

### 1 Introduction and definitions

1.1 The Customer (as defined in clause 1.2 below) understands that to receive the Equipment/Services (as defined in clause 1.2 below) and the Airtime Services (as defined in clause 1.2 below) it is required to enter into two separate agreements. These are:

1.1.1 The SOA (as defined in clause 1.2 below) with Cellular Solutions (North East) Limited.

1.1.2 the airtime agreement (as defined in clause 1.2 below) with the relevant network/service provider.

1.2 In this agreement the following words and expressions shall have the meanings set out below:

**'Airtime agreement'** means the agreement that governs the provision of airtime services from the relevant network/service provider.

**'Airtime services'** means cellular mobile telecommunications airtime and network capacity procured from a network/service provider.

**'Connection'** means the connection of an end user to a network or service provider such that the end user can access and utilise the airtime services.

**'The Company'** means Cellular Solutions (North East) Limited.

**'The Customer'** means the organisation or person ordering the equipment/services and/or the airtime services whose full details are set out in the SOA overleaf.

**'Deliverables'** means the Equipment and Services together.

**'Downward migration'** means in respect of a connection, the transfer (at the request of the Customer) from one tariff provided by the network/service provider ('the old tariff') to another tariff provided by that same network/service provider ('the new tariff') that results in the Customer being charged a lower monthly line rental than it was being charged under the old tariff and the phrase 'downward migrated' shall be construed accordingly.

**'Equipment'** means any mobile telecommunications equipment supplied to the Customer in connection with the SOA or airtime agreement.

**'Equipment Fund'** means a financial incentive offered when the Customer enters into an SOA and Airtime agreement, in the form of a fixed amount of cash available to purchase hardware or otherwise be satisfied subject to the terms of this agreement.

**'Minimum term'** means the minimum period of that the Customer has agreed to maintain (a) connection/s under the SOA.

**'Services'** means any services ordered by the Customer and provided by the Company in connection with the SOA or airtime agreement, including Support Services.

**'Support Services'** means the support services specified in our "Service SLAs" document, the timings for delivery of which shall be, for the avoidance of doubt, indicative only, as well as the other account management services we provide.

**'SOA'** means the sales order agreement that governs the provision of all communications services, benefits and equipment by the Company.

**2 Applicable terms** 2.1 For the supply of the Deliverables our agreement with you is made up of (i) our Standard Terms and Conditions for Supply of Products and Services ("**Standard Terms**"); (ii) these Specific Terms; and (iii) any terms specified on the sales order agreement ("SOA") issued by us to you in connection with the provision of the specific Deliverables. Together the above documents shall constitute and be known as the "**Agreement**" and apply to the contract between you and us to the exclusion of any other terms that you may seek to impose or incorporate. 2.2 When construing the meaning of the Agreement, the documents listed in Clause 2.1 shall be interpreted in a reverse order of priority in the event of any inconsistency or conflict, with documents appearing later in the list taking priority over documents appearing earlier in the list. 2.3 In these Specific Terms, we refer to the Standard Terms and Order terms together as the "**Additional Terms**".

2.4 All of our terms are set out in material we publish on Our Website. You should print or save a copy of these Specific Terms and the Standard Terms or can ask us to confirm which Additional Terms apply to the Agreement between you and us at any time.

2.5. Any order placed by you shall be deemed to be accepted and you agree to the terms of this Agreement from the earlier of you: signing the relevant SOA terms (which may be by electronic signature and/or scanned copies on email); or, in the event that no Order terms have been signed, acknowledging verbally or in writing that you wish to proceed with the purchase of the Deliverables, at which point and on which date the Agreement shall come into existence.

**3 Supply of Customer equipment** 3.1- In consideration of the Customer entering into the SOA and the airtime agreement, the Company undertakes to supply the Customer such equipment/services that may be ordered by the Customer. 3.2 the Company shall use reasonable endeavours to deliver any equipment on the date(s) agreed but the parties acknowledge that time shall not be of the essence.

3.3 Notwithstanding delivery and acceptance of the equipment to the Customer, title to the same will not pass to the Customer (but will be retained by the Company) until the earlier of either (1) the expiry of the minimum term or (2) the date on which all undisputed invoices relating to the same have been paid in full to the Company. 3.4 – Should the Customer, for whatever reason, cancel the agreement before the expiry of the minimum term, then the Customer agrees to pay the full replacement cost, or the original cost of the equipment to the Company, whichever is the greater. 3.5 The risk in the equipment will pass to the Customer upon delivery. The Customer will be liable for any loss or damage from the time that the equipment is delivered to the address notified by the Customer. 3.6 The Customer undertakes to notify the Company of any alleged defect, shortage or discrepancy in any equipment within 3 days of delivery to the Customer. if the Customer fails to notify the Company within this period then the Customer will have accepted the equipment and the Company shall have no liability to the Customer whatsoever in respect of such equipment. 3.7 The Customer agrees that if the Customer chooses to use an unlocked handset, a handset not supplied by the Company, or switches a SIM card to a personal handset not supplied by the Company, the Company is not responsible for any failure of the network, the network systems, the handsets, billing or usage anomalies, and that the responsibility for such failures or anomalies is solely that of the Customer.

**4 Provision of the services** 4.1 The Company shall use reasonable endeavours to provide the services on the dates agreed by the parties.

**5 Charges and payment** 5.1 The Customer agrees to pay for each item of the Deliverables ordered by the Customer within 15 days from the date of a Company invoice. 5.2 Interest at an annual rate of 7% above Barclays Bank Plc base rate will accrue daily and be calculated on a daily basis on overdue accounts from the due date until payment. 5.3 Monthly service charges and tariff charges will be subject to an annual increase or decrease in accordance with the RPI rate.

**6 Payment and reclamation of equipment funds** 6.1 Subject to the remaining provisions of this clause 6, the Company may provide the Customer with an equipment fund as a result of the Customer entering into the SOA and the airtime agreement. 6.2 If the Company does provide the Customer with an equipment fund this may be provided to the Customer using the methods set out below or any combination of them. 6.2.1 Deducting this from the value of the equipment or the services that the Customer orders from the Company or: 6.2.2 the payment of monies as a rebate to the Customer and such monies shall be paid to the Customer on a monthly or quarterly basis over the minimum term of the airtime agreement with the network/service provider 6.2.3 Using such amount to discharge any termination charges by the relevant airtime network/service provider subject to the Company seeing the relevant invoice from such airtime network/service provider (but no other termination charges relating to any other agreement whatsoever). 6.3 Any rebate pursuant to clause 6.2 shall be payable by the Company subject to agreed terms of payment from the date that the Customer presents a valid invoice to the Company. It is the sole responsibility of the Customer that the Company has received the said invoice with documentation supporting this (save that no invoice shall be necessary where subsidy is being deducted from the price of the equipment/services ordered by the Customer pursuant to clause 6.2.1) provided that: 6.3.1 The connection is still active and not pending disconnection on the payment date that the instalment of the rebate is due: 6.3.2 Where the invoice is payable in instalments or after a prescribed period of time the appropriate trigger date has passed. 6.3.3 The invoice has been raised in accordance with the provisions of this agreement; and 6.3.4 where the invoice is for termination charges pursuant to clause 6.2.3, this amount is invoiced within 3 months from the connection date; and or invoice is for payment of monies pursuant to clause 6.2.2, this amount is invoiced by the Customer within 90 days of it becoming payable; and or amount claimed is being deducted from the price of equipment/services ordered by the Customer pursuant to clause 6.2.1, this amount is claimed during the minimum term; and in the event that the Customer fails to invoice/claim the equipment fund within the timescales set out in this clause 6.3.4 then the Customer's right to the equipment fund shall cease. 6.4 The Customer acknowledges that: 6.4.1 The provision of the equipment fund is conditional upon: (a) the Customer maintaining each connection for the minimum term; and the Customer not downward migrating any connection during the minimum term; (b) the Customer paying all due invoices in compliance with clause 5.1 and such other conditions as are notified to the Customer by the Company. 6.4.2 The Company will from time to time and at its sole discretion provide the equipment fund prior to the satisfaction of the conditions set out in clause 6.4.1 and hence the need for clause 6.5 6.5 The Company shall be entitled to reclaim the equipment fund (or such proportion of it) already paid to the Customer (or withhold such amount from any rebate or instalment to be paid to the Customer) if: 6.5.1 – Any due invoice related to the equipment fund and/or the SOA from the Company to the Customer is not paid in compliance with clause

**CELLULAR SOLUTIONS (NORTH EAST) LIMITED**  
**SPECIFIC TERMS AND CONDITIONS FOR MOBILE SERVICES**

5.1 6.5.2 A connection is for whatever reason disconnected prior to the expiry of the minimum term; or 6.5.3 A connection is for whatever reason downward migrated during the minimum term; or 6.5.4 The relevant network/service provider (for whatever reason) reclaims or withholds any of the connection monies paid to the Company by the network/service provider for that connection; and the proportion of the equipment fund that the Company shall be entitled to reclaim from the Customer shall be any monthly rebate amount for each month (and such pro rata amount for each incomplete month) of the balance of the minimum term which is unexpired at the date of disconnection or the downward migration. 6.5.5 -The relevant network/service provider (for whatever reason) reclaims or withholds any of the connection monies or any revenue paid to the Company by the network/service provider for that connection, the Company shall be entitled to reclaim from the Customer the full amount of the connection monies or revenue reclaimed by the network/service provider. 6.6 If the Customer (for whatever reason) cancels prior to connection, does not forward the Porting Authorisation Code within 60 days, disconnects a connection prior to the expiry of the minimum term or a connection is downward migrated during the minimum term the Company shall be entitled to charge the Customer an administration charge of £250.00 for each connection. 6.7 It is agreed between the Customer and the Company that £250.00 per connection is a fair estimate of the administrative expenses incurred in processing any of the events described in 6.6 and the Customer agrees not to challenge the charge as a penalty. 6.8 Any sum reclaimed (or withheld) pursuant to clause 6.5 shall be invoiced to the Customer and shall be payable (unless withheld) within 5 days of the date of the invoice.

**7 Warranties** 7.1 The Customer acknowledges that the warranty given by the Company is limited as follows. If any equipment is proved to be defective in material or workmanship then: 7.1.1 If the Customer has undertaken clause 3.5 and the equipment is returned to the Company within 5 days of delivery, then the Company will at its option (a) repair the equipment, (b) replace the equipment, (c) substitute substantially equivalent goods or (d) credit the Customer in respect of any such equipment. Where the Company replaces the equipment or provides substitute goods, the original equipment will belong to the Company; these obligations on the part of the Company will not apply where:- the equipment has been altered in any way whatsoever or has been subjected to misuse or unauthorised repair; or the equipment has been improperly installed or connected (unless the Company carried out such installation or connection); or the Customer has failed to observe maintenance requirements relating to the equipment; or the equipment has been sold on a 'no warranty' basis or in respect of any promotional items supplied with or in connection with the equipment.

7.2 Save as provided in this agreement, the Company excludes all conditions, warranties and stipulations express or implied, statutory, customary or otherwise which but for such exclusion would or might subsist in favour of the Customer.

**8 Limitation of liability** 8.1 the Company's liability for loss or damage (however such liability arises and whether on contract, tort, for breach of statutory duty or otherwise) under or in connection with:- this agreement and/or any matter collateral to this agreement and/or in respect of any representation or misrepresentation (other than a fraudulent misrepresentation) made by or on behalf of the Company; shall in no circumstances exceed the sum paid by the Customer to the Company in respect of the equipment or services with which such liability arises provided that nothing in this clause shall limit or exclude liability for death or personal injury arising from the Company's negligence. 8.2 Save as otherwise provided, the Company will be under no liability under this agreement for personal injury, death, loss or damage of any kind (other than death or personal injury resulting from the Company's negligence) whether consequential or otherwise including but not limited to loss of profits, pure economic loss, loss of business and depletion or goodwill. 8.3 Save for death or personal injury resulting from the Company's negligence, the Company shall not be liable for any loss as a result of electro -magnetic frequencies or any similar result from use of the equipment. 8.4 The Company accepts no liability for performance related problems caused by Customer's broadband provider or inadequate broadband speed caused by same. 8.5 The Company accepts no liability in the event of failure by outside suppliers to meet their responsibilities.

**9 General** 9.1 the Company will be entitled to assign, sub-contract or sub-let this agreement or any part thereof. The Customer shall not be permitted to assign or sub-let this agreement or any part thereof without the written consent of the Company. 9.2 Failure by the Company to enforce any of the provisions of this agreement will not be construed as a waiver of any of its rights hereunder. 9.3 In relation to all obligations of the Customer under this agreement, the time of performance is of the essence. 9.4 The illegality, invalidity or unenforceability of any clause or part of this agreement will not affect the legality, validity or enforceability of the remainder. 9.5 The Company shall be entitled to amend any of the terms of this agreement upon the giving of 7 days written notice. 9.6 Any demand, notice or communication shall have been duly served:- 9.6.1 If delivered

by hand at the proper address for service 9.6.2 If given by prepaid first class post, 48 hours after being posted (excluding Saturdays, Sundays and public holidays). Any demand, notice or communication shall be made in writing addressed to the recipient at its registered office or its address stated in this agreement. 9.7 The Company does not allow its employees to endure aggressive or abusive telephone behaviour. The Customer accepts that the Company will, at its sole discretion, terminate any such telephone calls politely with a statement that the Company is disconnecting the call and will resume discussion of the subject when it can be done with a more reasonable and professional demeanour. 9.8 The Company shall have the right, at its sole discretion, to record and store electronically any or all telephone calls made to the Company by the Customer.

**9.9 Support services** 9.9.1 Telephone support is free. On-site support is available by request subject to approval by the Company's management. On-site support is subject to an hourly charge with a minimum charge of one hour. Hourly rates for on-site support are available on request from the Company's premises.

**9.10 Server interface** 9.10.1 Where handsets supplied by the Company are required to interface with a Customer's on-site server it is solely the Customer's responsibility to ensure that the server is configured correctly to interface with the software on the handsets. 9.10.2 The Customer's server should be configured by the Customer's own IT professional or provider. The Company's personnel cannot adjust a server in any way without written authorisation from the Customer that includes a statement accepting full responsibility for any consequences of or losses caused by the adjustment. The cost of configuring the Customer's server will be borne by the Customer.

**10 Manufacturers' guarantees** 10.1 New equipment is guaranteed by the manufacturer against manufacturing defects for a minimum period of one year. 10.2 The Company may, entirely at its option and in the case of manufacturing defect only, offer a 24 hour replacement service. This 24 hour replacement service is only available during the manufacturer's guarantee period.

**11 This agreement** 11.1 No variation to this agreement may be made unless set out in writing and signed by a director of the Company. 11.2 Termination of this agreement is subject to 90 days written notice from the Customer by first class letter or email. 11.3 This agreement shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

**These Terms & Conditions are also available on [www.cellular-solutions.co.uk](http://www.cellular-solutions.co.uk)**

Cellular Solutions (North East) Limited., Ferryboat House, Ferryboat Lane, Sunderland SR5 3JN.

T: 08700 118000

E: [info@cellular-solutions.co.uk](mailto:info@cellular-solutions.co.uk)