its own negligence or that of its employees, sub-contractors or agents; or
 - breach of the terms implied by s. 12 of the Sale of Goods Act 1979.
- 11.2. Except as expressly set out in this Contract, all conditions, warranties, terms, representations undertakings and obligations express or implied by statute (including without limitation those of satisfactory quality or of fitness for a particular purpose (even if that purpose is made known expressly or by implication to Us)), common law, custom, trade usage or otherwise and all liabilities in respect of the same (if any) are excluded to the fullest extent permitted by law.
- 11.3. Without prejudice to clause 11.1, We shall not be liable to You whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any:
- loss of business; or
 - loss or corruption of data or information; or
 - loss of profits; or
 - loss of goodwill; or
 - loss of business opportunity; or
 - loss of anticipated savings even when advised of the possibility,

- suffered by You under or in connection with this Contract.
- 11.4. Without prejudice to clause 11.1, We shall not be liable to You whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any special indirect or consequential loss or damage (including legal and other professional fees and expenses) or expenses of any nature.
- 11.5. Subject to the provisions of this Contract, each party hereby accepts liability in respect of damage to the other party's tangible property resulting from its own or its employees' negligence up to an aggregate amount of £2,000,000 (two million pounds sterling) during the term of this Contract.
- 11.6. Without prejudice to clauses 11.1 and 11.5, each party's maximum aggregate liability in connection with this Contract whether arising in contract, tort (including negligence) or restitution or for breach of statutory duty or misrepresentation, or otherwise, shall be limited in the aggregate in each Contract Year to the greater of:
- £250,000 (two hundred and fifty thousand pounds sterling); or
 - the value of the Charges paid by You in the preceding Contract Year ("Liability Sum").
- 11.7. With reference to clause 11.6, in the event that 12 months has not accrued from the Contract Date, the Liability Sum shall be calculated by calculating the monthly average Charges incurred over the relevant period and multiplied by 12.
- 11.8. The limitations of liability set out in this clause 11 shall not limit Your liability to pay the Charges that are properly due under this Contract. Further, Your liability to pay any Charges shall not be taken into account for the purposes of applying the limitations set out in this clause 11 to any other liabilities You may incur under or in connection with this Contract.
- 11.9. This clause sets out each party's entire financial liability (including any liability for the acts or omission of their respective employees, agents or subcontracts) to the other in respect of:
- any breach of this Contract; and
 - any use made or resale of the Equipment and/or Software, or of any product incorporating the said Equipment and/or Software; and
 - any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Contract.

12. Force Majeure

- 12.1. We will not be liable to You for any loss or damage caused to or suffered by You as a direct or indirect result of the supply of Services being prevented, restricted, hindered or delayed by reason of any circumstance outside of Our control. If either party is prevented from performance of its obligations for a continuous period of 3 months either party may terminate this Contract by giving written notice.

13. General

- 13.1. This Contract constitutes the entire agreement and understanding of the parties and supersedes any previous agreement between the parties relating to the subject matter of this Contract. If any of the provisions of this Contract conflict, the provisions in these Terms and Conditions shall take precedence.
- 13.2. Each of the parties acknowledges and agrees that in entering into this Contract it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Contract or not) other than as set out in this Contract. Nothing will operate to limit or exclude any liability for fraud.
- 13.3. Should any provision of this Contract be held to be void or voidable the remaining provisions of this Contract will continue in full force and effect.
- 13.4. No forbearance, delay or indulgence by either party in enforcing the provision of this Contract will prejudice or restrict the rights of that party nor will any waiver of its rights operate as a waiver of any past or subsequent breach.
- 13.5. We will use reasonable endeavours to meet any delivery time, date or period. However, such dates will be regarded as estimates and We will have no liability to achieve any such time, dates or periods.

- 13.6. Members of KCOM Group may enforce their rights under 6.13 but no other person or body who is not a party to this Contract has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Contract (but this does not affect any rights or remedies of a third party which exist or are available apart from that Act).
- 13.7. You may not assign the whole or part of this Contract without our prior written consent, such consent not to be unreasonably withheld or delayed.
- 13.8. We may assign this Contract to any company which from time to time is within the KCOM Group.
- 13.9. Subject to clause 13.8 We may not assign this Contract to any other third party without your prior written consent, such consent not to be unreasonably withheld or delayed.
- 13.10. We reserve the right to vary these terms and conditions to the extent necessary to take into account any changes to Industry Agreements and any relevant Legislation. Save as permitted by this Contract, any other variations must be in writing and agreed between the parties.
- 13.11. Any notice under or in connection with this Contract shall unless otherwise agreed be in writing and may be delivered by hand to or sent by first class post or by facsimile (confirmed by post) to the Company Secretary at the address of the party concerned set out in this Contract or any other address notified from time to time.
- 13.12. Any notice addressed as provided in clause 13.11 shall be deemed to have been given or made on the second Working Day after posting if sent by first class post upon delivery if delivered by hand and if sent by fax on the next Working Day after the date of transmission provided the sender's facsimile machine produces a report showing successful transmission to the correct facsimile.
- 13.13. Where We are processing data on Your behalf We shall only process such data in accordance with the Data Protection Laws and Our Data Processing Commitment.
- 13.14. We may also contact Your organisation (including individuals within Your organisation) by letter, telephone or e-mail with details of Our services that may be of interest. If an individual does not wish to receive marketing material from Us then please notify us by calling 0800 1386000.
- 13.15. As We continue to develop our business, members of the KCOM Group may be sold and any relevant Customer Information may be transferred as part of the sale, subject to the terms of clauses 13.13 and 13.14.
- 13.16. This Contract will be governed by English law and the parties submit to the exclusive jurisdiction of the English Courts.

14. Definitions

- 14.1. Except where the context otherwise requires the following will have the following meanings:
- "Acts" the Communications Act 2003, the Telecommunications Act 1984, and the Electronic Communication Act 2000 (each as may be amended from time to time);
- "Accessories" any equipment We provide pursuant to this Contract other than Mobile Communications Device;
- "Additional Services" additional services including without limitation, Roaming, international calling, premium rate services or any ARS, which We may agree to provide to You from time to time;
- "ARS" or "Advance Replacement Services" means the delivery of Mobile Communications Equipment, in replacement of any faulty Mobile Communications Equipment (and the collection thereof) supplied to You pursuant to this Contract or under any Unit Agreement;
- "Agreed Usage Charge" the minimum amount (if any) set out in the Order (as may be varied from time to time by agreement of the parties) which is payable by You throughout the term of this Contract;
- "Charges" all call charges, connection charges, rental charges, Mobile Communications Equipment charges, delivery charges, any charges for Additional Services or other charges payable by You as detailed in the Order and these Terms and Conditions;
- "Contract" these Terms and Conditions, the Price and Availability List, the Service Standards, the

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Data Processing Commitment, the Order and the Price Manual;

"Contract Date" the date that We accept Your Order and agree to enter into this Contract, which will be the date of Our email or letter to You that states that We agree to enter into this Contract;

"Contract Year" a period of 12 months from and including the Contract Date and each consecutive 12 month period thereafter;

"Data Capture Form" the form providing full Customer and Service details (including but not limited to the details of the number, Mobile Communications Equipment, User details and service restrictions, Primary Contact Number) required to enable Us to provide You the Service;

"Data Processing Commitment" means the Data Processing Commitment contained in this Contract;

"Data Protection Laws" means all applicable laws and regulations relating to the processing of Personal Data and privacy including the Data Protection Act 1998, the General Data Protection Regulation 2016/679 and any statutory instrument, order, rule or regulation made thereunder, as from time to time amended, extended, re-enacted or consolidated and the terms "Data Controller", "Data Processor", "Data Subject", "Data Subject Access Request", "Supervisory Authorities", "process" and "Personal Data" shall have the meanings given to those terms in such data protection laws and regulations;

"Disconnection Notice" notice to disconnect one or more Mobile Communications Equipment given pursuant to clause 9.1;

"Fair Usage" the permitted average monthly volume of data allowable as set out in the Price Manual;

"GPRS Service" services such as the Mobile LAN Access Service and Mobile Web;

"GSM Gateway Device" any device used to make fixed-line-to mobile calls appear to the Network to be mobile-to-mobile calls;

"Industry Agreements" any standard industry agreements or third party agreement which impact upon our ability to provide the Service;

"Initial Term" the period of time stated in the Order such period to commence on the Service Start Date;

"KCOM Group" KCOM, its holding company, its subsidiaries and any subsidiaries of its holding

company. The terms "subsidiary" and "holding company" have the meanings ascribed to them by Section 1159 and Schedule 6 of the Companies Act 2006 (as amended);

"Legislation" all Acts of Parliament and statutory regulations, instruments or orders and codes of practice and all applicable European Union laws, treaties, directives and other legislation as any of the same may be amended or replaced from time to time;

"Link" link between Our third party network provider and your telephone system or data network;

"Mobile Equipment Fund" a nominal fund allocated by Us to You in respect of each mobile number We connect to the Mobile Network for You;

"Mobile Extension" mobile extension services;

"Mobile LAN Access Service" enables You to use applications on Your data network from Your Mobile Communications Equipment or laptop with GPRS access;

"Mobile Communications Equipment" the Mobile Communications Device, SIM cards, Accessories and other associated equipment for providing Mobile Communications Services;

"Mobile Communications Device" means the mobile device We provide to You;

"Mobile Network" the mobile telecommunications systems used by Us to provide the Service;

"Mobile Web" enables You to use the internet and internet based e-mail from Your Mobile Communications Equipment or laptop with GPRS access;

"Network Operator(s)" any public telecommunications operator used by Us to deliver the Service;

"O2" O2 (UK) Limited whose registered office is at 260 Bath Road, Slough, SL1 4DX, registered number 1743099;

"OBR" or on-line billing and reporting, a service providing You with online access to billing and associated reports through a portal;

"OFCOM" the Office of Communications or successors from time to time;

"Order" means the order for the Services placed by You via the telephone, the material details of which will be confirmed to You in writing by email or letter on or after the Contract Date;

"Price and Availability List" the list produced by Us from time to time detailing the Mobile Communications Equipment and the price that such equipment is available to be ordered by You;

"Price Manual" the manual published online at www.kcom.com detailing the Mobile tariff charges;

"Roaming" an optional enhancement permitting Mobile Communications Equipment to be used with other networks, principally overseas;

"Service(s)" or "Mobile Communications Services" the provision by Us of mobile communications services allowing You to make or receive calls and send or receive information using Mobile Communications Equipment on the Mobile Network and any other Additional Service (including for the avoidance of doubt, Mobile Extension and GPRS Services) We agree to provide to You as detailed in the Order and Service Standards;

"Service Desk" the centre to which all incident reports and help queries should be addressed;

"Service Standards" the document incorporated into this Contract set out below these Terms and Conditions;

"Service Start Date" the proposed start date or if different the date on which We first activate a SIM Card in the Mobile Communications Equipment;

"SIM Card" the card which identifies Mobile Communications Equipment as belonging to You, and identifies its allocated telephone number;

"Unit Agreements" the individual agreements for each piece of Mobile Communications Equipment or Mobile Communications Service to which the terms of this Contract apply;

"User(s)" any individual authorised by You to use Mobile Communications Equipment;

"User Guide" the manufacturer's instructions for Mobile Communications Equipment and any other guides and booklets We provide to You;

"We/Us/Our/KCOM" KCOM Group Limited, (registered number 2150618) whose registered office is at 37 Carr Lane, Hull, HU1 3RE;

"Working Day" Monday to Friday 8.00am to 6.00pm inclusive except for UK bank and public holidays; and

"You/Your" the person or company to whom the Services are provided.

Data Processing Commitment

This Schedule represents Our commitment to You in regard to processing of Personal Data. It forms part of the Contract and should be read in conjunction with the Contract and any associated documentation.

1 DEFINITIONS

1.1 In this Data Processing Commitment Schedule, unless the context otherwise requires:

“**Data Subject**” has the meaning given to it in the Data Protection Laws;

“**Data Subject Access Request**” has the meaning given to it in the Data Protection Laws;

“**Personal Data**” has the meaning given to it in the Data Protection Laws;

“**Permitted Sub-Processor**” means any third party supplier or other sub-processor appointed by Us for the provision of Services to You pursuant to the Contract, as such third party supplier or sub-processor is expressly identified to You or as otherwise agreed between the parties.

1.2 Any other definitions used in this Data Processing Commitment Schedule shall have the meaning ascribed to it in the Contract.

2 DATA PROTECTION

2.1 Both Parties hereby warrant, represent and agree that in relation to the performance of the Services during the term of the Contract each Party will comply with the Data Protection Laws.

2.2 Both Parties acknowledge and agree that in relation to Your Personal Data, You are the Data Controller and We are the Data Processor. We agree and accept that We will process the Personal Data pursuant to and in accordance with the Contract, as applicable, and the Data Protection Laws.

2.3 The Data Processing Details sets out the information regarding Our processing of Your Personal Data as required by article 28(3) of the General Data Protection Regulation 2016/679. We may make reasonable amendments to the Data Processing Details by written notice to You from time to time as We reasonably consider necessary to meet those requirements. Nothing in the Data Processing Details (including as amended pursuant to this section 2.3 of this Data Processing Commitment) confers any right or imposes any obligation on either You or Us.

2.4 We shall:

- (a) only process the Personal Data for the purposes of performing its obligations under the Contract, as applicable, and in accordance with Your documented instructions;
- (b) not transfer the Personal Data outside of the United Kingdom or the EEA, unless permitted to do so as follows:
 - (i) in provision of the Services to the relevant Permitted Sub-Processor, subject to ensuring

that either: (a) such Permitted Sub-Processor implements appropriate technical and organisational measures to safeguard against unauthorised and unlawful processing of Personal Data and to ensure a level of security appropriate to the risk; or (b) the Sub-Processor enters into the Standard Contractual Clauses for the Processing and transfer of Personal Data outside of the United Kingdom or the EEA with You; or

- (ii) with Your prior written consent; and/or
- (iii) if required to do so by any legislation or regulation, in which case We shall inform You of such requirement if it is able to do so;
- (c) ensure that all of Our employees who process the Personal Data are subject to an obligation of confidentiality in relation to the Personal Data;
- (d) implement appropriate technical and organisational measures to safeguard against unauthorised and unlawful processing of Personal Data and to ensure a level of security appropriate to the risk, including but not limited to:
 - (i) pseudonymising and encrypting Personal Data, as appropriate;
 - (ii) ensuring the ongoing confidentiality, integrity, availability and resilience of its processing systems and services;
 - (iii) enabling the restoration, availability and access to Personal Data in a timely manner in the event of a physical or technical incident and, without prejudice to the foregoing, in accordance with any service level agreement between Us and You;
 - (iv) regularly testing, assessing and evaluating the effectiveness of the technical and organisational measures for ensuring the security of the processing; and
 - (v) taking steps to ensure that any of Our employees who have access to Personal Data does so in accordance with Our rights and obligations as expressly detailed in this Data Processing Commitment or otherwise on Your express written instructions unless otherwise required by legislation or other applicable regulation;
- (e) inform You of any new sub-processor and/or change of a Permitted Sub-Processor. You shall inform Us within five (5) Business Days of any objection to such appointment or change. If You do not raise any such objection, We shall ensure that such sub-processors shall comply with the provisions of this Schedule or terms which are substantially similar;

- (f) assist You in the timely response to requests from Data Subjects exercising their rights, including but not limited to:
 - (i) where We are required to assist You with a Data Subject Access Request You have received, responding to such request for assistance within twenty (20) days of receiving notice of such request from You;
 - (ii) where We receive a Data Subject Access Request directly from the Data Subject, We shall notify You within one (1) Business Day after receipt and shall respond to the Data Subject within the time limits specified within the Data Protection Laws and where You are required to assist Us with such Data Subject Access Request, You shall respond to Us within twenty (20) days of receiving notice of such request from Us;
 - (iii) assisting You, as applicable, with a request for access, rectification and/or erasure by a Data Subject; and
 - (iv) enabling You to comply with a request for data portability of a Data Subject;
 - (g) assist You in complying with its obligations relating to security of Personal Data as set out in the Contract, as applicable, or as otherwise may be reasonably requested by You, including but not limited to:
 - (i) notifying You of any Personal Data breach as soon as reasonably practicable and no later than twenty four (24) hours after We become aware of the breach (such notice by email and/or telephone and followed up by email), and including all relevant detail. We agree and accept that You may use any detail included in the notification of a Personal Data breach, or otherwise given in its communication to Data Subjects, to the extent that such information does not breach the rights of any other individual;
 - (ii) at Your request and expense assisting with the communication to the Supervisory Authorities, any of Your customers and/or Data Subjects following a Personal Data breach and/or implementing any measures required as a result of such breach;
 - (iii) at Your request and expense, consulting with the Supervisory Authorities and/or assisting You to consult with the Supervisory Authorities, including providing You with any information relating to Our processing of Personal Data and/or Our compliance with the Data Protection Laws as You may be reasonably request.
 - (h) upon the expiry or termination of the Contract, delete or return all Personal Data to You (as requested by You), unless otherwise required or permitted by Data Protection Laws and provide written confirmation You in this respect;
- (i) make available to You all information reasonably necessary to enable You to demonstrate compliance with Your obligations under the Data Protection Laws, including such records of all categories of processing carried out on Your behalf, as such is requested by You;
- (j) co-operate with any request of the Supervisory Authority;
- (k) allow You to undertake audits of Us on 30 days' notice and at Our expense, subject to any reasonable requests We may have regarding the timing and conduct of such audit (including, without limitation, such audits to be conducted during Our Business Hours and allowing Us to supervise such audit), to ensure Our compliance with this Schedule;
- (l) contribute to any audits or inspections carried out on You by any Supervisory Authority or any of Your suppliers or customers, as such contribution and/or inspection is reasonably necessary to demonstrate compliance with Your and/or Our obligations in this Data Processing Commitment, subject always to the provisions in Section 2.3(k) above;
- (m) at Your expense, implement any reasonable recommendations and/or remedial actions necessary to ensure compliance with the provisions of this Schedule and/or the Data Protection Laws, as such recommendations and/or remedial actions are deemed necessary by You (acting reasonably) or any Supervisory Authority, as applicable, following an audit or inspection in accordance with Section 2.3(l) above, or otherwise as You deem reasonably necessary.
- (n) Subject to clause 11, each Party shall indemnify the other Party in the event of any claim by a third party arising as a consequence of the other Party's breach of this Data Processing Commitment and/or Data Protection Laws.

3 GENERAL

- 3.1 We shall be entitled to amend this Data Processing Commitment either: (i) immediately to ensure Our commitment is in compliance with Data Protection Laws; or (ii) upon giving You 30 days' prior written notice of such change, provided that such change shall not (in Our reasonable opinion) cause a material detrimental effect to You).

DATA Processing Details

Description	Details
Subject matter of the processing	Provisions of Services pursuant to the Agreement between Us and You
Duration of the processing	During the Term of the Agreement and for up to 7 years after the expiry or termination of the Agreement
Nature and purposes of the processing	<p>Collecting Storing Processing (organising, structuring, adaptation or alteration, retrieval consultation, use)</p> <p>To facilitate the fulfilment of Our obligations arising under the Agreement including</p> <ol style="list-style-type: none"> i. Provision of the Services ii. Ensuring effective communication between Us and You; iii. Maintaining full and accurate records of all Services arising under the Agreement; iv. Dealing with any rights, actions, incidents or disputes arising under the Agreement;
Type of Personal Data	<p>Name Telephone Number Address Email Address Unique Identifier</p>
Categories of Data Subject	<p>Your employees Employees of End Customer Any member of the general public Includes:</p> <ol style="list-style-type: none"> i. Your directors, employees and/or staff of the Customer concerned with the delivery of the Service ii. The directors, employees and/or staff of Your group and/or associated companies concerned with the delivery of the Service iii. The directors, employees and/or staff of the Your sub-contractors and/or other third parties concerned with either the fulfilment of the Your obligations arising from Agreement or the receipt of Your rights under the Agreement
Permitted Sub-Processors	<p>Abzorb Data Select O2</p>

Mobile Services and Equipment Service Standards

1. Introduction

These Service Standards define the commitment We make to You, any changes, modifications, additions, deletions to these Service Standards will be provided to You in writing 30 (thirty) days prior to such a change coming into effect.

2. Service Description

Allocation of SIM/ Mobile Number

We will allocate to You a mobile telephone number or take over responsibility for a telephone number which has been ported or migrated from another Mobile Network Operator. This number will be ported / migrated to Us in accordance with industry policy on number portability. For each mobile telephone number we will create a specific tariff that includes a line rental and pence per minute rates.

Hardware

We will endeavour to source and supply to you Mobile Communications Equipment and accessories (subject to availability), and upon your request will supply a KCOM Price and Availability List, which changes on a regular basis due to the variable nature of the mobile supply market. Please contact the Mobile Customer Care Team for an up to date list when making an order.

Mobile Extension

Mobile Extension brings together fixed-line telephones and Mobile Communications Equipment. You will be provided with extension numbers for the Mobile Communications Equipment - just like office phones. All calls made from office phones to Mobile Communications Equipment will go through a fixed link between Your voice network and Our Mobile Network.

Best for Business

The Best for Business tariff plan has a line rental subscription and You pay for all of Your call charges (details of which are set out in the Order). The Best For Business tariff plan includes the facility for You to call colleagues and to nominate 5 external business telephone numbers for which you will get preferential rates.

Bundled Tariffs

Bundled tariffs include a monthly bundle of inclusive minutes and messages that can be used by You ('the Inclusive Minutes Bundle'). The Inclusive Minutes Bundle allocated to You can be utilised against the following call types made from within the UK; National, Peak and Off Peak, O2 to Other UK mobile operator calls within the UK, Calls to UK Fixed Lines. UK fixed- lines are numbers which begin with 01, 02 or 03.

3. Service Delivery

Set out below are the key areas of support You can expect from Us:

1. Project Management
2. Implementation
3. In Life Management

Mobile Services and Equipment Service Standards

3.1. Project Management

After the Contract Date, one of Our project manager team members will contact You regarding the Service Start Date and provide You with a point of contact for any queries You may have regarding the delivery of the Service.

The Project Manager (if deemed necessary by Us) is responsible for the project management, planning, installation co-ordination, migration, testing, acceptance and quality assurance and will lead the Project Team during the implementation stage of the project through to handover to in life support (if deemed necessary by Us).

A meeting (if deemed necessary by Us) will be convened to confirm that all project deliverables have been supplied to Your reasonable satisfaction.

3.2. Implementation Team

Please use the number below for contacting Our team regarding any Service delivery queries You may have for Your new order:

Telephone – 0800 915 0777

Our implementation team will co-ordinate and manage the porting or migration of Your mobile telephone numbers onto Our Mobile Network from any other network.

We will provide an Implementation Specialist (if deemed necessary by Us) who will be responsible for creating with You a Customer Data Form e.g. company name, address, primary Customer contact, User information (mobile number, hardware device, accessories, cost centre, porting authorisation codes). This data provides Us with an accurate Customer profile that is required for the build and provision of a Customer's account on our billing systems.

The Implementation Specialist will (if deemed necessary by Us) manage the porting and migration process in accordance with the standard processes and timescales within the mobile industry.

Migration and porting are subject to a valid porting authorisation code (PAC) being made available by You to Us. It is your responsibility to request a PAC from your current provider who should provide You with this information within a maximum of 10 Working Days. The PAC will be valid for 30 calendar days. Including requesting a PAC, the minimum/porting timeframe is 10 Working Days, and the maximum is 79 calendar days. All times exclude UK bank & public holidays

Mobile Services and Equipment Service Standards

3.3. In Life Management

The Mobile Customer Care Team will carry out the following:

- Manage Your account in accordance with Your customer profile;
- Process SIM cards for new Mobile Communications Equipment and Mobile Communication Services;
- Respond to queries such as:
 - Network coverage
 - International roaming
 - Value added services
 - Invoicing
 - Amend billing details

Please contact Our team between the hours of 08:00 – 18:00 Monday to Friday excluding Public and Bank Holidays (“Working Hours”)

Telephone - 0800 9150777

Service Level	
Migration Earliest Date	Migration Latest Schedule Date
Within 10 Working Days of the PAC being close	Within 35 calendar days of a PAC being closed
Port Earliest Date	Port Latest Schedule Date
Within 10 Working Days of the PAC being closed	Within 35 calendar days of a PAC being closed

4. Ordering New Equipment

Orders for new SIM cards and Mobile Communications Equipment may be submitted by authorised personnel to Us via email to mobileteam@kcom.com

It is Your responsibility to ensure that all service requests are approved and authorised prior to submission. Orders received and processed before 12:00 noon on a Working Day will be dispatched within 24 hours. If a product requested is not in stock You will be notified and an alternative product or alternative delivery date will be agreed.

Connection of Mobile Communications Equipment to the Mobile Network will take place on the day of delivery unless agreed otherwise.

5. Equipment Faults

All new Mobile Communications Devices provided by Us are supplied with a 24 month warranty (with the exception of Apple devices which are supplied with a 12-month warranty) and Accessories are supplied with a 12 month warranty, details of which are more particularly set out in clause 2 of the Terms and Conditions.

Where We are informed by You that a faulty Nokia, Sony Ericsson or Samsung Device is faulty by 12 noon on a Working Day, collection and/or delivery of a replacement will be scheduled for the next Working Day. Where We are informed that a BlackBerry unit or device is faulty or out of operation by

Mobile Services and Equipment Service Standards

12:00 noon during a Working Day, collection and delivery of a replacement will be made within no more than 2 Working Days later.

5.1. Replacement Equipment Procedure

Where Faulty Mobile Equipment is returned to Us, You must first:

1. Remove the SIM card from the Mobile Communications Equipment; and
2. Ensure the transceiver and battery are handed to the courier with the returned Mobile Communications Equipment

On collection of the Faulty Mobile Equipment, we will provide You with replacement Mobile Communications Equipment on a like for like basis.

6. Service Availability

We will use reasonable endeavours to make Our Mobile Network available to You 24 hours a day throughout the year. We will provide the Services to You during Working Hours. Calls made by You to Our Mobile Customer Care Team outside of Working Hours will be redirected to Our Mobile Network Operator for assistance.

You acknowledge that uninterrupted service may not be available all of the time.

7. Restrictions

Planned outages caused by the carrying out of planned maintenance services on the Mobile Network will not be deemed occurrences of unavailability for the purposes of this Service Standard.

8. Fault Management

In the event that You become aware of any mobile Service fault, Mobile Network fault or Mobile Communications Equipment fault, You should notify Us immediately by contacting the Mobile Customer Care Team.

Once it has been established a fault exists, We will use our reasonable endeavours to remedy any such faults.

9. Service Definitions

“Implementation Specialist” the implementation specialist will manage the transition of the Services, from Your previous Supplier including coordinating the date of your mobile changeover and distribution of any Mobile Communications Equipment;

“Mobile Customer Care Team” the team to which all faults, help queries, orders, activation requests and disconnection notices should be addressed;

“Project Manager” means Our project manager responsible for transitioning the service to You;

“Faulty Mobile Equipment” faulty Mobile Communications Equipment to be repaired under warranty.