

**CELLULAR SOLUTIONS (NORTH EAST) LIMITED**  
**TERMS AND CONDITIONS – AIRTIME MARCH 2019**

**1. Definitions and interpretation**

1.1 In these Terms and Conditions the following words and phrases will have the meanings given below, unless the context in which they are used requires a different meaning:

**"Aggregated Allowance"** means the total data allowance for all SIM Cards on Aggregated Tariff calculated as follows:  
total allowance = data allowance per SIM Card x number of SIM Cards on an Aggregated Tariff;  
**"Aggregated Tariff"** means a tariff whereby a number of SIM Cards on the same network, tariff and data allowance are identified as 'aggregated' in a tariff addendum form;  
**"Agreement"** means these Terms and Conditions together with the Sales Order Form;  
**"Sales Order Form"** means the Sales Order Form attached to these Terms and Conditions together with (if applicable) any relevant connection schedule, tariff addendum form and customer solutions Addendum pursuant to which Cellular Solutions provides the Services to the Customer ;  
**"APN"** is an abbreviation for 'Access Point Name' and means the point where a mobile device can enter an IP network;  
**"Applicable Law(s)"** means any relevant local, national and international legislation, enactment, subordinate legislation, rule, regulation, order, directive or other provision, including those of the European Community, or any requirement of a regulatory authority (or persons authorised on their behalf) and any judicial or administrative interpretation or application thereof, which has, in each case, the force of law in the jurisdictions in which the Services are provided and/or utilised;  
**"business day"** means a day (other than a Saturday, Sunday or a public holiday in England) on which clearing banks are open for business in the City of London;  
**"Cancellation Request Form"** means a form provided to the Customer on request, the completion, signature and submission of which is required for the Customer to terminate this Agreement;  
**"Cellular Solutions"** means Cellular Solutions North East Limited, a company registered in England and Wales with number 03800076 together with its successors in title and permitted assigns from time to time.  
**"Charges"** means the amounts payable for the provision of the Services, calculated pursuant to the provisions of the Agreement and in accordance with the Tariff (including any over usage and Data Pool charges pursuant to clause 12.6 and 12.7).  
**"Code of Practice"** means all guidelines governing use or provision of mobile telecommunications and data services that are issued by any generally recognised bodies or that are adopted by Cellular Solutions and/or the relevant Network Provider(s) from time to time, and all instructions, regulations or guidance issued by the Regulatory Authorities, whether or not mandatory;  
**"Combined Offering"** means an offering by the Customer to an End User that includes both value added reseller services and SIM Card(s);  
**"Commencement Date"** means the date of commencement of the provision of Services to the SIM Card(s) by Cellular Solutions;  
**"Customer"** means the person named as such and whose details are set out on Sales Order Form;  
**"Data Pool"** means one of the below pools as confirmed in the in the Tariff Addendum under 'Data Pool Types'. The Customer must have a minimum of 1 SIM connected to a Data Pool. The below Data Pools are available:  
(a) **Renewal**  
Customer purchases the Data Pools for the Minimum Data Pool Contract Term and a minimum of 1 (one) Data Pool a month.  
If the Data Pool has not been fully used by the end of the month, it will automatically renew at the start of the next month. If the Data Pool has been fully used at some point mid-way through the month, it will automatically renew at that point and expire in 30 days from that point.  
For example: The Data Pool has been fully used by 22nd of the month, it will renew on this date and expire on 22nd of the following month.  
(b) **Coverage**  
Customer purchases the Data Pools for the Minimum Data Pool Contract Term and a minimum of 1 (one) Data Pool a month.  
If the Data Pool is not fully used by the end of the month, it will automatically renew at the start of the next month. If the data pool has been fully used mid-way through the month the Customer will be charged at the agreed Additional Usage rate stated in the Tariff Addendum.  
(c) **Timed**  
Customer purchases the Data Pools for the Minimum Data Pool Contract Term.  
The Data Pool will automatically renew after the specified period as stated in the section 'Timed' in the Tariff Addendum. If the data pool has been fully used within that period it will automatically renew at that point and expire after the 'Timed' period.  
**"Data Protection Laws"** means any laws and regulations relating to privacy or the use or processing of data relating to natural persons applicable in the United Kingdom, including: (a) EU Directive 2002/58/EC (as amended by 2009/139/EC) and any legislation implementing or made pursuant to such directive, including (in the UK) the Privacy and Electronic Communications (EC Directive) Regulations 2003; and (b) EU Regulation 2016/679 ("GDPR"); and (c) any laws or regulations ratifying, implementing, adopting, supplementing or replacing GDPR (including the Data Protection Act 2018); in each case, to the extent in force, and as such are updated, amended or replaced from time to time;  
**"Delivery Address"** has the meaning given in clause 3.2;  
**"Documents"** means all records, reports, documents, papers and other materials whatsoever which the Customer may provide to Cellular Solutions pursuant to the Agreement;  
**"Downgrade"** means a change in the Tariff to a tariff that has a lower price and/or data allowance;  
**"DP Regulator"** means any governmental or regulatory body or authority with responsibility for monitoring or enforcing compliance with the Data Protection Laws;  
**"End User"** means the person who is the end user of each SIM Card which can be either the Customer itself, or if the Customer is a Systems Integrator or other Third Party Supplier, the end user of the SIM Card in the product or service provided by that Systems Integrator of Third Party Supplier;  
**"Fault"** means any malfunction or other fault which prevents a SIM Card from operating properly;  
**"Force Majeure Event"** means an event beyond the control of a Party (or any person acting on its behalf), which by its nature could not have been foreseen by such Party (or such person), or, if it could have been foreseen, was unavoidable, and includes, without limitation, acts of God, storms, floods, riots, fires, epidemic, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared) or armed hostilities or other national or international calamity or one or more acts of terrorism or failure of energy sources;  
**"Helpdesk"** means the remote support services to be provided by Cellular Solutions as set out in clause 14 which can be accessed by the Customer on the phone number and/or email address detailed in the Sales Order Form;  
**"Intellectual Property Rights"** means the following items (including any extensions or renewals thereof) and wherever in the world enforceable (i) rights in, and in relation to, any patents, registered designs, design rights, trademarks, trade and business names (including all goodwill associated with any trade marks or trade and business names), copyright, moral rights, databases, domain names and including the benefit of all registrations of, applications to register and the right to apply for registration of any of the foregoing items and all rights in the nature of any of the foregoing items, each for their full term (including any extensions or renewals thereof) and wherever in the world enforceable; (ii) rights in the nature of unfair competition rights and to sue for passing off; and (iii) trade secrets, confidentiality and other proprietary rights, including rights to know how and other technical information;  
**"Machine Services"** any service which involves a communication of data through a closed and private network between a device and one preconfigured application;  
**"Minimum Data Pool Contract Term"** means the 'Length of Contract' detailed in the Sales Order Form in relation to Data Pools which in no circumstances shall be less than a period of twenty four (24) months starting on the Commencement Date;  
**"Minimum SIM Contract Term"** means the 'Length of Contract' detailed in the Sales Order Form in relation to SIM Cards which in no circumstances shall be less than a period of twenty four (24) months starting on the Commencement Date;  
**"Network Provider"** means the network telecommunications operator that provides connectivity and airtime services to the SIM Card(s) via its agreement with Cellular Solutions;  
**"notice"** means any notice, demand, consent or other communication given by one Party to the other Party in relation to this Agreement;  
**"Party"** means each of Cellular Solutions and the Customer and "Parties" shall be interpreted accordingly;  
**"Private APN"** means the private APN that gives a Customer direct access to their LAN and allows the Customer to specify certain parameters such as the private address space allocated to the devices & RADIUS server attributes for user authentication. The Customer, its customers and End Users are also able to access the Internet through the Public APN unless expressly agreed otherwise;  
**"Public APN"** means a Network Provider's public APN. When the SIM card is enabled for data e.g. GPRS/3G etc the public APN is added by default. The Public APN is open for everyone to use and its use is subject to payment of the Charges;  
**"Regulatory Authorities"** means the relevant regulatory bodies including those authorised to regulate electronic communications or telecommunications services, consumer protection or advertising in the relevant territory;  
**"RPI"** means the Retail Prices Index (all items) published by the Office for National Statistics;  
**"Services"** means the provision of mobile telecommunications connectivity airtime and data usage services to the SIM Card(s) in accordance with the terms of the Agreement together with the provision of such other value added services as may be agreed in writing between the Parties from time to time;  
**"SIM Card(s)"** is the 'subscriber identity module(s)' supplied by Cellular Solutions to the Customer pursuant to this Agreement that allows the Customer to access and use the Services (each SIM Card supplied by Cellular Solutions remains Cellular Solutions' property, or the property of the relevant Network Provider, and at no time shall title or property in a SIM Card transfer to the Customer);  
**"Systems"** means the hardware, software and public telecommunications systems run by Cellular Solutions, the relevant Network Provider(s) or another network operator in order to provide the Services;

**"Systems Integrator or other Third Party Supplier"** means any person who combines the Services with other services, equipment or software for onward supply to one or more Third Parties;  
**"Tariff"** means the charging plan chosen by the Customer which is specified in the Sales Order Form with any relevant addendums which determines the data usage rates that the Customer will pay for Services;  
**"Tariff Change"** means a Downgrade or an Upgrade as agreed between the Parties in accordance with clause 7.2;  
**"Term"** has the meaning set out in clause 6;  
**"Terms and Conditions"** means these terms and conditions of business;  
**"Third Party"** means any person who is not a Party;  
**"Trial Service"** means the Services provided on a trial basis for the period of months indicated in the Minimum SIM Contract Term box and/or Minimum Data Pool Contract Term box in the Sales Order Form. E.g. 2 months where written as '2x24';  
**"Upgrade"** means a change in a Tariff to a tariff with a higher cost and/or higher data allowance;  
**"VAT" or "Value Added Tax"** means value added tax as provided in the Value Added Tax Act 1994 and any other tax of a similar nature; and

1.2 In the Agreement, unless the context otherwise requires:  
(a) words in the singular include the plural and vice versa and words in one gender include any other gender;  
(b) a reference to a statute or statutory provision includes:  
(i) any subordinate legislation (as defined in Section 22(1), Interpretation Act 1978) made under it;  
(ii) any repealed statute or statutory provision which it re-enacts (with or without modification); and  
(iii) any statute or statutory provision which modifies, consolidates, re-enacts or supersedes it whether such statute or statutory provision comes into force before or after the date of the Agreement, except to the extent that it comes into force after the date of the Agreement and would impose any new or extended obligation, liability or restriction on or otherwise adversely affect the rights of any Party;  
(c) a reference to:  
(i) any Party includes its successors in title and permitted assigns;  
(ii) clauses is to clauses of these Terms and Conditions;  
(iii) 'writing' includes email;  
(d) where the words "includes", "including" or "in particular" are used in these Terms and Conditions, they are deemed to have the words "without limitation" following them and where the context permits, the words "other" or "otherwise" are illustrative and shall not limit the sense of the words preceding them;  
(e) any obligation in the Agreement on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done; and  
(f) references to any English legal term for any action method of judicial proceedings, legal document, legal status, court official or any legal concept or thing shall in respect of any jurisdiction other than England be deemed to include the nearest approximate in that jurisdiction to the English legal term.  
(ii) clauses is to clauses of these Terms and Conditions;  
(iii) 'writing' includes email;  
(d) where the words "includes", "including" or "in particular" are used in these Terms and Conditions, they are deemed to have the words "without limitation" following them and where the context permits, the words "other" or "otherwise" are illustrative and shall not limit the sense of the words preceding them;  
(e) any obligation in the Agreement on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done; and  
(f) references to any English legal term for any action method of judicial proceedings, legal document, legal status, court official or any legal concept or thing shall in respect of any jurisdiction other than England be deemed to include the nearest approximate in that jurisdiction to the English legal term.

**2. The Services and acceptance of terms**

2.1 Cellular Solutions shall use its reasonable endeavours to provide the Services, but Cellular Solutions' ability to do so may be affected by a number of factors which are beyond its control, including:  
(a) the capability of the equipment with which the SIM Card(s) are used;  
(b) network over utilisation;  
(c) geographic or atmospheric conditions;  
(d) maintenance requirements; and  
(e) equipment failures.  
2.2 Any coverage maps issued by Cellular Solutions or the Network Providers are a reasonable estimate of the coverage available in an area at the time the map is printed and are in no way a guarantee of network availability or coverage.  
2.3 Cellular Solutions may, at its sole discretion and at any time:  
(a) limit or cap the amount of Charges the Customer is able to incur during any given billing period; and/or  
(b) suspend the provision of Services to any SIM Card being used on any overseas networks.  
If the Customer wishes to vary any limit or cap pursuant to 2.3(a) or enable the use of the SIM Card on any overseas networks pursuant to 2.3(b) the Customer should contact Cellular Solutions to discuss the matter further. Subsequent changes are at Cellular Solutions' discretion.  
2.4 The Customer acknowledges that Cellular Solutions may undertake, and the Customer consents to Cellular Solutions undertaking credit checks to determine the Customer's creditworthiness and that Cellular Solutions may refuse to accept any Sales Order Form from the Customer, or vary any existing Sales Order Form terms and/or usage limits (including where appropriate) suspending the provision of Services to any one or more SIM Cards, where Cellular Solutions in its discretion determines that the creditworthiness of the Customer warrants Cellular Solutions taking such action.  
2.5 Cellular Solutions may at any time require the payment of a non-interest-bearing deposit:  
(a) as a condition of delivering, or continued delivery of, the Services, to one or more SIM Cards, to the Customer;  
(b) to release any bar on a SIM card being used on overseas networks;  
(c) as a condition of increasing any maximum limit imposed by Cellular Solutions on the amount of Charges the Customer may incur; or  
(d) as security for the payment of Charges due pursuant to the terms of the Agreement.  
The deposit will not normally exceed more than four (4) months Charges calculated by reference to the Customer's actual usage of the Services or, if Cellular Solutions directs, such other sum as Cellular Solutions in its sole discretion determines. Any deposit paid by the Customer will be repaid when the Agreement ends or earlier if Cellular Solutions agrees to such repayment (but Cellular Solutions reserves the right in its sole discretion in such circumstances to reinstate any bar or other limit in force in respect of the Customer).  
2.6 By signing or electronically signing the Sales Order Form, connection schedule, and/or tariff addendum form and using the Services the Customer accepts, and agrees to be bound by, the terms of the Agreement.

**3. Delivery of the SIM Cards**

3.1 Any forecasted time or period for delivery of any SIM Cards given by Cellular Solutions shall be in good faith but shall be an estimate only and Cellular Solutions shall not be liable for any delay in delivery or any consequential loss or other loss arising therefrom.  
3.2 SIM Cards will be delivered to the Customer (either by post or by other carrier) to the shipment/delivery address stated in the Sales Order Form unless expressly agreed otherwise in writing ("Delivery Address"). The risk of loss of or damage to the SIM Cards shall pass to the Customer at the time the SIM Cards are posted by or on behalf of Cellular Solutions or its agent to the Customer.  
3.3 The Charges payable under the Agreement relate to the provision of the Services and do not relate to the sale of the SIM Cards.  
3.4 The Customer shall pay the cost of delivering the SIM Cards to the Delivery Address and costs of packaging the same. Such costs are set out in the sales order form and/or may be notified to the Customer from time to time by or on behalf of Cellular Solutions.  
3.5 If there is a failure to accept delivery of the SIM Cards at the Delivery Address by the Customer, Cellular Solutions shall be entitled without prejudice to any other rights it may have to store the SIM Cards at the cost and risk of the Customer. Any costs arising in respect of such storage or re-supply of the SIM cards shall be paid in full by the Customer.  
3.6 Cellular Solutions shall take reasonable care to ensure that the SIM Cards are delivered to or collected by the postal authorities or other carriers in a condition suitable for delivery to the Delivery Address but subject thereto it accepts no liability for damage to or loss or shortage of any SIM Cards occurring during the course of delivery or for any loss or damage arising directly or indirectly therefrom.  
3.7 Any claim in respect of any loss or theft of or damage to the SIM Cards in the course of their delivery shall be made by the Customer within seven days of the scheduled receipt of the SIM Cards at the Delivery Address. Any shortages of SIM Cards delivered to the Delivery Address must be notified to Cellular Solutions in writing within two days of delivery to the Delivery Address.  
3.8 Notwithstanding the delivery and the passing of risk in the SIM Cards, all SIM Cards supplied to the Customer, pursuant to the Agreement shall at all times remain the property of Cellular Solutions or the relevant Network Provider that supplied such SIM Cards to Cellular Solutions and shall be returned to Cellular Solutions upon termination of the Agreement at the Customer's cost and risk. Failure to return a SIM card shall incur a charge for each SIM Card not returned.  
3.9 On the Order Form, or by such other method as Cellular Solutions directs from time to time, the Customer shall indicate which of the following states the Customer requires the SIM Cards to be delivered in:  
(a) "Active" where the SIM Card(s) will be delivered active and the Charges shall be payable from the date the Customer is notified the SIM Card is active on the network;  
(b) "Inactive" where the SIM Card (s) is delivered inactive and the Charges shall be payable when the Customer requests activation, via email to info@cellular-solutions.co.uk. The Customer agrees to pay the Charges that apply to the Tariff selected on activation of the SIM Card.

(c) "Active-Test" where the SIM Card(s) shall be delivered active and the Charges shall be payable from the date any one of the thresholds listed in the Tariff Addendum are met for the relevant SIM Card.  
(d) "Active-Ready" where the SIM Card(s) are delivered active and the Charges shall be payable from the date the relevant SIM Card(s) are used in any way.  
3.10 Cellular Solutions shall not deliver any SIM Card(s) without the Customer indicating which state the SIM Card(s) are required as set out in Clause 3.9 above.

#### 4. APNs

4.1 If the Customer requests the Private APN to be enabled, unless the Customer expressly states in writing by email to Cellular Solutions that they do not want the Public APN enabled, as a default the Public APN will be enabled. The Customer acknowledges that the use of the Public APN by an End User may incur Charges. If the Customer requests the Public APN to be disabled during the Minimum SIM Contract Term, Cellular Solutions shall use its reasonable endeavours to disable the Public APN:

- (a) for 1-5 SIM Cards, within:
  - (i) twenty four (24) hours of receiving an email from the Customer between 9.00am to 16.00pm GMT/BST on a business day; and
  - (ii) twenty four (24) hours of the start of business hours on the business day following the receipt of an email from the Customer where such email was received by Cellular Solutions between 16.01pm and 8.59am GMT/BST.
- (b) for 6 – 50 SIM Cards, within ten (10) business days of receiving an email from the Customer; and
- (c) for over fifty-one (51) SIM Cards Cellular Solutions shall provide the time period on receiving an email from the Customer.

The Customer acknowledges that it will be responsible for all Charges incurred up to the disabling of the Public APN taking effect in accordance with the timeframe set out in this clause.

4.2 If the Customer requests that the Private APN is enabled it is the Customer's responsibility to ensure their device is configured correctly so it can use the Cellular Solutions Private APN.

4.3 By returning the customer solutions addendum, the customer acknowledges and agrees to Cellular Solutions' Terms and Conditions.

#### 5. Representations and warranties

5.1 The Customer represents and warrants at all times to Cellular Solutions as follows:

- (a) it is a validly existing entity incorporated or existing under the laws of the country in which it is located;
- (b) it has the power and authority to enter into and perform and has taken all necessary action (including all necessary consents, authorisations, licences and approvals) to authorise the entry into, performance and delivery of the Agreement which upon execution will constitute a legal, valid and binding obligation of the Customer enforceable in accordance with its terms;
- (c) the entering into and performance of its obligations under this Agreement has been duly authorised by all necessary corporate action on its part; and
- (d) neither the execution or delivery of the Agreement nor the consummation of the transactions contemplated hereby will conflict with:
  - (i) any Applicable Law to which the Customer is subject; or
  - (ii) the Customer's constitutional documents; or
  - (iii) any existing obligation binding on the Customer or on any asset of the Customer.

5.2 The Customer shall (and shall use all reasonable endeavours to ensure that each of its customers and End Users does likewise):

- (a) observe and comply with all Applicable Laws and Codes of Practice (including obligations applicable if any related service offered by the Customer means that either Cellular Solutions and/or a Customer is a provider of electronic communications, telecommunications, value added or related services) and any instructions or conditions notified to the Customer by Cellular Solutions, which in Cellular Solutions or any Network Provider's reasonable opinion prevent: (i) the transmission of illegal material; or (ii) the Systems from being impaired or damaged;
- (b) not act or omit to act in any way which will or may place Cellular Solutions and/or the relevant Network Provider(s) in breach of any provisions of the Applicable Law or a Code of Practice, any other licences, authorisations, applicable to Cellular Solutions and/or the relevant Network Provider(s) and co-operate fully with Cellular Solutions to enable Cellular Solutions and/or the relevant Network Provider(s) (as the case may be) to comply with all of the same;
- (c) not use the Services for any improper or unlawful purpose;
- (d) not act or omit to act in any way which will or may injure or damage any persons or the property of any persons (whether or not employees agents or representatives of Cellular Solutions or any one or more Network Providers), the Systems or howsoever cause the quality of the Services to be impaired; and
- (e) comply with any instructions (including specifications and training) issued by Cellular Solutions and/or the relevant Network Provider(s) from time to time for the use and/or marketing of the Services;
- (f) ensure that any information provided to Cellular Solutions is accurate, complete and provided in a timely manner and shall inform Cellular Solutions of any changes to such information;
- (g) only market to and solicit customers and End Users using staff contracted to or employed directly by itself; and
- (h) identify, where relevant, Cellular Solutions and (if requested by Cellular Solutions, the relevant Network Provider(s)) in proposals to its customers and End Users which include the Services.

5.3 The Customer shall ensure, and shall use all reasonable endeavours to procure that, its customers and each End User is legally bound by all the obligations set out in the Agreement, which expressly or by implication relate to such customers and End Users, before the Customer, the Customer's customers or End Users receive any benefit of the Services. Furthermore, a breach by the Customer's customers or End Users of any of the terms of their agreement with such customer shall be deemed to be a breach by the Customer of this Agreement.

5.4 In addition to clause 5.3, the Customer shall also include in its agreements with its customers and End Users:

- (a) a statement that the Customer and not Cellular Solutions will provide support for the Services, Systems and any other services and systems provided by the Customer to its Customer and End Users;
- (b) sufficient permission to enable Cellular Solutions and the relevant Network Provider(s) to process information relating to its customers and End Users as contemplated by this Agreement; and
- (c) a disclaimer, to the extent permitted by Applicable Law, of all warranties (including any warranties implied by law) by Cellular Solutions and the relevant Network Provider(s) and any liability by Cellular Solutions and the relevant Network Provider(s) for any damages, whether direct, indirect, or consequential, arising from the sale or use of the Services, Systems and any other services and systems provided by the Customer to its customer and End Users.

5.5 The Customer is only permitted to use the Services as part of a Combined Offering for its internal use or as part of its own value-add product or service. The Customer shall not resell one or more elements of the Services as a standalone product or service. The Customer shall ensure, and use all reasonable endeavours to ensure that its customers and each End User does likewise, that any Services supplied under the Agreement shall be used solely in relation to Machine to Machine Services and shall not use the Services to take any action that:

- (a) involves the transmission of voice (including VOIP) unless expressly agreed otherwise;
- (b) involves providing any service via the Services that allows an End User or other person to access a publicly addressable destination (i.e. public IP address) including through the use of a proxy, tunnelling, a gateway or routing;
- (c) would violate copyright, a trademark, a trade secret or other property rights of any third party;
- (d) could interfere with other users' use of Cellular Solutions' and/or the relevant Network Provider(s)' network;
- (e) involves the addition, removal or modification of identifying network header information in an effort to deceive;
- (f) uses the Services to access, or attempt to access, the accounts of others, or to penetrate, or attempt to penetrate, security measures of Cellular Solutions' and/or the relevant Network Provider(s) or another entity's computer software or hardware, electronic communications system, or telecommunications system, whether or not the intrusion results in the corruption or loss of data;
- (g) uses the Services or software related to Internet relay chat ("IRC"), peer to peer file sharing ("P2P"), bit torrent, game servers or proxy server network;
- (h) involves spamming or the sending of bulk unsolicited emails or commercial messages or maintaining an open SMTP relay; and/or
- (i) could lead directly to death, personal injury, or severe physical injury or environmental damage (for example life support machines) due to the failure of the Services.

5.6 The Customer shall not represent itself as an agent of Cellular Solutions or any one or more Network Providers for any purpose, nor give any condition or warranty or make any representation on Cellular Solutions or any one or more Network Providers' behalf or commit Cellular Solutions or any one or more Network Providers to any contracts. The Customer shall not without Cellular Solutions' prior written consent make any representations, warranties, guarantees or other commitments with respect to the specifications, features or capabilities of the Services which are inconsistent with those contained in the material supplied by Cellular Solutions or any one or more Network Providers or otherwise incur any liability on behalf of Cellular Solutions or any one or more Network Providers.

#### 6. Term

6.1 Subject to clauses 6.2 and 6.3, this Agreement shall commence on the earlier of (i) the date of signature of the Sales Order Form by the Customer; and (ii) the Commencement Date, and shall, subject to early termination pursuant to the provisions of the Agreement, continue in force for the Minimum SIM Contract Term and/or Minimum Data Pool Contract Term and thereafter shall continue unless and until terminated by either Party in accordance with clauses 22.1(a) or 22.3.

6.2 Where a Trial Service is provided to the Customer, the Agreement shall continue from the earlier of (i) the date of signature of the Sales Order Form by the Customer and (ii) the Commencement Date for the duration of the Trial Service and unless the Customer gives written notice to Cellular Solutions that it does not wish to continue beyond the end of the Trial Service, such notice to be received at least seven (7) days before the end of the Trial Service, shall continue thereafter in accordance with clause 6.1.

6.3 If a Customer has a Tariff Change, such Tariff Change shall be applicable from the 1st of the month following the month in which Cellular Solutions receives a tariff addendum and/ or a customer solutions addendum. If however the SIMS are tariff changing to an existing tariff, an email is sufficient as confirmation when a Tariff Change occurs the relevant SIM Cards or Data Pools shall be subject to a new Minimum SIM Contract Term and/ Or Minimum Data Pool Contract Term from the date the Tariff Change becomes effective in accordance with this clause 6.3 and thereafter shall continue unless and until terminated by either Party in accordance with clauses 22.1(a) or 22.3.

#### 7. Orders

7.1 Cellular Solutions' quotation for provision of the Services is merely an invitation for an order subject to the Agreement. No contract will be valid until the Customer has completed, signed and submitted an Sales Order Form to Cellular Solutions and whichever is the earlier of:

- (i) Cellular Solutions dispatching the ordered SIM Card(s) to the relevant Delivery Address; or
- (ii) Cellular Solutions notifying the Customer in writing of its acceptance of such order. Any such Sales Order Form will be incorporated into, and subject to, this Agreement.

7.2 The Customer may request a Tariff Change for any of the SIM Cards provided under this Agreement by completing a Sales Order Form and indicating that such form relates to a Tariff Change as follows:

- (a) for an Upgrade at any time during the Term; and
- (b) for a Downgrade at any time after the expiry of the Minimum SIM Contract Term and/or the Minimum Data Pool Contract Term.

#### 8. Obligations of Cellular Solutions

8.1 Cellular Solutions shall provide the Services to the Customer for the Term in accordance with the provisions of the Agreement.

8.2 Cellular Solutions shall provide the Services:

- (a) in a professional and workmanlike manner; and
- (b) in compliance with all Applicable Laws.

#### 9. Supplier's warranties and faults

9.1 Cellular Solutions warrants that subject to the provisions of clauses 2 and 12 that:

- (a) the SIM Cards shall be free of material defects for a period of twelve (12) months from the Commencement Date;
  - (b) the Services will be performed with reasonable skill and care; and
  - (c) so far as it is able, Cellular Solutions will transfer to the Customer the benefits of all warranties or guarantees in relation to the SIM Cards which Cellular Solutions receives from the relevant Network Provider(s).
- 9.2 Cellular Solutions warrant ("Warranty") that SIM Cards will not fail within the period starting on the date of delivery of the relevant SIM Card(s) to the Customer and ending 12 months thereafter ("SIM Warranty Period"). Where SIM Card(s) supplied by Cellular Solutions to the Customer fail within the SIM Warranty Period the Customer shall notify and return (where practical) such SIM Card(s) to Cellular Solutions within that SIM Warranty Period. The Warranty shall not apply when such fault is connected with the Customer's acts, omissions or misuse of the SIM Card(s), including where the Customer has not kept the SIM card(s) in good condition and not following any reasonable instructions from Cellular Solutions as to the storage of the SIM Card(s). Cellular Solutions shall, within ten (10) business days of receipt of a failed SIM Card which qualifies under the Warranty, repair or (at Cellular Solutions' option) replace the failed SIM Card by sending a new SIM Card to the Customer's address under the Agreement. In the event that a SIM Card becomes faulty after the SIM Warranty Period and the Customer requests that Cellular Solutions repair or replace such faulty SIM Card then Cellular Solutions shall charge the appropriate replacement charges for repair or replacement. The return of faulty SIM Card(s) outside of the SIM Warranty Period or due to misuse by the Customer shall be at the Customer's sole expense. To the maximum extent permitted by law, these are the Customer's exclusive remedies for any failure to meet the Warranty.

9.3 Save as expressly provided in the Agreement, all other warranties, terms and conditions (whether implied by common law, statute, and custom or otherwise) are hereby excluded to the fullest extent as permitted by law.

9.4 Subject to clause 17, Cellular Solutions shall not be liable for services, systems and equipment provided by the Customer or any Third Party which constitute:

- (a) a component of the Services; or
  - (b) a component of other systems, equipment or services provided by the Customer and/or any Third Party to the Customer and/or the Customer's customers and/or End Users.
- 9.5 The Customer acknowledges and accepts that it is technically impracticable for Cellular Solutions to provide fault-free Services and Cellular Solutions does not guarantee that the Services will be free of faults or interruptions, that the Services will be free of errors, omissions or other issues or that the Services will be timely or secure. The Customer acknowledges and agrees that matters may affect the Services that Cellular Solutions cannot reasonably control, including (without limitation) lack of network capacity, physical obstructions, atmospheric conditions and delays caused by Cellular Solutions' suppliers or manufacturers.

9.6 The Customer warrants and undertakes to Cellular Solutions that all information provided by or on its behalf in connection with provision of the Services is true, accurate and complete and can be relied upon in full by Cellular Solutions and its agents, contractors and employees. The Parties agree that subject to the provisions of clause 17, Cellular Solutions shall have no liability under or in connection with the Agreement to the extent that such liability arises, directly or indirectly, from:

- (a) the supply of untrue, inaccurate or incomplete information provided by the Customer or on its behalf and/or any breach by the Customer of the warranty and undertaking in this clause;
- (b) matters beyond Cellular Solutions' reasonable control, including lack of network capacity, physical obstructions, atmospheric conditions and delays caused by Cellular Solutions' suppliers;
- (c) any defect, fault, breakdown, compatibility issues or other failure of any equipment, systems, services and/or software provided by the Customer or its agents, subcontractors or other Third Parties (including, any Systems Integrator or other Third Party Supplier) to the Customer's customers or End Users and used with the Services; or
- (d) any acts or omissions of the Customer or its agents, subcontractors or other Third Parties in respect of the Services (including, any Systems Integrator or other Third Party Supplier).

9.7 The Customer acknowledges that in relation to international roaming Charges:

- (a) the Network Providers vary their roaming fees dependent on:
  - (i) the location of the SIM Card(s) concerned; and
  - (ii) whether roaming is on preferred or non-preferred networks;
- (b) it is the Customer's responsibility to ensure that the Customer, its customers and End Users each familiarise themselves with the billing increments and the data usage Charges for roaming SIM Cards. The Network Providers structure roaming prices as follows:
  - (i) Vodafone UK SIM Card(s) - Vodafone SIM Card(s) are billed in 200KB increments on public or internet APNs. If a private network is selected (as per Cellular Solutions') then billing increments are billed in 1KB increments on Vodafone and partner networks and 10KB increments on non-Vodafone or non-partner networks;
  - (ii) Vodafone Global SIM Card(s) - full details of the billing increments are available from Cellular Solutions on request;
  - (iii) O2 SIM Card(s) - O2 SIM Card(s) are billed in 10KB increments on non-preferred networks and 1KB on preferred networks. When roaming, there is a minimum charge for data usage of 200kb per day (24 hours ending midnight UK GMT), per APN and per foreign network operator;
  - (iv) T-Mobile & O2 Ireland SIM Card(s) - T-Mobile & O2 Ireland SIM Card(s) are billed in increments of 1KB;
  - (v) Telenor SIM Card(s) - full details of the charges payable across different territories are available from Cellular Solutions on request; and
  - (c) the applicable charges shall be the prevailing Network Providers rate plus twenty per cent (20%).

9.8 Cellular Solutions and each Network Provider reserves the right to update a SIM Card over the air (such updates may be required for functionality, or for intellectual property issues, or national regulations). Cellular Solutions shall provide the Customer with reasonable advance notice of any such planned update (except in cases where regulations or urgency would not allow it). Under some national laws, updates require the consent of the owner of the equipment containing/user of a SIM Card. The Customer hereby expressly consents to any updates and the Customer shall make and procure to make such consent binding on any owner of such equipment/SIM Card user through a relevant licensing agreement or by other equivalent means. Where such consent is not obtained, Cellular Solutions and/or any relevant Network Provider shall have the right to suspend transmission to and from the relevant SIM Card(s).

9.9 Both Cellular Solutions and each relevant Network Provider retain the right at all times to suspend or deactivate any non-upgraded SIM Card(s), and neither Cellular Solutions nor any Network Provider accepts any liability for any consequences of such suspension.

#### 10. Timing

10.1 Cellular Solutions shall use its reasonable endeavours to meet any performance dates specified (if any) in the Sales Order Form.

10.2 Time shall not be of the essence in relation to any obligation of Cellular Solutions under the Agreement.

#### 11. The Customer's rights to cancel

11.1 The Customer is entitled to cancel an order for SIM Card(s) pursuant to a Sales Order Form at any time prior to the point in time when the Services are first supplied.

11.2 Cellular Solutions reserves the right to increase the Charges at any time. If Cellular Solutions increases the Charges in excess of the current RPI, the Customer has the right to end the Agreement by completing and returning to Cellular Solutions notice Cancellation Request Form. In such circumstances, the Agreement will end thirty (30) days after Cellular Solutions receives the Customer's signed and completed Cancellation Request Form. During the notice period the previously applied Charges will apply.

#### 12. Obligations of the Customer

12.1 The Customer shall, throughout the Term:

(a) make available appropriate personnel to liaise with Cellular Solutions to enable Cellular Solutions to perform the Services in accordance with the terms of the Agreement;  
 (b) promptly inform Cellular Solutions of any defects in Cellular Solutions' performance of the Services after such defects come to the attention of the Customer;  
 (c) comply and ensure that its customers and End Users comply with any conditions notified by Network Providers and/or Cellular Solutions regarding the use of the SIM Card(s);  
 (d) tell Cellular Solutions immediately if the Customer's name, address, bank account or credit card details change; and  
 (e) tell Cellular Solutions immediately if any of the Customer's SIM Card(s) are lost or stolen by calling the Helpdesk and thereafter write or fax to confirm the details.

12.2 The Customer shall not, and shall ensure that its customers and End Users shall not throughout the Term and after termination of the Agreement:

(a) use the SIM card (or allow it to be used) for any illegal purpose (in such circumstances Cellular Solutions may report the incidents to the police or any other relevant official organisation); or  
 (b) use any equipment that has not been approved for use in connection with the Services by Cellular Solutions and the relevant Network Provider(s) and if the Customer is not sure whether the Customer's equipment is so approved, to notify Cellular Solutions immediately. Cellular Solutions reserves the right, at its sole and absolute discretion, to require the Customer to satisfy Cellular Solutions that any equipment to be used in connection with the Services is fit for purpose and suitable and the Customer undertakes to Cellular Solutions to comply with Cellular Solutions' testing and other requirements in respect of the same.

12.3 Cellular Solutions shall be entitled to rely on the Customer's non-compliance with any of the Customer's obligations in this clause 12 as relieving Cellular Solutions' performance under the Agreement if such non-compliance restricts or precludes performance of the Services by Cellular Solutions.

12.4 If the Customer acts as a Systems Integrator or other Third Party Supplier the Customer shall keep detailed up-to-date records of all acts and things done by the Customer in relation to the provision of the Services to the Customer's customers and End Users during the Term and for a period of six (6) years thereafter, and at Cellular Solutions' request, shall make such records available for inspection and/or provide copies to Cellular Solutions.

12.5 The Customer acknowledges that if it requests a bar to be applied to any SIM Card, for any reason, that such bar will become effective within twenty four (24) hours of Cellular Solutions notifying the relevant Network Provider. Cellular Solutions shall notify the relevant Network Provider as follows:

- (a) for 1-5 SIM Cards, within:
  - (i) three (3) hours of receiving an email from the Customer between 9.00am to 16.00pm GMT/BST on a business day; and
  - (ii) three (3) hours of the start of the business day following the receipt of an email from the Customer where such email was received by Cellular Solutions between 16.01pm and 8.59am GMT/BST; and
  - (b) for over six (6) SIM Cards, within:
    - (i) twenty four (24) hours of receiving an email from the Customer between 9.00am to 16.00pm GMT/BST on a business day; and
    - (ii) twenty four (24) hours of the start of business hours on the business day following the receipt of an email from the Customer where such email was received by Cellular Solutions between 16.01pm and 8.59am GMT/BST.

The Customer acknowledges that it will be responsible for all Charges incurred up to a bar taking effect in accordance with the timeframe set out in this clause.

12.6 For SIM Cards with an Aggregated Tariff the Customer agrees to comply with the Aggregated Allowance. The Customer shall be liable to pay Cellular Solutions for all data usage charges in excess of the Aggregated Allowance; such charges to be calculated by reference to Cellular Solutions' standard charges from time to time without taking into account any discount or other saving that would have applied by reference to the aggregated Tariff applicable to the relevant SIM Card(s).

12.7 The Customer shall be liable to pay Cellular Solutions for all charges in relation to the agreed Data Pool; such charges to be calculated by reference to the Tariff Addendum.

### 13. Payment

13.1 In consideration of the provision of the Services (including any Trial Service), the Customer shall pay to Cellular Solutions the Charges. Where applicable, the Charges shall include sums incurred as a result of going over the inclusive allowance for any Tariff (or any charges above the normal line rental as set out in the tariff addendum form).

13.2 Cellular Solutions reserves its rights to increase the Charges without notice, including where Cellular Solutions is notified of any increase:

- (a) in the cost of the SIM Cards; and
  - (b) in any other costs and expenses of Cellular Solutions occurring prior to the Commencement Date.
- 13.3 The Customer shall complete the direct debit payment form which is attached to the Sales Order Form as a condition of Cellular Solutions supplying the Services and thereafter the Customer shall pay the Charges for the Tariff the Customer has chosen by direct debit. If the Customer cancels the direct debit Cellular Solutions shall impose an administration charge of £25.00 (plus VAT) which is payable within ten (10) business days of the cancellation of the direct debit facility. Cellular Solutions reserves the right to impose a further surcharge of £2.50 (plus VAT) per calendar month in anticipation of Cellular Solutions' additional costs in processing non-direct debit payments. All non-direct debit payments shall be paid within fourteen (14) days of the date of Cellular Solutions' invoice. In addition to any other rights and remedies available to Cellular Solutions, Cellular Solutions reserve the right to impose a surcharge of £15.00 (plus VAT) for the late payment of any invoice or if a direct debit is returned unpaid.

13.4 The Customer shall notify Cellular Solutions of any billing queries within twenty one (21) days of the date of the invoice from which the query arises and shall not withhold payment of any Charges set out in the queried invoice, or any invoice, by reason of such billing query until it has been resolved by Cellular Solutions, which will avoid any interruption to the service being provided. Cellular Solutions is unable to investigate any potential billing queries after twenty one (21) days from date of invoice.

13.5 Any advance payments made by the Customer shall be held by Cellular Solutions as a deposit and Cellular Solutions shall be entitled to set off such advance payments against any future invoices as they arise.

13.6 If the Customer fails to pay in full when due any sum payable to Cellular Solutions under this Agreement, the liability of the Customer shall be increased to include interest on that sum from the date when such payment was due until the date of actual payment, interest to be charged pursuant to the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue from day to day and shall be compounded monthly.

### 14. Faulty SIM Cards - Helpdesk

14.1 Cellular Solutions shall provide first line support to the Customer through the Helpdesk facility.

14.2 The Helpdesk shall be staffed by appropriately qualified personnel between the hours of 09:00 and 17:30 GMT/BST on business days.

14.3 Upon receipt of a Customer report that a SIM Card has developed a Fault, the Helpdesk shall, so far as they are able, take such steps to resolve the relevant Fault, including, remotely resetting the SIM Card.

14.4 Should the Helpdesk action undertaken in accordance with clause 14.3 fail to remedy the Fault, and the Fault occurs during the SIM Warranty Period set out in clause 9.2 Cellular Solutions shall replace the faulty SIM Card free of charge.

14.5 Should the Helpdesk action undertaken in accordance with clause 14.3 fail to remedy the Fault, and the Fault occurs after the expiry of the SIM Warranty Period set out in clause 9.1(a) Cellular Solutions reserves the right to charge a replacement fee in relation to the provision of the replacement SIM Card.

### 15. Reporting

15.1 If the Customer has a specific query relating to the data usage of a SIM Card provided and Cellular Solutions deems such query to be reasonable, the Customer is entitled to request from Cellular Solutions a detailed report showing the itemised data usage of that SIM Card; Cellular Solutions reserves the right to charge a fee of £10.00 (plus VAT) for the provision of any such report. In the event of any dispute regarding data usage of a SIM Card Cellular Solutions and (if applicable) the relevant Network Provider's usage data shall be binding on the Customer and Cellular Solutions.

15.2 Cellular Solutions makes no representations or warranties as to the availability or accuracy of information contained in any report provided.

### 16. Changes

16.1 The Customer can apply to port or migrate the mobile phone number relating to a SIM Card to another Network Provider. In such circumstances the Charges set out in clause 23 shall apply.

16.2 If applicable Law changes the VAT rate or any other applicable tax is increased, Cellular Solutions reserves the right to change the terms of the Agreement accordingly by giving the Customer written notice of the same.

16.3 Cellular Solutions reserves the right to change the Customer's mobile number from time to time. Cellular Solutions will write to the Customer to let the Customer know if this is the case.

### 17. Liability and remedies

17.1 Nothing in the Agreement shall be deemed to exclude or limit the liability of either Party for:

- (a) death or personal injury arising from its negligence;
  - (b) any damage or liability incurred as a result of fraud or fraudulent misrepresentation; or
  - (c) anything else for which the Parties cannot at law limit or exclude its liability.
- 17.2 Nothing in the Agreement shall impose any personal liability on any officer, employee, agent or adviser of either Party without wilful misconduct.

17.3 Except as provided in sub-clause 17.1, and in addition to the provisions of clauses 9.4 to 9.6 (inclusive) Cellular Solutions shall not be liable for the following loss or damage however caused (whether in contract, tort, negligence, common law or otherwise and whether foreseeable or not):

- (a) economic loss including administrative and overhead costs;
- (b) loss of profits (whether direct or indirect);

- (c) loss of business or contracts;
- (d) loss of revenues;
- (e) loss of goodwill;
- (f) loss of production;
- (g) loss of opportunity;
- (h) loss of anticipated savings;
- (i) loss of data;
- (j) special damages of any kind;
- (k) indirect or consequential loss or damage;
- (l) loss arising from any claim made against the Customer by any other person;
- (m) loss or damage arising from the Customer's failure to fulfil its responsibilities or any matter under its control; or
- (n) loss or damage arising from the Customer's breach of clause 12.2.

17.4 Cellular Solutions' entire liability under or in connection with any individual claim or series of connected claims made under or in connection with the Agreement shall be limited to an amount equal to the greater of the sum of the fees paid by the Customer in the twelve (12) months immediately preceding the incident which gave rise to the claim; and £20,000 in aggregate.

17.5 The Customer shall indemnify and hold Cellular Solutions and each Network Provider harmless from and against all losses, damages, costs, expenses, claims, proceedings and liabilities (including reasonable legal costs) ("Relevant Losses") incurred by Cellular Solutions, each Network Provider or any of their respective group companies arising out of or in connection with any claim by a third party in relation to the Services to the extent that such Relevant Losses have not been caused by any act, omission (negligent, reckless or otherwise) of Cellular Solutions, a Network Provider or any of either of their respective group companies.

17.6 If any part of this clause 17 is found to be unenforceable by any court or competent authority or would be found to be unenforceable if it were interpreted or construed in a particular way, then, it is the Parties express intention that the relevant wording should be interpreted or construed so as to avoid such a finding and that, in the event of such a finding, the remainder of the provision in question shall be interpreted or construed to give full effect.

17.7 The terms of the Agreement shall apply to the exclusion of all other agreements or representations including any implied by law (so far as the Parties are able to exclude terms implied by law), and by any trade custom, practice or course of dealing.

### 18. Force Majeure

18.1 Subject to sub-clause 18.2, neither Party shall be deemed to be in breach of the Agreement, or otherwise be liable to the other, by reason of any delay in performance or non-performance of any of its obligations under the Agreement to the extent that such delay or non-performance is caused by a Force Majeure Event.

18.2 The Party affected by any Force Majeure Event shall immediately give the other Party written notification of the nature and extent of the Force Majeure Event and the Parties shall enter into bona fide discussions with a view to alleviating its effects or to agreeing upon such alternative arrangements as may be fair and reasonable.

18.3 If Cellular Solutions is affected by the Force Majeure Event and the written notice in relation to the Force Majeure Event has not been withdrawn within one hundred and eighty (180) days, the Customer shall be at liberty to terminate the Agreement with immediate effect by serving a written notice on Cellular Solutions. The service of such notice shall be without prejudice to any rights or obligations which have accrued prior to such termination.

### 19. Intellectual Property Rights

19.1 All property and Intellectual Property Rights in the Services including without limitation all right, title and interest in and to all documents, data, specifications or other items relating to the Services, shall vest in and shall remain the exclusive property of Cellular Solutions, the relevant Network Provider(s) or its third party licensors, as applicable.

19.2 The Customer shall not, and shall use all reasonable endeavours to procure that its customers and each End User shall not, claim ownership of any Intellectual Property Rights in relation to or created pursuant to the SIM Cards or the Services and shall not take any action which might infringe any Intellectual Property Rights or other form of protection for any invention, discovery, improvement, design, mark or logo in relation to the SIM Cards or the Services and the Customer shall indemnify Cellular Solutions and keep it indemnified from and against all costs claims liabilities proceedings damages and expenses arising directly or indirectly as a result of any breach of the foregoing obligation by the Customer, its customers and/or End Users.

19.3 Any data, documents, Intellectual Property Rights or other information belonging to Cellular Solutions or a Network Provider which is supplied or otherwise furnished to the Customer in connection with the performance of the Agreement or otherwise shall remain the sole property of Cellular Solutions or the relevant Network Provider to whom they belong (as the case may be).

19.4 The Customer acknowledges that it shall have no express or implied right to use, modify, adapt or otherwise exploit Cellular Solutions', the Network Providers or any other Third Parties' Intellectual Property Rights, except for the right to use such Intellectual Property Rights for the exclusive purpose of using the Services under the Agreement.

19.5 The Customer shall indemnify and hold Cellular Solutions harmless against any claims that the use of the Services in combination with services, software or equipment not supplied by Cellular Solutions infringes any other third party's Intellectual Property Rights.

19.6 The Customer shall notify Cellular Solutions immediately of any infringement or apparent or threatened infringement of or any actions, claims or demands in relation to any Intellectual Property Rights or other form of protection for any invention, discovery, improvement, design, mark or logo in relation to the SIM Cards and/or the Services and the Customer shall provide (and shall use all reasonable endeavours to procure that the Customer's customers and End Users shall provide) Cellular Solutions with all assistance which Cellular Solutions may reasonably require in connection therewith including but not limited to the prosecution of any actions which Cellular Solutions may deem necessary for the protection of any rights in relation to the SIM Cards and/or the Services and if so requested by Cellular Solutions in relation to any claim or action brought against the Customer, the Customer shall authorise the conduct of the same and all negotiations for the settlement of the same by Cellular Solutions or the relevant Network Provider(s) if directed by Cellular Solutions in its sole and absolute discretion.

### 20. Data Protection

20.1 The terms "Data Subject", "Personal Data", "Data Controller", "Data Processor" and "processing" shall have the meanings set out in GDPR.

20.2 The Customer acknowledges that it is the Data Controller of the content of any communication made or transmitted via the Services and of any Personal Data of it or its customers or End Users processed in connection with the provision of the Services as envisaged by this Agreement.

20.3 The Parties shall comply with the provisions and obligations imposed on them by the Data Protection Laws at all times when processing Personal Data in connection with this Agreement, which processing shall be in respect of the types of Personal Data, categories of Data Subjects, nature and purposes, and duration, set out in Schedule 1.

20.4 Each party shall maintain records of all processing operations under its responsibility that contain at least the minimum information required by the Data Protection Laws and shall make such information available to any DP Regulator on request.

20.5 The Data Controller shall:

- (a) ensure that any instructions it issues to the Data Processor shall comply with the Data Protection Laws; and
- (b) have sole responsibility for the accuracy, quality and legality of Personal Data and the means by which the Data Controller acquires Personal Data and shall establish the legal basis for its processing under Data Protection Laws, including providing all notices and obtaining all consents (including from the Customer's customers and End Users) as may be required under Data Protection Laws in order for the Data Processor and any relevant Network Provider to process the Personal Data as contemplated by this Agreement. Where no such legal basis can be established (or where the legal basis is consent and such consent is subsequently withdrawn) the Customer shall promptly notify Cellular Solutions and the Customer hereby acknowledges and agrees that Cellular Solutions shall not be obliged to continue to provide the Services in respect of any affected End User.

20.6 To the extent Cellular Solutions receives from, or processes any Personal Data on behalf of, the Customer, Cellular Solutions shall:

- (a) process such Personal Data (i) only in accordance with the Customer's written instructions from time to time (including those set out in this Agreement) provided such instructions are lawful; and (ii) only for the duration of this Agreement;
- (b) take commercially reasonable steps to ensure its personnel who are authorised to have access to such Personal Data and ensure that any such personnel are committed to confidentiality or are under an appropriate statutory obligation of confidentiality when processing such Personal Data;
- (c) taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing, implement technical and organisational measures and procedures to ensure a level of security for such Personal Data appropriate to the risk, including the risks of accidental, unlawful or unauthorised destruction, loss, alteration, disclosure, dissemination or access
- (d) unless the transfer is based on an "adequacy decision", is otherwise "subject to appropriate safeguards" or if a "derogation for specific situations" applies, each within the meanings given to them in Articles 45, 46 and 49 of the GDPR respectively, not transfer, access or process such Personal Data outside the European Union without the prior written consent of the Customer (not to be unreasonably withheld or delayed);
- (e) inform the Customer without undue delay upon becoming aware of any such Personal Data (while within Cellular Solutions' or its subcontractors' possession or control) being subject to a personal data breach (as defined in Article 4 of GDPR);
- (f) not disclose any Personal Data to any Data Subject or to a third party other than at the written request of the Customer or as expressly provided for in this Agreement;
- (g) except for Personal Data of which Cellular Solutions is also a Data Controller and except as required by law or in order to defend any actual or possible legal claims, as the Customer so directs, take reasonable steps to

return or irretrievably delete all Personal Data on termination or expiry of this Agreement, and not make any further use of such Personal Data;

(h) provide to the Customer and any DP Regulator all information and assistance reasonably necessary to demonstrate or ensure compliance with the obligations in this clause 20 and/or the Data Protection Laws;

(i) permit the Customer or its representatives to access any relevant premises, personnel or records of Cellular Solutions on reasonable notice to audit and otherwise verify compliance with this clause 20, subject to the following requirements:

(i) the Customer may perform such audits no more than once per year or more frequently if required by Data Protection Laws;

(ii) the Customer may use a third party to perform the audit on its behalf, provided such third party executes a confidentiality agreement acceptable to Cellular Solutions before the audit;

(iii) audits must be conducted during regular business hours, subject to Cellular Solutions' policies, and may not unreasonably interfere with Cellular Solutions' business activities;

(iv) the Customer must provide Cellular Solutions with any audit reports generated in connection with any audit at no charge unless prohibited by applicable law. The Customer may use the audit reports only for the purposes of meeting its audit requirements under Data Protection Laws and/or confirming compliance with the requirements of this clause 20. The audit reports shall be confidential;

(v) to request an audit, the Customer must first submit a detailed audit plan to Cellular Solutions at least 6 (six) weeks in advance of the proposed audit date. The audit must describe the proposed scope, duration and start date of the audit. Cellular Solutions will review the audit plan and inform the Customer of any concerns or questions (for example, any request for information that could compromise Cellular Solutions' confidentiality obligations or its security, privacy, employment or other relevant policies). Cellular Solutions will work cooperatively with the Customer to agree a final audit plan;

(vi) nothing in this clause 20.6(i) shall require Cellular Solutions to breach any duties of confidentiality owed to any of its clients, employees or third party providers; and

(vii) all audits are at the Customer's sole cost and expense;

(j) take such steps as are reasonably required to assist the Customer in ensuring compliance with its obligations under Articles 30 to 36 (inclusive) of GDPR;

(k) notify the Customer as soon as reasonably practicable if it receives a request from a Data Subject to exercise its rights under the Data Protection Laws in relation to that person's Personal Data; and

(l) provide the Customer with reasonable co-operation and assistance in relation to any request made by a Data Subject to exercise its rights under the Data Protection Laws in relation to that person's Personal Data provided that the Customer shall be responsible for Cellular Solutions' costs and expenses arising from such co-operation and assistance.

20.7 If either party receives any complaint, notice or communication which relates directly or indirectly to the processing of Personal Data by the other party or to either party's compliance with the Data Protection Laws, it shall as soon as reasonably practicable notify the other party and it shall provide the other party with commercially reasonable co-operation and assistance in relation to any such complaint, notice or communication.

20.8 The Customer generally agrees that Cellular Solutions may engage third party providers including any advisers, contractors, or auditors to process Personal Data ("Sub-Processors").

20.9 If Cellular Solutions engages a new Sub-Processor ("New Sub-Processor"), Cellular Solutions shall inform the Customer of the engagement by sending an email notification to the Customer and the Customer may object to the engagement of such New Sub-Processor by notifying Cellular Solutions within 5 Business Days of Cellular Solutions' email, provided that such objection must be on reasonable, substantial grounds, directly related to such New Sub-Processor's ability to comply with substantially similar obligations to those set out in this clause. If the Customer does not so object, the engagement of the New Sub-Processor shall be deemed accepted by the Customer. Cellular Solutions shall ensure that its contract with each New Sub-Processor shall impose obligations on the New Sub-Processor that are materially equivalent to the obligations to which Cellular Solutions is subject to under this Agreement.

20.10 Any sub-contracting or transfer of Personal Data pursuant to this clause 20 shall not relieve Cellular Solutions of any of its liabilities, responsibilities and obligations to the Customer under this Agreement and Cellular Solutions shall remain liable for the acts and omissions of its Sub-Processor.

20.11 Where Personal Data is processed by Cellular Solutions under or in connection with this Agreement on behalf of the Customer as the Data Controller, the Customer agrees that Cellular Solutions may disclose the Personal Data to Cellular Solutions' employees, sub-contractors (including third party providers), agents, affiliates and affiliate employees as the Cellular Solutions reasonably considers necessary for the performance of its obligations under this Agreement, for compliance with applicable law and as required to defend any actual or possible legal claims. Cellular Solutions shall take reasonable steps to ensure the reliability of any person who has access to the Personal Data and ensure that such persons are aware of Cellular Solutions' obligations under this Agreement.

**21. Suspension**

21.1 Cellular Solutions may suspend the Services, or any SIM Card, if any one or more of the following occur:

(a) the telecommunications network and other infrastructure in place supporting the Services fails or if modification or maintenance work is being carried out in respect of the same, or such telecommunications network is unavailable for any reason;

(b) Cellular Solutions does not receive full payment of any Charges due pursuant to the Agreement in accordance with the payment terms set out in clause 13 and the terms of the Agreement; in which case the Charges set out in clause 23.5 shall apply;

(c) Cellular Solutions believes or has reasonable grounds to suspect that the Customer's equipment or SIM Card(s) are being used fraudulently or illegally or if they have been lost or stolen (in which case the Charges remain payable until we are notified of such fraudulent or illegal use pursuant to clause 12.1(e));

(d) the Customer is otherwise in material breach of the terms of the Agreement;

(e) Cellular Solutions reasonably anticipates that one of the events referred to in clause 22.2 is about to occur; or

(f) at its discretion in relation to SIM Card(s) if it suspects that they have been tampered with, in any way which could render billing information inaccurate.

21.2 If the Services are suspended pursuant to clause 21.1(a) for more than three (3) consecutive days, Cellular Solutions shall suspend the Charges for the period of unavailability.

**22. Termination**

22.1 The Customer may terminate the Agreement (in whole or in part):

(a) by completing and submitting to Cellular Solutions, the signed Cancellation Request Form. Provided that all termination fees payable in accordance with clause 23 have been received by Cellular Solutions, such termination shall be effective thirty (30) days after the confirmed receipt by Cellular Solutions of the Cancellation Request Form; or

(b) if Cellular Solutions commits a material breach of the Agreement which is capable of remedy and fails to remedy that breach within thirty (30) days of receipt of written notice of the breach.

22.2 Without prejudice to any other rights or remedies which Cellular Solutions may have, Cellular Solutions may by notice to the Customer immediately terminate the Agreement (in whole or in part) if:

(a) the Customer commits an irremediable material breach of the Agreement;

(b) the Customer breaches any of the obligations set out in clause 5 (Representations and Warranties) and clauses 12.1(c) or 12.2 (Customer Obligations);

(c) the Customer commits a material breach of the Agreement capable of remedy and fails to remedy that breach within ten (10) business days of receipt of written notice of the breach from Cellular Solutions;

(d) the relevant Network Provider(s) upon which the Services are dependent suspends or ceases to make the telecommunications network and infrastructure available;

(e) the Customer repeatedly or continuously breaches any of its obligations under the Agreement and such breach or breaches continue to occur within fourteen (14) days of receipt of a written notice setting out such breach or breaches;

(f) an order is made or a resolution is passed or any other formal step is taken with a view to commencing winding-up or dissolution of the Customer, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the Customer (except for the purposes of amalgamation or reconstruction, the terms of which have been previously notified to and approved by Cellular Solutions);

(g) an order is made for the appointment of an administrator to manage the affairs, business and property of the Customer, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the Customer, or notice of intention to appoint an administrator is given to the Customer or its directors;

(h) a receiver is appointed over any of the Customer's assets or an undertaking or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager over the Customer, or if any other person takes possession of or sells the Customer's assets;

(i) the Customer makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way;

(j) the Customer is unable to pay its debts within the meaning of section 123 of the Insolvency Act, 1986;

(k) any distress, execution, sequestration or other process is levied or enforced or sued out or upon or against the whole or any material part of the assets of the Customer;

(l) the Customer ceases, or threatens to cease, to trade;

(m) the provision or continuation of the Services would be in breach of an Applicable Law or Code of Conduct; or

(n) the provision of any Services requested by the Customer would require material modification to the Systems; or

(o) the Customer takes or suffers any similar or analogous action to those referred to in clauses 22.2(f) to (n) (inclusive) in any jurisdiction in consequence of any debt.

22.3 Without prejudice to any other rights or remedies which Cellular Solutions may have, Cellular Solutions may, by thirty (30) calendar days' written notice to the Customer terminate the Agreement (in whole or in part).

22.4 The right to terminate the Agreement in this clause 22 shall be without prejudice to any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

22.5 For the purposes of clause 22.2(b), a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects other than as to time of performance provided that time of performance is not of the essence.

### 23. Consequences of Termination and costs of charges

23.1 All rights and obligations of the Parties shall cease to have effect immediately upon termination or expiry of the Agreement, save that such termination or expiry shall not prejudice or affect:

(a) any right of action or remedy which shall have accrued or shall thereafter accrue to either Party; or

(b) the continued existence and validity of the rights and obligations of the Parties under those clauses which by implication or express agreement are to survive termination or expiry of the Agreement.

23.2 On termination (in whole or in part) or expiry of the Agreement for any reason, the Customer shall:

(a) immediately cease to make use of any of the relevant SIM Cards and the Services; and

(b) as soon as reasonably practicable deliver to Cellular Solutions or, at Cellular Solutions' option, destroy all or any SIM Cards.

23.3 Upon the termination of the Agreement (in whole or in part) the following termination fees are payable:

(a) If the Customer ends all or part of the Agreement pursuant to clauses 11.2or 22.1(b), only the Charges due up to and including the date of the termination of the Agreement are payable;

(b) If all or part of the Agreement terminates for any other reason and the Minimum SIM Contract Term and/ or the Minimum Data Pool Contract Term has not expired (and will not expire during the notice period), the following Charges are payable:

(i) the amount of unpaid line rental and other fixed Charges remaining in respect of each of the relevant SIM Cards and/ or Data Pools terminated for the period from the date of expiry of the notice period up to and including the last day of the Minimum SIM Contract Term and/ or the Minimum Data Pool Contract Term; and

(ii) all outstanding Charges due up to and including the date of the termination of the Agreement; and

(iii) an administration fee for each SIM Card to be terminated, in each case such administration fee levied in respect of Cellular Solutions' administrative and other costs of disconnecting the SIM Card from the Services and the relevant telecommunications network.

(c) If all or part of the Agreement terminates for any other reason and the Minimum SIM Contract Term and/ or the Minimum Data Pool Contract Term of the Agreement has expired (or will expire during the notice period) the following Charges are payable:

(i) the amount of the Charges up to and including the date upon which the relevant notice period expires;

(ii) all outstanding Charges due up to and including the date of the termination of the Agreement; and

(iii) an administration fee for each SIM Card to be terminated, in each case such administration fee levied in respect of Cellular Solutions' administrative and other costs of disconnecting the SIM Card from the Services and the relevant telecommunications network.

23.4 If the Customer elects to port or migrate their mobile phone number(s) pursuant to clause 16.1 Cellular Solutions reserves the right to charge the Customer an administration fee per SIM Card in addition to any charges for termination charged by the relevant Network Provider that may be applicable and levied by that Network Provider against Cellular Solutions.

23.5 If the Services are suspended pursuant to clause 21.1(b) and the Customer requests reconnection, Cellular Solutions reserves the right to charge an administration per SIM Card reconnected in addition to all arrears in Charges due in respect of the relevant SIM Card(s); the Charges payable pursuant to this clause 23.5 must be paid, at Cellular Solutions' discretion, as a pre-condition to such reconnection.

### 24. Subcontracting

24.1 Cellular Solutions may subcontract the rights and obligations it has under the Agreement to a Third Party.

### 25. Assignment

25.1 The Customer shall not, without the prior written consent of Cellular Solutions, assign, transfer, charge or deal in any other manner with all or any of its rights or obligations under the Agreement.

25.2 Cellular Solutions may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement.

### 26. Entire Agreement

26.1 The Agreement together with any documents referred to in the Agreement sets out the entire agreement and understanding between the Parties in respect of the subject matter of the Agreement and supersedes all prior oral or written agreements, arrangements or understanding between the Parties.

26.2 The Customer acknowledges that it has entered into the Agreement in reliance only upon the representations, warranties and promises specifically contained or incorporated in the Agreement and, save as expressly set out in the Agreement, the Customer shall have no liability in respect of any other representation, warranty or promise made prior to the date of the Agreement unless it was made fraudulently.

26.3 Any variation to this agreement must be confirmed in writing and agreed by both parties.

### 27. Releases and waivers

27.1 Either Party may, in whole or in part, release, compound, compromise, waive, or postpone, in its absolute discretion, any liability owed to it or right granted to it in the Agreement by the other Party without in any way prejudicing or affecting its rights in respect of that or any other liability or right not so released, compounded, compromised, waived or postponed.

27.2 A waiver of any right under the Agreement is only effective if it is in writing and it applies only to the Party to whom the waiver is addressed and the circumstances for which it is given.

27.3 No single or partial exercise, or failure or delay in exercising any right, power or remedy by any Party shall constitute a waiver by that Party of, or impair or preclude any further exercise of, that or any right, power or remedy arising under the Agreement or otherwise.

27.4 Notwithstanding the generality of clauses 27.1 to 27.3, the Customer acknowledges that any waiver or failure to collect any fees due under clauses 13.3, 14.5, 15.1, 23.3, 23.4 or 23.5 is a gesture of goodwill by Cellular Solutions and shall not prevent Cellular Solutions from relying on such rights in the future.

### 28. Exclusion of third party rights

28.1 Each Network Provider is a third party for the purposes of the Contract (Rights of Third Parties) Act 1999 and where stated, each and every obligation of the Customer under this Agreement is owed to each relevant Network Provider who may enforce its rights in the Agreement as if it were a party to it.

28.2 Subject always to clause 28.1, the Parties agree that the provisions of the Agreement are personal to them and their permitted successors and assigns and are not intended to confer any rights of enforcement on any third party and save as expressly provided for in the Agreement the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Agreement, or to any of its provisions.

28.3 Save for where it is stated to the contrary, if any person who is not a Party is stated to have the right to enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999, the Parties may rescind or vary the Agreement (and any documents entered into pursuant to or in connection with it) without the consent of that person.

### 29. Notices

29.1 Any notice to a Party under or pursuant to the Agreement shall be in writing signed by or on behalf of the Party giving it and shall, unless delivered to a Party personally, be left at, or sent by prepaid first class post, prepaid recorded delivery, email or fax to the address of the Party as set out on the Sales Order Form or as otherwise notified in writing from time to time.

29.2 In proving service it will be sufficient to prove:

(a) in the case of personal service, that it was handed to the Party or delivered to or left in an appropriate place for receipt of letters at its address;

(b) in the case of a letter sent by post, that the letter was properly addressed, stamped and posted;

(c) in the case of email and/or fax, that it was properly addressed and despatched to the number of the Party.

29.3 Notice shall be deemed to have been received as follows:

(a) in the case of personal service, on signature of a delivery receipt or at the time the notice is left at the address;

(b) if sent by pre-paid first class post or other next working day delivery service at 9.00am on the second business day after posting;

(c) if sent by pre-paid airmail, at 9.00am on the fifth business day after posting;

(d) if sent by email, at the time of transmission; or

(e) if sent by fax, at the time of transmission.

29.4 A Party shall not attempt to prevent or delay the service on it of a notice connected with the Agreement.

### 30. Mitigation

Each of the Parties shall at all times take all reasonable steps to minimise and mitigate any loss which it may suffer for which the relevant Party is entitled to bring a claim against the other Party under the Agreement.

### 31. Further assurance

Each Party shall execute such documents and take such steps as the other Party may reasonably require to fulfil the provisions of and to give to each Party the full benefit of the Agreement.

### 32. VAT

Where under the Agreement any Party agrees to pay to the other Party any sum or to furnish to that other Party consideration which (in either case) is consideration for a taxable supply that sum or consideration shall be exclusive of Value Added Tax payable on it and the recipient of the supply shall pay an amount equal to such Value Added Tax in addition to any sum or consideration on receipt of a valid Value Added Tax invoice from the relevant Party.

### 33. Anti-bribery

33.1 The Customer acknowledges and agrees that Cellular Solutions will not tolerate bribery in any form in connection with the conduct of its business.

33.2 The Customer shall:

- (a) comply with all applicable laws, statutes, regulations, codes and guidance relating to anti-bribery and anti-corruption ("Anti-bribery Laws"), including without limitation the Bribery Act 2010 (including any subordinate or amending legislation);
- (b) not engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010 if such activity, practice or conduct had been carried out in the United Kingdom;
- (c) not do, or omit to do, any act that will cause Cellular Solutions to be in breach of the Anti-bribery Laws;
- (d) promptly report to Cellular Solutions any request or demand for any undue financial or other advantage of any kind received by the Customer in connection with the performance of the Agreement;
- (e) maintain throughout the term of the Agreement its own anti-bribery policies and procedures including without limitation adequate procedures under the Bribery Act 2010 to ensure compliance with the Anti-Bribery Laws and shall provide a copy of such policies and procedures to Cellular Solutions on request, and shall enforce such policies and procedures where appropriate. For the purpose of this clause 33, the meaning of adequate procedures shall be determined in accordance with section 7(2) and any guidance issued under section 9, Bribery Act 2010; and
- (f) within five (5) business days of receipt of a request from Cellular Solutions, certify to the Cellular Solutions in writing its compliance with this clause 33.

33.3 In the event that the Customer sub-contracts the provision of any element of the Agreement to any person, or receives any services in connection with its performance of the Agreement from any person, (each such person being an "Associated Person"), it shall impose upon such Associated Person anti-bribery obligations that are no less onerous than those imposed upon the Customer in this clause 33. The Customer shall be liable to Cellular Solutions for the acts and omissions of each Associated Person in relation to compliance with such anti-bribery obligations (or, where the Customer has failed to impose such obligations, the obligations that the Associated Person would be under if the Customer had complied with the obligation under this clause) as if such acts or omissions were those of the Customer itself.

33.4 The Customer warrants and represents that neither the Customer nor any of its officers, employees or any Associated Person has been convicted of any offence involving bribery, corruption, fraud or dishonesty or, to the best of its knowledge, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence under the Anti-Bribery Laws.

33.5 Breach of this clause 33 shall be deemed a material breach of the Agreement.

33.6 The Customer shall indemnify Cellular Solutions against any losses, liabilities, damages, costs and expenses incurred by, or awarded against, Cellular Solutions as a result of any breach of this clause 33 by the Customer (including any liability that the Customer has to Cellular Solutions by virtue of the acts or omissions of any Associated Person under clause 33.3).

33.7 The Customer shall keep and maintain throughout the term of the Agreement detailed, accurate and up to date records showing all payments made and received by the Customer in connection with the Agreement. The Customer shall ensure that such records and books of accounts are sufficient to enable Cellular Solutions to verify the Customer's compliance with its obligations under this clause 33.

33.8 The Customer shall permit Cellular Solutions and its third party representatives, on reasonable notice during normal business hours, but without notice in the event of any reasonably suspected breach of this clause 33, to access and take copies of the Customer's records, books of account and any other information held by or on behalf of the Customer and to meet with the Customer's personnel in order to audit the Customer's compliance with its obligations under this clause 33. Such audit rights shall continue for six (6) years after termination or expiry of the Agreement. The Customer shall give all necessary assistance to the conduct of any such audits.

#### **34. Governing law and jurisdiction**

34.1 The Agreement shall be governed by and construed in accordance with the laws of England and Wales.

34.2 Each of the Parties irrevocably submits for all purposes in connection with the Agreement to the exclusive jurisdiction of the courts of England and Wales.

#### **Schedule 1 (Data Protection)**

The Personal Data processing activities carried out by Cellular Solutions under this Agreement, including but not limited to the following, may be described as follows:

1. Subject matter of processing

The processing of personal data by Cellular Solutions for the purposes of providing the Services to the Customer.

2. Nature and purpose of processing

collecting, organising, sorting, saving, transferring, restricting, deleting, adapting or alternation of personal data.

3. Categories of Personal Data

Any personal data which is provided to WL pursuant to this Agreement which includes any data contained on SIMPro.

4. Categories of data subjects

The identifiable or identified natural person to whom the personal data relates to including Customers and End Users.

5. Duration

For the duration of the Agreement.