

SCHEDULE 3.5(A) – MOBILE SERVICES

1. APPLICATION

- 1.1 This schedule, which contains a description of the Mobile Services form part of the Agreement entered into between the Parties for the provision of Mobile Services.
- 1.2 Definitions and interpretations that are specific to this schedule are set out in Annex 1 and apply in addition to the definitions and interpretations set out in **Schedule 1 (Definitions)** of the General Conditions.

2. SERVICE DESCRIPTION

- 2.1 The Supplier shall provide the Customer with mobile services using approved SIM Cards and network resources “**Mobile Services**”.
- 2.2 Mobile Services will be provided within the network area of the Network Provider in the UK and by roaming on to other networks.
- 2.3 Where the Customer enters into an Airtime Agreement directly with the Network Provider, this Schedule 3.5(A) shall not apply, and the terms set forth in Schedule 3.5(B) shall apply.
- 2.4 The Customer agrees that the Supplier, any Network Provider, any hardware suppliers or lease company can process the Customer’s organisation information, which may be collected or which the Customer may submit during any sales or registration process, for a number of purposes, including to open and manage an account for Mobile Services, to deliver products and services ordered, for security and emergency service support, for credit checking and fraud prevention, and for product analysis and direct marketing.

3. CUSTOMER OBLIGATIONS

USE OF MOBILE SERVICES

- 3.1 The Customer may supply the Mobile Services to its own End Users, but not to any other party. The Customer is responsible for ensuring the compliance of End Users with the terms of this schedule, all Applicable Law and Industry Regulations which may vary from time to time.
- 3.2 The Customer shall only use Mobile Equipment authorised for use on the network.
- 3.3 The Customer shall not:
- 3.3.1 use any Mobile Equipment or Mobile Services for any purpose that the Supplier (acting reasonably) believes is abusive, a nuisance, illegal or fraudulent; or
- 3.3.2 do anything that causes the network to be impaired or damaged.
- 3.4 Where the Customer is in breach of your obligations of this schedule, the Supplier shall be entitled to Suspend use of the Mobile Services. Before exercising this right, the Supplier shall notify the Customer of its intention to do so where this is reasonably practicable, allowing an opportunity to remedy the alleged breach (where it is capable of remedy); otherwise the Supplier shall notify the Customer as soon as reasonably practicable after the Suspension. This right of Suspension shall only apply during the period of breach, although re-instatement of the Mobile Service may be subject to the payment of a Reconnection Charge.
- 3.5 During any period of Suspension, the Customer shall continue to pay all Charges due under this Schedule in respect of the Suspended Services.
- 3.6 The Customer may use the Mobile Services to access the internet and services not provided under this Schedule. The Supplier accept no responsibility for these services, including

where in accessing such services, the Customer gives unauthorised parties access to the Mobile Equipment.

SECURE PIN, PASSWORDS AND SIM CARD

- 3.7 The Customer must ensure that it keeps the SIM Card safe and secure whilst it is in its possession and the Customer must ensure that it is able to return it to the Supplier, if required to do so by the Supplier at any time, as set out in this Schedule. There will be a charge for any replacement SIM Card, unless the original SIM Card is defective.
- 3.8 The Customer must keep all PINs and passwords secure and confidential. The Customer is also responsible for the security of the Mobile Equipment and must ensure that it is kept secure (refer to the Mobile Equipment manufacturer’s user guide for details of how to keep the Mobile Equipment secure).
- 3.9 The Customer should immediately change its PIN or password if the Customer becomes aware that someone is accessing the Mobile Services on its account without permission.

RESPONSIBLE USE OF MOBILE SERVICES

- 3.10 The Customer may only use the Mobile Services and any Mobile Equipment:
- 3.10.1 as set out in this Agreement; and
- 3.10.2 for its own personal use in the course of business. This means the Customer must not resell or commercially exploit any of the Mobile Services or content.
- 3.11 The Customer must not use Mobile Services, SIM Cards, Mobile Equipment or telephone numbers or allow anyone else to use Mobile Services, the SIM Cards or telephone numbers for illegal or improper use or to make Nuisance Calls. For example, but not limited to:
- 3.11.1 for fraudulent, criminal or other illegal activity;
- 3.11.2 in any way which breaches another person’s rights, including copyright or other intellectual property rights;
- 3.11.3 to copy, store, modify, publish or distribute Mobile Services or content (including ringtones), except where the Supplier gives permission;
- 3.11.4 to download, send or upload content of an excessive size, quantity or frequency;
- 3.11.5 in any way which breaches any security or other safeguards or in any other way which harms or interferes with the network, the networks or systems of others or Mobile Services;
- 3.11.6 to falsify or delete any author attributions, legal or other proper notices or proprietary designation or labels of the origin or source of software or other content contained in a file that is uploaded.
- 3.12 The Customer must always co-operate with the Supplier and follow all reasonable instructions to ensure the proper use and security of the Mobile Services and your account.
- 3.13 The Supplier may publish an Acceptable Use Policy which provides more detail about the rules for use of certain Mobile Services in order to ensure that use of the Mobile Services is not excessive, to combat fraud and where Mobile Services introduced require certain rules to ensure they can be enjoyed by all customers. Such a policy may be amended from time to time – for instance, if the Supplier discover that the Mobile Services are being used fraudulently or for fraudulent purposes, or the excessive use of certain Mobile Services is causing problems for the Supplier or any Network Provider, the associated systems or for other users or if the Supplier introduces new Mobile Services which may require certain

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rules to ensure that such new Mobile Services can be enjoyed by all customers, again, we will let you know if this happens.

- 3.14 The Customer agrees to indemnify the Supplier against any and all claims and proceedings arising from breach of paragraph 3.11 above.
- 3.15 The Customer must notify the Supplier if the Mobile Equipment is lost or stolen or if the Customer is aware that the Mobile Equipment is being used in a way which is abusive, objectionable, illegal, fraudulent, a nuisance or for criminal activities.
- 3.16 The Supplier has the right to make changes to the terms regarding use of Mobile Equipment at any time, on notice.
- 3.17 The Customer agrees to provide the Supplier with information in respect of the permanent location of any Femtocell Equipment as the same may change from time to time.

RESPONSIBLE USE OF MESSAGING AND STORAGE SERVICES

- 3.18 While using Messaging Services, the Customer must not send or upload:
- 3.18.1 anything that is copyright protected, unless it has permission;
- 3.18.2 unsolicited bulk or commercial communications or other unauthorised communications, or knowingly send any viruses; or
- 3.18.3 anything that is obscene, offensive, abusive, defamatory, menacing, harassing, threatening or is unlawful in any other way.
- 3.19 The Supplier may put limits on the use of certain Mobile Services, such as Messaging Services or Storage Services. For example, the Supplier may limit the size of messages or storage space and reserves the right to remove or refuse to send or store content on behalf of the Customer.

RESPONSIBLE USE OF AGE RESTRICTED SERVICES

- 3.20 If the Customer is under 18, it is not permitted to access Age Restricted Services (if any). If the Customer is 18 or over and accesses the Age Restricted Services, it must not show or send content from the Age Restricted Services to anyone under 18.
- 3.21 The Customer must also ensure that it has deactivated any access to Age Restricted Services if it lets anyone under 18 use the Mobile Equipment.

RESPONSIBLE USE OF SERVICES OUTSIDE THE UK

- 3.22 If the Customer uses Mobile Services from or in a country outside the UK, use of the Mobile Services may be subject to laws and regulations that apply in that other country. The Supplier shall not be liable for failure by the Customer to comply with those laws or regulations.

4. SERVICE CONDITIONS

PHONE NUMBER AND SIM

- 4.1 SIM Cards shall remain the property of the Supplier at all times and the Customer shall be entitled to use the SIM Cards (including any Software they contain).
- 4.2 The Customer warrants that SIM Cards are only used with its authorisation and will inform the Supplier as soon as is reasonably practicable after it becomes aware that a SIM Card is lost, stolen or damaged.
- 4.3 The Customer shall be liable for any loss or damage suffered as a result of unauthorised use of SIM Cards (including due to loss or theft), up to the time that the Customer notifies the Supplier that such SIM Card is being used without its authorisation. Following such notification, the SIM card will be barred for all usage, but the Supplier is unable to bar the

equipment itself unless the equipment was provided by the Supplier. The Customer will be liable for all costs until such time the Customer requests the bar to be placed.

- 4.4 The Supplier shall allocate telephone numbers to the Customer which the Customer shall only use to access the Mobile Services. The Supplier may reallocate or change such telephone numbers as a result of changes in Applicable Law or instructions from any regulatory authorities but will exercise reasonable endeavours to minimise any disruption to the Customer. The Supplier may withdraw telephone numbers that have been allocated to the Customer as a result of its failure to comply with this Schedule.

- 4.5 If the Customer decides to Port a mobile telephone number allocated to the Customer by the Supplier, the Supplier shall release mobile telephone numbers for the Customer's nominated mobile Network Operator to transfer in accordance with Industry Regulations.

- 4.6 Each SIM may only be used in equipment which are enabled for the Mobile Services and are authorised by the Supplier for Connection to the network. Any attempt to use the SIM in other equipment may result in serious damage to the equipment and may prevent the Customer from being able to use it, including the making of Emergency Calls. In these instances, the Supplier and/or any Network Provider shall not be responsible for any such damage or usage problems.

SERVICE AND COVERAGE

- 4.7 Once the Customer is Connected and Activated, the Supplier shall use reasonable endeavours to provide the Customer with the Mobile Services and to ensure the security of the communications at all times. However, due to the nature of mobile technology, it is impossible to provide a fault-free service and it is always possible that the quality or coverage may be affected at times.

- 4.8 The Supplier shall use reasonable endeavours to give the Customer access to Overseas Networks; however, the Supplier will not be responsible for the performance of Overseas Networks or any part of the network not controlled by the Network Operator. Overseas Networks may be limited in quality and coverage, and access and service availability depend on the arrangements with overseas operators. Liability is expressly excluded in contract, tort or otherwise in relation thereto. The Supplier shall notify the Customer of any terms of access (if any) that is needed to comply with to use Overseas Networks.

- 4.9 The Customer acknowledges that, in respect of any roaming services forming part of the Mobile Services, certain additional terms and conditions may be imposed by Third Party Suppliers which may affect the provision of Mobile Services. The Supplier makes no warranty as to the quality, fitness the continuity or provision of the Mobile Services as may be affected by services provided by Third Party Suppliers, and expressly excludes liability whether in contract, tort or otherwise.

- 4.10 The Customer will be able to upload and send its own content using the Mobile Services. The Customer grants to the Supplier and any Network Provider a royalty-free, perpetual and worldwide licence to store, transmit or otherwise deal with any content the Customer uploads on the Mobile Services.

- 4.11 The Supplier may:
- 4.11.1 change or withdraw some, or part, of the Mobile Services from time to time. This may be because of changing technologies, obsolescence, new or different

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product features, changing content providers or the need to remove, replace or modify content;

- 4.11.2 determine or change how Mobile Services are presented and delivered to the equipment or are otherwise made available; and
 - 4.11.3 migrate the Mobile Services to alternative Network Operator as determined by the Supplier at any time and the Customer will co-operate with the Supplier during the migration.
- 4.12 The Customer may upon reasonable notice by email at any time request to apply, amend or remove a limit to any chargeable usage of the Mobile Services, which are outside of the allowance included in the Customer's Bundle and/or any Bolt On ("Bill Limit"). Where the Customer makes such a request, the Supplier shall:
- 4.12.1 as soon as reasonably practicable, provide email confirmation of the Customer's decision to apply, amend or remove a Bill Limit;
 - 4.12.2 so far as is practicable in a reasonable time, notify the Customer by email when the Customer reaches 75% and 90% of the Bill Limit; and
 - 4.12.3 where the Customer exceeds the Bill Limit, the Supplier shall as soon as reasonably practicable, notify the Customer by email when the Customer reaches 100% of the Bill Limit

where the Bill Limit is exceeded, any further chargeable usage including but not limited to calls, text and data will be barred for the remainder of the applicable billing period.

- 4.13 Following receipt of notice under paragraph 4.12.3, the Customer may upon written notice by email, increase or remove the Bill Limit, or purchase any Bolt On, which the Supplier will confirm acceptance of in accordance with paragraph 4.12.1 above.
- 4.14 Where the Customer opts for a Bill Limit, the Customer acknowledges and agrees to opt out of any international roaming Bolt On and the Customer agrees to pay for all roamed usage subject to paragraph 4.12.
- 4.15 Where the Customer opts to take any automatic top up Bundle the Customer accepts there will be no limit to the amount of times the Bundle will auto top up and the Customer agrees that it will be liable for all automatic top up charges.

5. CHARGES AND PAYMENT

- 5.1 This paragraph 5 is supplemental to clause 6 of the General Conditions and in the event of express conflict, this paragraph 5 shall take precedence. The Supplier shall invoice the Customer for the Charges for the Cloud Voice Services as set out in paragraph 5.2 in the amounts specified in any Order and as varied pursuant to the Agreement.
- 5.2 Unless stated otherwise in an applicable Order, the Supplier shall invoice the Customer monthly (depending on billing frequency) for:
 - 5.2.1 Installation Charges, on or after the Commencement Date for any work carried out;
 - 5.2.2 Recurring Charges, except Usage Charges;
 - 5.2.3 Usage Charges calculated at the then current Tariffs;
 - 5.2.4 any Charges for Hardware, which shall apply from the date of delivery of such Hardware; and
 - 5.2.5 any Termination Charges upon termination of the Cloud Voice Service.

For any period where the Cloud Voice Service is provided for less than a month, the Recurring Charges will be calculated on a daily basis.

- 5.3 For the avoidance of doubt, if the Customer does not request to Activate the Mobile Service then the Supplier will Activate the Mobile Service within ten (10) Working Days of receipt of an Order, unless the Supplier agrees otherwise in writing with the Customer, from which point the Customer will become liable for all Charges and the Minimum Term will commence from that date.
- 5.4 Where the Customer chooses to take a Bundle as a Tariff, all Call types not included in the Bundle and Calls included in the Bundle that exceed the allowance, will be chargeable at the Supplier's standard Tariffs, or as otherwise agreed in writing.
- 5.5 All Mobile Services are subject to a Fair Use Policy which will be as detailed in the Supplier's Tariff documentation.
- 5.6 Unless otherwise specified in the Tariff, a Bolt-On must be added at the point of Connection and shall apply for the duration of the Agreement and cannot be removed before expiry of the Minimum Term. A Bolt-On removed mid-term will be liable for Termination Charges.
- 5.7 Charges for international roaming services shall be made available to the Customer after such Charges have been received by the Supplier. Due to the nature of roamed usage they may be invoiced to several months in arrears and there shall be no time restriction on the invoicing of such usage and standard payment terms shall apply to these Charges.
- 5.8 Notwithstanding paragraph 5.6 above, Charges for all mobile usage may be invoiced up to twelve (12) months in arrears and standard payment terms shall apply to these Charges.
- 5.9 The Supplier reserves the right to charge the Customer for any fraudulent activity. The Customer accepts full liability for any costs, losses and damage incurred as a result of fraud and agrees to indemnify the Supplier against any costs, loss or damage arising from any fraudulent activity including any costs and expenses reasonably incurred in investigating the fraud.

6. SERVICE RESTRICTIONS

LIMITATION OF MOBILE SERVICES

- 6.1 The Supplier will always try to make the Mobile Services available to the Customer. However, Mobile Services are only available within our Network Operator's coverage area. Within this, there may be areas where the Customer does not have access to all Mobile Services or where coverage is otherwise limited or unavailable.
- 6.2 Where the Customer opts for the MultiNet Service, should coverage on the Primary Access Network be unavailable at any time, the SIM Card will automatically pick up Alternative Access Networks as may be available in your location. Should the Customer be on a call at the time the call will terminate whilst the SIM Card connects to an Alternative Access Network.
- 6.3 Where coverage on the Primary Access Network becomes available again the SIM Card will automatically revert to this network, this will not happen whilst the Customer is on a call unless coverage on the Alternative Access Network becomes unavailable.
- 6.4 The Supplier does not guarantee the Supplier will always have access to an Alternative Access Network and this is subject to coverage available in the Customer's location at the time. There may be a delay while the SIM Card connects to either the Primary Access Network or an Alternative Access Network.

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DISRUPTION TO MOBILE SERVICES

- 6.5 There may be situations when Services are not continuously available, or the quality is affected and so we cannot guarantee continuous fault-free service. For instance:
- 6.5.1 when we or any network provider need to perform upgrading, maintenance or other work on the network or Services;
 - 6.5.2 when the Customer moves outside the Supplier's coverage area whilst on a Call (in this case Calls may not be maintained);
 - 6.5.3 when the Customer is in areas otherwise not covered by the network;
 - 6.5.4 during any technical failure of the network;
 - 6.5.5 when it is necessary to safeguard the security and integrity of the network or to reduce the incidence of fraud;
 - 6.5.6 where Artificially Inflated Traffic has been identified;
 - 6.5.7 due to Emergency Planning Measures; or
 - 6.5.8 because of other factors outside the Supplier's control, such as the features or functionality of a handset, regulatory requirements, lack of capacity, interruptions to services from other suppliers, faults in other communication networks, the weather or radio interference caused by hills, tunnels or other physical or electromagnetic obstructions.
- 6.6 The Supplier shall endeavour to keep all such disruptions to a minimum and shall give the Customer notice of such disruptions where reasonably practicable.

7. SUSPENSION OF MOBILE SERVICES

- 7.1 The Supplier may Suspend any or all of the Mobile Services immediately and without notice, compensation or liability to the Customer if:
- 7.1.1 the Supplier reasonably believes the Customer has provided false or misleading details about the Customer;
 - 7.1.2 the Supplier advises the Customer of its excessive use of Mobile Services (as may be defined within this Schedule or within the Supplier's and/or Network Operators Fair Use Policy as may be published from time to time) is causing problems for other users, and the Customer is continuing to use the Mobile Services excessively;
 - 7.1.3 the Supplier believes the equipment or SIM Card has been lost or stolen;
 - 7.1.4 the Supplier reasonably believe that the Customer has used the Mobile Services, the SIM Card or a phone number for illegal or improper purposes or to make Nuisance Calls in contravention of the responsible use requirements within this Schedule;
 - 7.1.5 the Supplier receives a serious complaint against the Customer which it believes to be genuine (for example, if the Supplier receives a complaint that the Customer is using Mobile Services in any of the ways prohibited). If this happens, the Supplier will deal with the complaint in the manner set out in paragraph [x];
 - 7.1.6 the Supplier is required to Suspend the Mobile Services by the emergency services or other government authorities;
 - 7.1.7 the Supplier reasonably believes the Customer is using the Mobile Service for a voice over internet protocol

service or similar service that is not authorised by the Supplier;

- 7.1.8 where a SIM Card has been inactive for two consecutive quarters;
 - 7.1.9 the Supplier reasonably suspect the Customer is using a GSM Gateway;
 - 7.1.10 the Customer's usage is adversely affecting the operation of the mobile network or provision of the Mobile Services;
 - 7.1.11 the Customer's usage is or may adversely affect the operation of the mobile network or any third party network or provision of the Mobile Services or the provision of services by the Supplier to any other person;
 - 7.1.12 the Supplier suspect fraudulent, criminal or illegal activities are being carried out, or are likely to be carried out.
- 7.2 If the Supplier Suspends any or all of the Mobile Services, the Customer will still be able to make Emergency Calls (unless they have been Suspended at the request of the emergency services).
- 7.3 If the Mobile Services are Suspended, the Supplier may agree to re- Connect the Customer if the Customer requests the Supplier to do so and there may be a re- Connection Charge for this.
- 7.4 If the Mobile Services are Suspended the Customer will remain liable for all charges under this Schedule.

8. SIM CARDS AND MOBILE EQUIPMENT

- 8.1 The Supplier may supply Mobile Equipment in addition to the SIM Card and Mobile Service. If the Supplier has hired or leased Mobile Equipment to the Customer, the terms of the separate hire or lease agreement will apply in respect of such Mobile Equipment and the remainder of this paragraph 8 shall apply in relation to the SIM Card only.
- 8.2 The Supplier shall bear the risk of loss or damage to any Mobile Equipment and SIM Cards provided by the Supplier under this Schedule until the point of delivery to the Customer.
- 8.3 Subject to paragraph [8.4], the Customer shall bear the risk of loss or damage to Mobile Equipment and SIM Cards from the time the delivery is made, and the delivery note, or system is signed. The Customer does not have the right to return any Mobile Equipment unless there is a proven fault with the Mobile Equipment. The Supplier is unable to exchange Mobile Equipment once delivery has been accepted.
- 8.4 The Customer shall notify the Supplier in writing within twenty-four (24) hours of receipt if the Mobile Equipment or SIM Cards arrive having been damaged, or if the order has been incorrectly fulfilled. The Customer shall notify us in writing within ten (10) Working Days of confirmation of order acceptance if the Customer does not receive the Mobile Equipment or SIM Card.
- 8.5 Following the Customer's notification in accordance with paragraph [8.4], the Supplier shall replace damaged, lost or stolen in transit Mobile Equipment or SIM Cards, free of charge.
- 8.6 The Customer shall notify the Supplier in writing within ten (10) Working Days of receipt if Mobile Equipment does not operate (dead on arrival) and following such notification, the Supplier shall replace the dead on arrival Mobile Equipment as soon as reasonably practicable.

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- 8.7 Subject to paragraph 8.1 above, title to Mobile Equipment shall pass to the Customer as soon as the Supplier has received payment in full. Where Mobile Equipment is free of charge, title shall pass on delivery. For the avoidance of doubt, title in SIM Cards shall remain with the Supplier.
- 8.8 Where Mobile Equipment supplied to the Customer by the Supplier becomes faulty for reasons other than through the Customer's acts, omissions or misuse within the manufacturer's warranty period, the Customer shall return such Mobile Equipment to the Supplier at the Supplier's cost and the Supplier shall replace the Mobile Equipment in accordance with its returns policy as applicable at the time.
- 8.9 Any out-of-warranty replacements shall be at the Supplier's Tariff applicable at the time. Should the Supplier agree to a repair or a replacement, the Customer must ensure that it backs-up or otherwise stores separately any of its information or other data on the handset which the Customer may require, as this will be lost during the repair or replacement process. The Supplier shall not be responsible for any information or data which may be lost during the repair or replacement process.
- 8.10 If the Customer reports a fault and the Supplier finds there is none or the fault is caused by the Customer, then the Supplier may apply a charge.
- 8.11 The Supplier does not manufacture Mobile Equipment and save for paragraph [8.8] above excludes, to the fullest extent permissible at law, all warranties, terms or conditions in relation to the Mobile Equipment, whether implied by law or otherwise.
- 8.12 The Customer shall not remove or obscure any logo or writing on the Mobile Equipment that the Supplier has supplied to the Customer and which the Customer does not own.
- 8.13 The Customer shall replace all batteries and other consumable parts of the Mobile Equipment.
- 8.14 The Customer shall not and shall ensure that its End Users do not tamper with or attempt to repair or service the Mobile Equipment or allow any party other than the Supplier to do so. Any attempt to do this may invalidate the manufacturer's warranty. The Customer shall keep all Mobile Equipment that the Supplier has supplied and which the Customer does not own, in its possession and shall not sell it, place a charge on it or otherwise dispose of it.
- 8.15 The supply of Mobile Equipment shall be subject to availability. Delivery of Mobile Equipment and SIM Cards may be made by way of partial shipments.
- 8.16 Mobile Equipment which can be used to access Mobile Services may be locked to the network. The software in the Mobile Equipment and all intellectual property rights in that software are owned by the Mobile Equipment manufacturer and the Supplier is being allowed to use the software on a limited licence from the Mobile Equipment manufacturer. On expiry of the Agreement, should the Customer wish to unlock the Mobile Equipment to use with another network, this will be the responsibility of the Customer.
- 8.17 Should the Customer opt for a SIM-only Tariff to use with the Customer existing Mobile Equipment, or Mobile Equipment supplied to the Customer by a third party, then the unlocking of the Mobile Equipment will be the responsibility of the Customer and the Customer agrees that the Supplier shall not be liable for any direct or indirect costs as a result of the Customer unlocking the Mobile Equipment to use with the SIM Cards. For the avoidance of doubt, The Supplier has no liability for faults in Mobile Equipment, or any faults in the network service provided to such Mobile Equipment.
- 8.18 All replacement Mobile Equipment shall be subject to stock availability and the Supplier reserves the right to supply replacement Mobile Equipment of a similar specification where necessary.
- 8.19 If there is a pricing error, or the manufacturer or distributor of the Mobile Equipment increases their charge or declines an order after the Customer has placed an order then the Supplier shall not be obliged to sell the Mobile Equipment to the Customer at the original price or at all. The Customer will have the option to cancel the affected part of the Order within five (5) days of being notified of the price increase without further liability to the Supplier.
- 8.20 Upon delivery of software or documentation contained within the, or with the, Femtocell Equipment to the Customer, the Supplier shall grant (or procure the grant) to the Customer a licence to use, copy, store and distribute such software and any related documentation in the course of its business for purposes reasonably incidental thereto (including the maintenance of a reasonable number of back-up or test copies of such software), on the following terms:
- 8.20.1 non-exclusive, perpetual, worldwide, sub-licensable and transferable licence or sub-licence to any End User without additional charge or the Supplier's consent; and
- 8.20.2 royalty-free and fully paid up (subject to payment to the Supplier for the Femtocell Equipment); and
- 8.20.3 subject to any terms and conditions supplied with the Femtocell Equipment.
- 8.21 The use of software relating to the Femtocell Equipment is restricted to the use of such software in object code form and, except to the extent permitted by Applicable Law, the Customer has no right to adapt, reverse engineer, decompile, disassemble or modify such software in whole or in part.
- 8.22 The Customer is responsible for ensuring that the broadband service is adequate and compatible with the Femtocell Equipment, and the Customer accepts that functionality may be impacted by other systems used by the broadband providers.
- 9. EXCLUSIONS**
- 9.1 The Supplier will try to ensure the accuracy, quality and timely delivery of the Mobile Services. However:
- 9.1.1 the Supplier and any Network Operator accept no responsibility for any use of, or reliance on, the Mobile Services or their content, or for any disruptions to, or any failures or delays in, the Mobile Services. This includes, without limitation, any alert Mobile Services or virus detection Mobile Services; and
- 9.1.2 subject to this Schedule, the General Conditions and the conditions of the Network Operator, the Supplier and any Network Operator do not make any representations as to the accuracy, comprehensiveness, completeness, quality, currency, error-free nature, compatibility, security or fitness for purpose of the Mobile Services or their content which are provided to the Customer on an 'as is' basis.
- 9.2 The Supplier and any Network Operator will not be liable:
- 9.2.1 for any loss the Customer may incur as a result of someone using its PINs or passwords, with, or without, its knowledge; or

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- 9.2.2 if the Supplier or any Network Operator cannot carry out duties, or provide Mobile Services, because of something beyond its control, or
- 9.2.3 for any direct or indirect costs or losses as a result of errors in programming where the Customer uses Fixed Dialling Number SIM functionality; or
- 9.2.4 where during a port to another provider the other provider fails to take over the Connections for any reason.
- 9.3 The Customer may be able to use the Mobile Services:
- 9.3.1 to upload, email or transmit content using the Mobile Services; and
- 9.3.2 to access content which is branded or provided by others and to acquire goods and services from others.
- Where the Supplier provides the Customer with such access, all the Supplier does is transmit the content to the Customer and the Supplier does not prepare or exercise control over the content, goods or services. The Supplier and any Network Operator are not responsible or liable in any way for, and do not endorse, any of this content, goods or services.
- 9.4 This paragraph 9 will apply even after this Agreement has ended.
- 10. TERMINATION**
- 10.1 This paragraph 10 is supplemental to clause 2 and 8 of the General Conditions and in the event this paragraph 10 conflicts with clause 2 and 8 of the General Conditions, this paragraph shall take precedence.
- 10.2 Where a Customer is a Microenterprise or Small Enterprise Customer or a Non-for-Profit Customer, upon expiry of the Minimum Term, the Minimum Term will not automatically renew pursuant to clause 2.1 of the General Conditions, the Agreement shall continue until terminated by the Customer giving at least thirty (30) days' notice to the Supplier to terminate the Agreement. Use of the Mobile Services following expiry of the Minimum Term will be subject to the Supplier's standard published Tariffs.
- 10.3 Where a Customer is a Microenterprise or Small Enterprise Customer or a Non-for-Profit Customer, they shall have the additional right to terminate the Agreement in the following circumstances:
- 10.3.1 by giving the Supplier notice within thirty (30) days the date the notice from the Supplier of proposed amendments to the Charges in accordance with clause 6.10 and/or 16.1 of the General Conditions is received and where such changes are likely to cause material detriment; or
- 10.3.2 within the Transfer Period.
- For the avoidance of doubt, the Customer shall not have a right to terminate the Agreement pursuant to clause 10.3.1 where the Supplier varies the Charges pursuant to paragraph 11.1 and/or 11.2.
- 10.4 Where the Supplier provides notice of proposed amendments to the Charges and/or the Agreement pursuant to clause 6.10 and/or 16.1 of the General Conditions and the Customer does not provide notice to terminate within thirty (30) days in accordance with paragraph 10.3.1, the Customer shall be deemed to have waived its right to terminate pursuant to paragraph 10.3.1. The Customer's continued use of the Services shall be deemed acceptance if such changes.
- 10.5 If a Customer terminates the Agreement pursuant to paragraph 10.2 or 10.3 above, the Customer shall not be liable for any Termination Charges.
- 11. CHANGES**
- PERMITTED CHANGES**
- 11.1 Save for where the Supplier has expressly agreed otherwise in writing, the Supplier shall be entitled to make the following variations to Charges:
- 11.1.1 in each calendar year, an increase to any and all Charges by a percentage equal to: i) the Retail Price Index ("RPI") rate figure published by the Office of National Statistics in January of that year (ignoring any negative figures), plus ii) 3.9%. The increase will be rounded to the nearest whole pence. If the RPI figure is negative, the Supplier will only increase charges by 3.9%. If the RPI Rate is not published for the given month, the Supplier may use a substituted index or index figure published by that office for that month;
- 11.1.2 for any Additional or Ancillary Services that do not form part of the main Service the Supplier shall be entitled to increase the Charges for these Services; and
- 11.1.3 where such changes are directly imposed or caused by the Applicable Law the Supplier shall be entitled to increase all or any relevant Charges.
- 11.2 The Supplier shall be entitled to make the following variations to provisions of the Services in accordance with the terms of this Agreement:
- 11.2.1 in the event of a Service being discontinued or no longer exists (including decommissioning of legacy services), the Supplier shall be entitled to move the Customer to a Service which is a better or equivalent service. A better or equivalent service shall be a service offering materially the same or better features as the features of the Service used by the Customer within the 6-month period prior to the transfer of the original Service to the new Service in the opinion of the Supplier acting reasonably.
- 11.2.2 variations triggered by technology developments including replacement of certain technologies, networks, hardware, software, applications, platforms, systems or processes or other similar features as well as changes to terms of supply offered by Third-Party Supplier or instructions provided by them where such changes result in offering equivalent or better experience (in the Supplier's reasonable opinion) to the Customer;
- 11.2.3 variations that are of genuinely administrative or technical nature and have no negative impact on the Customer in relation to the Services that they use under the Agreement including changing the terms of the Agreement to make it clearer or easier to understand or to update the Agreement from time to time so all customers are on the same conditions, or any other similar changes;
- 11.2.4 variations that are directly imposed or caused by the Applicable Law;
- 11.2.5 variations that are made at the request of the Customer;
- 11.2.6 variations that are clearly to the benefit of the Customer in terms of improving Service quality, the

SCHEDULE 3.5(A) – MOBILE SERVICES

- scope of Services or any other additional feature of Service provided for the same or lower Charge; and
- 11.2.7 place limits on use of Services, for example if you have committed an illegal act while using the Services, where the Supplier has the right to make such change under the AUP or any Applicable Law.

OTHER CHANGES

- 11.3 The Supplier may also make changes to this Agreement, Services or Charges at any time in order to:
- 11.3.1 change the structure of the Services, charges or Equipment, for example, by changing the component parts of a Service;
- 11.3.2 change the Services, Charges or Equipment to maintain or improve the quality of the Service, or introduce a new Service;
- 11.3.3 change the amount payable for part of the Services, including without limitation additional services, for example where the Supplier has to pay a Third-Party Supplier increased charges for use of their infrastructure or services above the limit stipulated in paragraph 11.1;
- 11.3.4 remove and/or replace some or all of the Equipment;
- 11.3.5 place limits on use of the Services (without prejudice to paragraph 11.3.7);
- 11.3.6 stop providing all or part of the Services, for example, if the Supplier cannot continue to provide a part of the Service at an address;
- 11.3.7 replace all or part of the Services with an alternative Service which is not equivalent to, or better than, the Services Customer originally purchased (“**Original Services**”) where the Original Services have been discontinued, decommissioned or are no longer available (without prejudice to paragraph 11.2.1); or
- 11.3.8 The Supplier may change the Agreement, Services or Charges for a reason other than those specified in paragraph 11.1 to 11.3 (inclusive).
- 11.4 If a change to Charges under paragraph 11.3 constitutes an increase to the Customer’s overall monthly invoice in any remaining month of the Minimum Term, the Customer may terminate the affected Service or the affected part of this Agreement by giving written notice, within 30 days of being notified of the change, such notice to be effective only if the Supplier cannot resolve the concern to the Customer’s reasonable satisfaction within 30 days of receipt of termination notice.
- 11.5 If a change under paragraph 11.3 has a negative impact on the Customer’s use of the Service (in the Supplier’s reasonable opinion) under the Agreement, the Customer may terminate the affected Service (or any Bundle, where applicable), Service Element or part of the Agreement by giving written notice to the Supplier, within 30 days of being notified of the change, such notice to be effective only if the Supplier cannot resolve the concern to the Customer’s reasonable satisfaction within 30 days of receipt of Customer’s termination notice. The Customer shall not be required to pay any Charges except for (i) any Charges payable up to the termination, and (ii) any remaining Charges or payments related to any Equipment that the Customer decides to retain.
- 11.6 Where the Supplier is making changes to Services under paragraph 11.1 or 11.2 (together, “**Permitted Changes**”), the Supplier shall not be obliged to provide Customer with any notice but will make reasonable efforts to do so. For the avoidance of doubt, Customer shall not be entitled to terminate the Agreement without paying Termination Charges if the Supplier exercises its right to make one or more Permitted Changes.
- 11.7 Where the Supplier is making a change to the Agreement, Services or Charges under paragraph 11.3, and such change results in the Customer having a right to terminate pursuant to paragraph 11.4 or 11.5, the Supplier shall provide Customer with as much advance notice of the change as practicable, but in any event, no less than 30 days’ notice prior to implementing the change (unless prevented from doing so because of Applicable Law, court order or any competent statutory or supervisory authority).
- 11.8 The Supplier will provide notice to the Customer pursuant to paragraph 11.6 and/or 11.7 by email, on the Customer’s invoice, the Chess Customer Portal and/or on its website www.chessICT.co.uk.
- 11.9 Where the Customer does not provide notice of cancellation within the 30-day period detailed at clause 11.4 or 11.5 and the Customer continues to use the Services, the Customer will be deemed to have accepted the change to the Services and/or the Agreement.

NOTICE OF CHANGE

ANNEX 1 - DEFINITIONS

“Activation” means when the Customer calls the Supplier to Activate the SIM Card (or the Supplier Activates it in accordance with this Schedule) to enable the Customer to access the Service. **“Activate”** and **“Activated”** have corresponding meanings.

“Age Restricted Services” means any Mobile Services for use only by customers aged 18 or over.

“Alternative Access Networks” means UK mobile networks operated on behalf of the Supplier from time to time by providers other than the Primary Network Access provider;

“Artificial Inflation of Traffic” or **“AIT”** shall have the meaning given to it in the BT standard interconnect agreement as amended from time to time and for the avoidance of doubt includes any situation where Calls other than Calls to geographic number ranges commencing with the digits 01, 02 or 03:

- (a) are made, generated, stimulated, and/or prolonged for the direct or indirect benefit of any entity (including a natural person) operating, hosting or otherwise connected with a telecommunication service as a result of any activity by or on behalf of such entity; and
- (b) result in a calling pattern which is disproportionate to the overall amount, duration and/or extent of Calls which would be expected from a good faith usage or an acceptable and reasonable commercial practice relating to the operation of telecommunications systems;

“Bolt On” means a package for inclusive usage that is added to a Bundle or Tariff. Bolt On usage may be shared or per user as specified in the Tariff.

“Bundle” means any monthly subscription which includes an inclusive usage allowance (or fair usage allowance) of predefined usage types.

“Call” means a signal, message or communication which is silent, spoken or visual that the Supplier agrees to.

“Charges” means charges for access to and use of the Mobile Services. These charges may cover (without limitation) Recurring Charges, variable periodic charges, Usage charges, account administration fees, fees for Connection and re-Connection, a Termination Charges (where applicable) and any costs incurred in collecting outstanding payments from the Customer.

“Conditions” means these Conditions for Mobile Services and the Conditions for Communication Services.

“Connection” means the procedure by which the Supplier gives the Customer access to the Mobile Services. **‘Connected’, ‘Connecting’,** and **‘Re-Connection’** have corresponding meanings.

“Disconnection” means the procedure by which the Supplier stops the Customer from accessing the Mobile Services. **‘Disconnect’, ‘Disconnected’** and **‘Disconnecting’** have corresponding meanings.

“Emergency Planning Measures” means the measures that may be taken as a result of the Supplier and/or any Network Provider’s obligations under (i) the General Conditions under section 45 of the Communications Act 2003 and (ii) the Civil Contingencies Act 2004 or any similar law.

“End User” means a person using the Mobile Service, who is an employee or contractor of the Customer or any other person the Customer gives permission to use the Mobile Service under this Schedule.

“Femtocell Equipment” means the Femtocell Service equipment as supplied by the Supplier from time to time.

“Femtocell Service” means the enhanced 3G service provided through the Femtocell Equipment.

“GSM Gateway” means any Mobile Equipment containing a SIM Card which enables the routing of Calls from fixed apparatus to Mobile Equipment by establishing a mobile-to-mobile Call or event.

Installation Charges means those Charges in relation to installation of the Mobile Services or any Customer Equipment, Hardware or Ancillary Equipment as applicable;

“Messaging Services” means any email, fax and voicemail services, text message and multimedia messaging services, personal information management and other message or communication facilities which let you communicate with others.

“Mobile Equipment” means any handsets, hardware or accessories that are authorised by the Supplier for Connection to the network which is used to access the Mobile Services.

“Mobile Service” or **“Mobile Services”** means all or part of the services provided under this Agreement and any related services that the Supplier agrees to provide to the Customer under this Schedule.

“Network Provider” means the providers we use to provide the Mobile Services.

“Nuisance Calls” means an unwanted Call that causes annoyance, inconvenience or anxiety to the receiver of the Call, and/or is a hoax Call, and/or is of an offensive, spiteful, abusive, indecent, defamatory, obscene or menacing nature, and/or Calls which cause the called person to experience silence when the Call is answered in circumstances where the called person has no means of establishing whether there is a person at the other end of the line.

“Overseas Networks” means telecommunication systems outside the UK used (but not controlled) by the Supplier in providing the Mobile Services.

“Port” means the transfer of a mobile number under this Schedule to or from a different network provided by another supplier.

“Primary Access Network” means the 3G and 4G radio access network of the Supplier’s choice operated on behalf of the Supplier by the Primary Access Network provider but excluding any 2G network.

Recurring Charges means the Charges for the Voice Services or applicable part of the Mobile Services, including but not limited to the Line Rental, Call Bundle, Call Package, Tariff Packages or Committed Spend, that are invoiced repeatedly in every billing period as set out in the Order;

Termination Charges means any compensatory charges payable by the Customer to the Supplier on termination of this Agreement in whole or part, in accordance with clause 8.6 of the General Conditions and as set out the Order, or if not specified, then an amount equal to 100% of the Charges for any Bundle, Bolt On for all remaining months of the Minimum Term, together with any waived one off charges and/or Installation Charges;

Transfer Period means a period of ten (10) Working Days which starts after the Working Day on which notification has been given requesting a Line to be transferred to or from the Supplier;

“SIM or SIM Card” means a card which enables the Customer to access the Mobile Services.

“Software” means a machine executable computer program, software module or software package or any part thereof supplied by the Supplier or the Software licensor to the Customer irrespective of how it is stored or executed.

“Storage Services” means any services which offers storage capacity on the network for storage of content which the Customer accesses from the Supplier.

“Suspension” means the procedure by which the Supplier temporarily Disconnects the Customers access to the Mobile Services. **‘Suspend’** has a corresponding meaning.

“Tariff” means the tariff or Bundle, or hardware price list referred to in this Schedule, the Order, connection schedule, proposal or other document and as amended from time to time.

ANNEX 1 - DEFINITIONS

Usage Charges means the Charges for the Mobile Services or applicable part of the Services that are calculated by multiplying the volume of units (voice minutes) that the Customer has used or incurred in a billing period with the relevant Tariff (e.g. Call Service).