



SWIFT COMMUNICATIONS LTD
TERMS AND CONDITIONS OF SUPPLY
MOBILE NETWORK SALES AND PROVISION OF ASSOCIATED EQUIPMENT

THESE TERMS AND CONDITIONS GOVERN THE SERVICES WE OFFER. YOU SHOULD ENSURE THAT YOU HAVE READ AND UNDERSTOOD THEM BEFORE YOU ENTER INTO A CONTRACT WITH US.

Please note that the following services are the only mobile services we offer which allow access to the **Emergency Services** and **Caller Location Information**:

Business Mobile, O2 TuGo, Machine to Machine, Mobile Conference.

1. THE CONTRACT

1.1 No Contract will come into existence between You and the Company until You have been notified by the Company that Your order has been accepted and the Service Provider has agreed to provide that element of the services which it is to provide under the terms of the Contract.

1.2 The Contract between You and the Company will be subject to and consist of:

- 1.2.1 these Terms and Conditions;
- 1.2.2 any conditions imposed and noted on the Order Form;
- 1.2.3 the terms and conditions of the Service Provider; and
- 1.2.4 any Specific Conditions.

1.3 The Contract constitutes the entire contract between You and the Company and may only be varied in writing signed by both You and by an authorised representative of the Company.

1.4 Each request for the supply of Services will be deemed a separate Contract even if it is made on the same Order Form as other such requests and a delay or failure to supply a particular Service will not entitle You to terminate (if such entitlement exists) any other Contract for the supply of Services or any other Contract entered into pursuant to the same Order Form.

1.5 A requirement in the Contract for You to carry out or not to carry out any action will be deemed to be a requirement that You take all reasonable steps to ensure that the End User carries out or does not carry out such an action.

1.6 The Contract will not be effective if the Company is unable to supply a particular device.

2. THE SERVICE

2.1 The Company will supply the Equipment and will arrange to connect You to the System subject to the

Terms and Conditions and will use its best endeavours to ensure that the Services are available to You at all times during the Term.

2.2 You accept and acknowledge that the Services depend upon:

- 2.2.1 the availability of Systems;
- 2.2.2 Your geographical location;
- 2.2.3 physical features, atmospheric conditions and electronic interference; and
- 2.2.4 other issues beyond the control of the Company,

and You accept that the Service and the Systems may fail from time to time and that such failure will give rise to no cause of action against the Company.

2.3. You accept that the terms and conditions of the Service Provider which were provided to You prior to the date of the Contract:

- 2.3.1 apply to Your use of the Service and the manner in which it is provided; and
- 2.3.2 specify how minimum service levels will be upheld

2.4 You acknowledge that the Company has the right at any time to change the Service Provider and the Company will, if possible and reasonable in all the circumstances, give You 14 days' notice of such change and that, if you fail to accept the terms and conditions of any such replacement Service Provider we may terminate the Contract as if such failure constituted a material breach of these Terms and Conditions.

2.5 If You use the Services outside the United Kingdom, the following provisions apply:

- 2.5.1 You must pay and discharge any additional charges which accrue when using the Services outside the United Kingdom.
- 2.5.2 You accept that Service Providers outside the United Kingdom may place Bars on Your usage

- of the System and/or other conditions as to its use.
- 2.5.3 The Company will not, unless it has agreed in writing prior to Your use of the Service outside the United Kingdom, place any Bar on any call types or service usage and You accept that You may incur call, data and data roaming charges which may be excessive and over which the Company has no control and which may be charged in units or on a basis which is different from the charges which apply to Your use of the Service in the United Kingdom.
- 2.5.4 Charges which may be included in Your use of the Service within the United Kingdom may not be available to You for calls made and Services used outside the United Kingdom.
- 2.5.5 There may be a delay of up to 6 months in call and other Charges for Services used outside the United Kingdom being debited from Your account.
- 2.5.6 The Company has no control over and therefore no responsibility for services You use through the Service outside the United Kingdom.

3. YOUR OBLIGATIONS

3.1 You warrant and agree:

- 3.1.1 that You are entering into this Contract for the purposes of Your business and not as a consumer;
- 3.1.2 that the information which You have provided to the Company on the Order Form and elsewhere is complete and accurate in all respects and that, where You supply to the Company any drawings, descriptions, sketches and/or any written material of any nature, You have the absolute and unfettered right to use such items without the consent of any third party and that they are complete and accurate;
- 3.1.3 that Your use of the System does not and will not be for an illegal, immoral or improper use of any nature in any jurisdiction;
- 3.1.4 that Your use of the Equipment will be in accordance with the requirements and recommendations of the Company and of the manufacturer of the Equipment;
- 3.1.5 that Your use of the Equipment will accord with all recommendations and reasonable instructions provided from time to time by the Company and only for the purpose which You have agreed in advance with the Company;
- 3.1.6 not to use the System, the Equipment or anything attached or connected to either of them in such a manner as to damage or interfere in any way with the interests of the Company in the System or the services which the System offers;
- 3.1.7 not at any time to use any unlawful or unauthorised SIM gateways, nor to reverse charges or permit any third party to reverse charges when using the System;

- 3.1.8 not at any time to sell or resell or distribute or redistribute the Services or to use the System for such activities;
- 3.1.9 to notify the Company as soon as You become aware that the System or the Services are being used in a manner which would constitute a breach of any of the Terms and Conditions;
- 3.1.10 that You will carry out all maintenance and other measures required from time to time by the Company and will operate the Equipment only in an environment which complies with the recommendations of the manufacturer or which has been advised by the Company;
- 3.1.11 that You will notify the Company of any change in Your trading address, registered office or the details of the bank from which You make payments to the Company and of any other information which You have provided to the Company at any time;
- 3.1.12 not at any time to copy, reverse engineer, decompile, modify or in any other way interfere with the Software or any manuals or documents associated with it; and
- 3.1.13 that, when called upon to do so by the Company, You will change passwords, user names and/or PINs as quickly as is reasonably possible.

3.2 Loss and/or Theft

- 3.2.1 You will notify the Company as soon as is reasonable possible of the loss or theft of the Equipment and/or of any unauthorised use of the System using the Services.
- 3.2.2 You agree and accept that until the Company has been notified by You of the matters referred to in sub-Clause 3.2.1, You will continue to be responsible for all Charges which accrue to Your Account.
- 3.3 You agree that the Company may act on the instruction of anyone acting or purporting to act on Your behalf unless You have advised the Company in writing not to accept an instruction from a specified person.
- 3.4 You agree at all times to comply with the General Conditions and any Relevant Laws which govern the use of the System or the Services.

4. TERM

- 4.1 The Contract will commence on the date on which Your order has been accepted by the Company and will continue for the Term or for as long as You continue to receive Services from the Company pursuant to the Contract, whichever will be the longer.
- 4.2 At the end of the Term the Contract will continue (unless terminated under any provision of the Contract) for an indefinite period which can be brought to an end by either Party giving to the other not less than 90 days' written notice.

5. CHARGES

- 5.1 Unless otherwise agreed in writing by the Parties, the Tariff will be the minimum tariff payable by You during the subsistence of the Contract.
- 5.2 You will pay all Charges on or before the Payment Date using the payment method agreed by You on the

Order Form or specified by the Company by notice in writing.

5.3 You acknowledge and agree that the Tariff and the cost of the Equipment may have been reduced or subsidised by the Company based upon the anticipated use You indicated to the Company before or at the time the Order Form was completed and that:

- 5.3.1 if the Contract is terminated for any reason before the expiry of the Term; or
- 5.3.2 if You default in making payment to the Company of any sums due under the Contract by the due date; or
- 5.3.3 You fail to achieve the anticipated use referred to above,

then, and in any such case, the Company may claim from You the full unsubsidised cost of the Services at the level of the anticipated use for the duration of the Term and the full cost of all and any Equipment it has provided pursuant to the Contract.

5.4 The Company may apply a fee of at least £20 plus VAT as liquidated damages to cover the administrative costs associated with the non-payment (for any reason) by You of all and any payment due under the Contract on each occasion of such non-payment.

5.5 If any payment due under the Contract is not made on the Payment Date You will pay to the Company, in addition to such payment:

- 5.5.1 interest at the rate of 6% above the base rate for the time being of Barclays Bank PLC from the Payment Date until the actual date of payment and whether before or after any judgment; and
- 5.5.2 the reasonable fees and expenses incurred by the Company in pursuing payment of all sums due to it under this Contract including the costs charged by any debt collection agent, all legal fees incurred by the Company (on a solicitor and own client basis) and all other costs and expenses to which the Company is put in its attempts to recover such payment.

5.6 You acknowledge and agree that if any payment due under the Contract is not made by the Payment Date the Company may report such default to such credit reference agencies as it chooses.

5.7 All Charges and payments under the Contract are subject, where appropriate, to VAT.

5.8 If You are identified on the Order Form as a Small Business Customer and the Company has omitted to provide or delayed in providing an invoice for the Services, such invoice will remain due and payable if such invoice is for Services provided in the period not more than 4 months from the date of such invoice and the Company provides the next invoice no more than 3 months from the date of the previous invoice.

5.9 You agree that the Company may pass to any credit reference agency or to any Service Provider Your Personal Data for the purposes only of assessing Your suitability for receiving the Services and for setting any limits on the credit You are allowed by the Company.

5.10 If You wish to dispute any invoice supplied by the Company, You will provide the Company with comprehensive details of the nature of the dispute within

14 days from the date of such invoice and will pay to the Company:

- 5.10.1 the full amount of the invoice if less than 5% of the value of that invoice, net of VAT, is disputed; or
- 5.10.2 the full amount of the invoice less the disputed sum net of VAT if 5% or more of the value of that invoice, net of VAT, is disputed.

6. SOFTWARE AND EQUIPMENT

6.1 The Company hereby grants to You a non-exclusive and non-transferable licence to use the Software but only for the purposes anticipated by this Contract and only to enable You to use the Service.

6.2 If required by the Company, You will execute an end user licence agreement containing terms which are reasonably specified by the owner of the Software to protect the intellectual property and other rights of such owner.

6.3 You agree that risk in the Equipment passes to You on delivery to You or to the address You have specified on the Order Form.

6.4 Notwithstanding Clause 6.3, ownership in the Equipment will not vest in You until all sums due to the Company pursuant to the Contract have been paid in full to the Company.

6.5 Until ownership of the Equipment passes to You, You will:

- 6.5.1 hold the Equipment safe, secure, fully and properly repaired and maintained in accordance with the instructions provided by the manufacturer and (where required to do so) at all times in good working order and ensure that the Equipment operates the latest version of the operating system and software required for its use;
- 6.5.2 hold the Equipment on trust for the Company, free from any charge or similar encumbrance and in a state which clearly shows that it is the property of the Company;
- 6.5.3 not destroy, deface or remove any identifying mark placed on the Equipment by the manufacturer or the Company;
- 6.5.4 maintain a fully comprehensive policy of insurance covering all risks in relation to the loss, theft or damage of the Equipment and provide a copy of such policy, free of charge, to the Company on demand;
- 6.5.5 if You have committed any breach of these Terms and Conditions or on termination of the Contract for whatever reason on demand by the Company, immediately return the Equipment to the Company in the state required by this Clause 6.5 and with all original packaging;
- 6.5.6 in the event that for any reason You are not able to return the Equipment to the Company fully in accordance with the provisions of this Clause 6.5, pay the Company the full retail price of the Equipment as advised by the Company; and

6.5.7 not sell or attempt to sell the Equipment or any part thereof nor any SIM Card which is used in the provision of the Services.

6.6 You grant to the Company an irrevocable licence to enter the premises owned, occupied or controlled by You and at which the Equipment is stored for the purpose of recovering the Equipment should You fail to return it pursuant to a proper demand made under the Contract.

6.7 You acknowledge that all and any SIM Cards supplied to You pursuant to the Contract remain the property of the Service Provider and that:

6.7.1 they must be returned to the Company or the Service Provider immediately on demand; and

6.7.2 the Company may charge a fee of at least £30 plus VAT for each SIM Card that is not returned on demand.

6.8 If the Equipment develops a fault during the period of 12 months commencing on the date upon which it was delivered, the Company will, at its sole option and without cost to You, replace the Equipment or return it to the manufacturer for repair subject to the following conditions:

6.8.1 the fault must be due to a manufacturing defect, parts defect or a defect in design; and

6.8.2 You must notify the Company within 3 days of the fault developing.

6.9 The Company will arrange the repair or replacement of any Equipment which fails after the period of 12 months, subject to payment by You of the full costs of repair and of the administration associated therewith.

7. TERMINATION AND SUSPENSION

7.1 The Company may terminate the Contract at any time and without reason by giving to You at least 30 days' notice in writing whereupon the Contract and the Services provided under it will cease and determine.

7.2 Either Party may terminate the Contract immediately by notice in writing if:

7.2.1 the other Party commits any material breach of its obligations under the Contract and fails to remedy such breach within 14 days of being given notice to do so;

7.2.2 an encumbrancer takes possession, or where the other Party is a company, a receiver is appointed, of any of the property or assets of that other Party;

7.2.3 the other Party makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);

7.2.4 the other Party, being an individual or firm, has a bankruptcy order made against it or, being a company, goes into liquidation (except for the purposes of bona fide amalgamation or reconstruction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other Party under the Contract);

7.2.5 anything analogous to any of the foregoing under the law of any jurisdiction occurs in

relation to the other Party;

7.2.6 that other Party ceases, or threatens to cease, to carry on business; or

7.2.7 control of that other Party is acquired by any person or connected persons not having control of that other Party on the date of the Contract.

7.3 For the purposes of this Clause 7, "control" and "connected persons" will have the meanings ascribed thereto by Sections 1124 and 1122 respectively of the Corporation Tax Act 2010.

7.4 For the purposes of sub-Clause 7.2.1, a breach will be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.

7.5 The Company may (in its sole discretion and either in addition to or in substitution for all other rights referred to in this Clause 7) suspend the Service without any liability to You:

7.5.1 if You fail to make any payments due by the Payment Date; or

7.5.2 if the right to terminate the Contract arises under any provision of the Contract; or

7.5.3 if You carry out any action which, in the reasonable opinion of the Company, would or might jeopardise the safe and secure operation of the Service; or

7.5.4 if, in the sole discretion of the Company, Your use of the Service demonstrates activity which suggests that You are abusing or misusing the System including (but not by way of limitation) activities which suggest low or excessive usage, unusual calling patterns and a disproportionate number of incoming calls; or

7.5.5 if the Company is required by a competent authority or by law to suspend or terminate the Service or any part of it or if, for any reason, the Company is unable to provide the Service; or

7.5.6 if You exceed any credit or call limits referred to on the Order Form; or

7.5.6 if the Company has reason to believe that You or anyone under Your control has committed any action which could compromise the security of the Service or of the System; or

7.5.7 if the Company, for any reason beyond its control, is unable to offer the Services; or

7.5.7 the Charges which have accrued on Your Account exceed the limit which the Company has placed on the credit available to You at any time and You accept and agree that such limit is a matter for the Company to set in its sole discretion.

7.6 Should the Company exercise its right to suspend the Service, You will pay to the Company, before the Service is restored by the Company, all reasonable costs and Charges imposed by the Company as a result of lifting such suspension.

7.7 The rights to terminate or suspend the Contract given by this Clause 7 will not prejudice any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

8. EFFECTS OF TERMINATION

Upon the termination of the Contract for any reason:

8.1 any sum owing by either Party to the other under any of the provisions of the Contract will become immediately due and payable;

8.2 You will immediately return to the Company the Equipment, in the state and condition required by the Contract;

8.3 all Clauses which, either expressly or by their nature, relate to the period after the expiry or termination of the Contract will remain in full force and effect;

8.4 termination will not affect or prejudice any right to damages or other remedy which the terminating Party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which any Party may have in respect of any breach of the Contract which existed at or before the date of termination;

8.5 You will have no right to claim a refund of any monthly Service fee or part thereof if the Contract is terminated before the end of the month in which that Service is being provided;

8.6 You accept that the Company may make reasonable Charges for providing information and assistance to any other service provider to whom You transfer the Services provided under the Contract and a reasonable charge for porting your number or other identifier to another service provider; and

8.7 subject as provided in this Clause 8 and except in respect of any accrued rights, neither Party will be under any further obligation to the other.

9. CALL MONITORING

The Company may monitor all and any calls made between You and the Company for training and such other purposes as the Company shall reasonably decide and You agree to notify all persons who You authorise to contact the Company of the existence of this provision.

10. CONFIDENTIALITY AND DATA

10.1 Each Party undertakes that, except as provided by Clause 10.2 or as authorised in writing by the other Party, it will, at all times during the continuance of the Contract and after its termination:

10.1.1 keep confidential all Confidential Information;

10.1.2 not disclose any Confidential Information to any other party;

10.1.3 not use any Confidential Information for any purpose other than as contemplated by and subject to the terms of this Contract;

10.1.4 not make any copies of, record in any way or part with possession of any Confidential Information; and

10.1.5 ensure that none of its directors, officers, employees, agents, sub-contractors or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-Clauses 10.1.1 to 10.1.4 above.

10.2 Either Party may:

10.2.1 disclose any Confidential Information to:

10.2.1.1 any sub-contractor or supplier of that Party;

10.2.1.2 any governmental or other authority or regulatory body; or

10.2.1.3 any employee or officer of that Party or of any of the aforementioned persons, parties or

bodies,

to such extent only as is necessary for the purposes contemplated by this Contract, or as required by law. In each case that Party will first inform the person, party or body in question that the Confidential Information is confidential and (except where the disclosure is to any such body under sub-Clause 10.2.1.2 or any employee or officer of any such body) obtaining and submitting to the other Party a written confidentiality undertaking from the party in question. Such undertaking should be as nearly as practicable in the terms of this Clause 10, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made; and

10.2.2 use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of this Contract, or at any time after that date becomes, public knowledge through no fault of that Party. In making such use or disclosure, that Party must not disclose any part of the Confidential Information which is not public knowledge.

10.3 The provisions of this Clause 10 will continue in force in accordance with their terms, notwithstanding the termination of this Contract for any reason.

10.4 You acknowledge and agree that the Company may use and/or transfer (within and beyond the European Economic Area) Personal Data and/or Confidential Information obtained from You pursuant to Your order and Your use of the Services for the following purposes:

10.4.1 the administration of Your Account (including, but not by way of limitation, liaising with any Service Providers and sharing the data with members of the Company's Group);

10.4.2 notifying You of changes to the Service;

10.4.3 to enable the Company to provide the Services it offers pursuant to the Contract; and

10.4.4 to invoice You.

10.5 The Company will not pass Personal Data obtained from You to any third parties for marketing purposes but may send You information about the Company's (or any member of its Group) own products and services which it considers may be of interest to You, unless You specifically ask the Company not to do so.

10.6 The Company will supply, on receipt of a written demand, details of the credit reference or the fraud prevention agencies used by the Company to obtain information about You and copies of the information the Company holds about You. The Company may charge a reasonable administration fee for providing such information.

10.7 You warrant, undertake and agree that You will procure from Your employees and other personnel such consents for the use of Personal Data as may be necessary to enable the Company to use such data for the purposes described in this Clause 10.

11. ANTI-BRIBERY

11.1 You will ensure that Your officers, employees, agents and any other persons who perform the services for and on behalf of it in connection with the Contract shall:

- 11.1.1 comply with all applicable Anti-Bribery Laws and not cause the Company to breach any Anti-Bribery Laws;
- 11.1.2 not offer, promise, give, request, agree to receive, receive or accept a bribe or financial or other advantage or commit any corrupt act; and
- 11.1.3 comply with the Company's Ethics and Anti-Bribery Policy (available on demand from the Company) as the Company may update from time to time.

12. FORCE MAJEURE

12.1 No Party to the Contract will be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

12.2 If for any reason the Company is unable to provide the Services for a continuous period of 3 days or more due to a technical failure (which for the purposes of this Clause will include power failure, System improvement, repair, modification or otherwise) and the Service Provider offers the Company a similar benefit, the Company will allow You a credit representing one half of the line rental for each full day that the Services were not available.

13. CHANGES TO THESE CONDITIONS AND THE CONTRACT AND CONFLICT

13.1 The Company may change these Terms and Conditions and/or any Service Specific Conditions at any time subject to the following provisions.

13.2 If the Company wishes to change these Terms and Conditions and/or any Specific Conditions it will publish any such changes on its website www.swiftcomm.co.uk or at such other address as it notifies to You from time to time:

- 13.2.1 for any terms which may have a material adverse effect on You, at least 30 days before such change is due to take effect; and
- 13.2.2 for all other changes, at least one day before such change is due to take effect.

13.3 If You wish to object to any proposed change notified under sub-Clause 13.2.1 You must notify the Company in writing at least 21 days before such change is due to take effect, failing which, You will be deemed to have accepted such change.

13.4 For the avoidance of doubt, the service by the Company of any notice in accordance with sub-Clause 13.2.1 shall not constitute either acceptance of or an admission by the Company that any proposed change is of material detriment to You, nor shall the service of notice by You under Clause 13.3 constitute or be deemed

to constitute evidence that the relevant change is of material detriment to You.

- 13.5.1 If there is a conflict between these Terms and Conditions and the Order Form, the Order Form will prevail.
- 13.5.2 If there is a conflict between these Terms and Conditions and any Specific Conditions, the Specific Conditions will prevail.

14. SECURITY

14.1 You acknowledge that access to the Service and the System involves the use of user names, passwords and PINs and that You may be offered other devices to ensure Your security and safety. You accept that the Company will have no liability if You do not keep such devices properly and fully controlled (and where necessary changed) at all times and if You fail to notify the Company if any breach of that control occurs.

14.2 You accept and acknowledge that:

- 14.2.1 the Company cannot provide a guarantee that the Services or the System can be secure at all times and that they will not be subject to internal or external threats which may affect the security of Your information and You agree to take such steps as are reasonably necessary to protect information which You access using the Services or the System; and
- 14.2.2 the Company has no control over the manner in which You configure or operate the Equipment and/or use the Service and any features it or they offer.

15. LIABILITY AND INSURANCE

15.1 The Company will indemnify You for personal injury or death caused by the negligence of its employees in connection with the performance of their duties under this Contract or by defects in the Services it supplies.

15.2 The Company will indemnify You for direct damage to tangible property caused by the negligence of its employees in connection with the performance of their duties under this Contract or by defects in the Services. The Company's total liability under this Clause will be limited to £500 for any one event or series of connected events.

15.3 Save in respect of claims for death or personal injury arising from the Company's negligence, in no event will the Company be liable for any damages resulting from loss of data or use, lost profits, loss of anticipated savings, or for any damages that are an indirect or secondary consequence of any act or omission of the Company, its servants, agents or employees whether such damages were reasonably foreseeable or actually foreseen.

15.4 Except as provided above in the case of personal injury, death and damage to tangible property, the Company's maximum liability to You under this Contract or otherwise for any cause whatsoever (whether in the form of the additional cost of remedial services or otherwise) will be for direct costs and damages only and will be limited to the greater of:

- 15.4.1 the sum for which the Company carries product liability insurance cover (if any); or
- 15.4.2 a sum equivalent to the price paid to the Company by You for the Service that is the

subject of Your claim, plus damages limited to 50% of the same amount for any additional costs directly, reasonably and necessarily incurred by You in obtaining alternative products and/or services.

15.5 The SIM Card will, at all times, remain the property of the Service Provider and the services supplied under this Contract are supplied only to You and not to any third party and this Contract does not entitle You to sell goods or services on behalf of the Service Provider nor to claim any loss of agency rights or loss of goodwill if this Contract is terminated.

15.6 The Parties acknowledge and agree that the limitations contained in this Clause 15 are reasonable in the light of all the circumstances.

16. NO WAIVER

No failure or delay by either Party in exercising any of its rights under the Contract will be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Contract will be deemed to be a waiver of any subsequent breach of the same or any other provision.

17. SET-OFF

Neither Party will be entitled to set-off any sums in any manner from payments due or sums received in respect of any claim under the Contract or any other agreement at any time.

18. ASSIGNMENT AND SUB-CONTRACTING

18.1 Subject to Clause 18.2 the Contract is personal to the Parties. Neither Party may assign, mortgage, charge, sub-license or otherwise delegate any of its rights hereunder, or sub-contract or otherwise delegate any of its obligations hereunder without the written consent of the other Party, such consent not to be unreasonably withheld.

18.2 The Company will be entitled to perform any of the obligations undertaken by it through any other member of its Group or through suitably qualified and skilled sub-contractors. Any act or omission of such other member or sub-contractor will, for the purposes of the Contract, be deemed to be an act or omission of the Company.

19. RELATIONSHIP OF THE PARTIES

Nothing in the Contract will constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in the Contract.

20. NON-SOLICITATION

You will not, for the Term and for a period of 12 months after its termination or expiry, employ or contract the services of any person who is or was employed or otherwise engaged by the Company at any time in relation to the Services provided under the Contract.

21. THIRD PARTY RIGHTS

21.1 No part of the Contract is intended to confer rights on any third parties and accordingly the Contracts (Rights

of Third Parties) Act 1999 will not apply to the Contract.

21.2 The Contract will continue and be binding on the transferees, successors and assigns of either Party as required.

22. NOTICES

22.1 All notices under the Contract will be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.

22.2 Notices will be deemed to have been duly given:

22.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or

22.2.2 when sent, if transmitted by facsimile or e-mail and a successful transmission report or return receipt is generated; or

22.2.3 on the fifth Business Day following mailing, if mailed by national ordinary mail, postage prepaid.

In each case notices will be addressed to the most recent address, e-mail address or facsimile number notified to the other Party.

23. ENTIRE AGREEMENT

23.1 The Contract contains the entire agreement between the Parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.

23.2 Each Party acknowledges that, in agreeing the Contract, it does not rely on any representation, warranty or other provision except as expressly provided in the Contract, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

23.3 All savings and estimates, illustrations, samples or descriptive materials provided by the Company will, in all respects, be treated as approximations unless the Company has accepted otherwise in writing.

24. SEVERANCE

In the event that one or more of the provisions of the Contract is found to be unlawful, invalid or otherwise unenforceable, that/those provision(s) will be deemed severed from the remainder of the Contract. The remainder of the Contract will be valid and enforceable.

25. DISPUTES AND COMPLAINTS

25.1 If you have cause to dispute or complain about the services or products offered by the Company You should address such matters to the Company as soon as you become aware of them by email to:

info@swiftcomm.co.uk.

25.2 The Company will respond to any such email within 1 Business Day of receiving it and will provide a substantive response to the issue raised within 5 Business Days.

25.3 You agree to respond to any request for further information required by the Company to address the issue within 3 Working Days of such request.

25.4 If the response of the Company does not provide a satisfactory conclusion then You may invoke the Dispute and Complaint Handling Policy by giving the Company notice by email that You wish to do so and the Company will invoke such Policy within 3 days of such request.

25.5 The Company may invoke the Dispute and Complaint Handling Policy at any time after it has received notice of a dispute or complaint from You even if it has not provided the substantive response referred to in Clause 25.2

26. LAW AND JURISDICTION

26.1 The Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) will be governed by, and construed in accordance with, the laws of England and Wales.

26.2 Any dispute, controversy, proceedings or claim between the Parties relating to the Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) will fall within the jurisdiction of the courts of England and Wales.

27. DEFINITIONS

In these Terms and Conditions, the words and phrases contained in the Appendix will have the meanings ascribed to them therein.

THE APPENDIX

“**Account**” means the account which the Company creates to record details of Your use of the System and the Services.

“**Anti-Bribery Laws**” means the Bribery Act and any and all statutes, statutory instruments, byelaws, orders, directives, treaties, decrees and laws which relate to the elimination of bribery and/or Corruption.

“**Bribery Act**” means the Bribery Act 2010.

“**Bar**” means the act of barring You from using certain services on the Equipment.

“**Business Day**” means any and all days between Monday and Friday in any week but excluding English bank holidays or public holidays.

“**Charges**” means the charges payable by You for the Equipment and Services at the rates set out in the Tariff, including but not limited to any call charge, access charge, connection charge, minimum charge, value added service charge and/or early termination charge.

“**Confidential Information**” means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with the

Contract (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such).

“**Company**” means Swift Communications Ltd, a company registered in England and Wales under company number 09950233 and whose registered office is at 22 Brookside Industrial Estate, Sawtry, Huntingdon PE28 5SB.

“**Contract**” means the agreement between You and the Company for the provision of the Services incorporating these Terms and Conditions, the Order Form, any Specific Conditions and/or Promotional Terms and any other document incorporated by reference in the Contract.

“**Dispute and Complaint Handling Policy**” means the policy for handling disputes and complaints published by the Company on the site www.swiftcomm.co.uk as amended from time to time.

“**End User**” means a user of the Services.

“**Equipment**” means a device and SIM Card connected to the System and/or any accessories and/or equipment supplied with it or them.

“**General Conditions**” means the general conditions of entitlement set by OFCOM, in accordance with section 45 of the Communications Act 2003, as may be amended, modified or replaced from time to time.

“**Group**” means together a person, its Parent Undertakings, its Subsidiary Undertakings and the Subsidiary Undertakings of any of its Parent Undertakings from time to time.

“**OFCOM**” means the Office of Communications and/or any successor body.

“**Order Form**” means the form to which these Terms and Conditions are attached or which is expressed to be subject to these Terms and Conditions and which sets out the detail of the order You have made from the Company.

“**Parent Undertaking**” has the meaning given to it in section 1162 of the Companies Act 2006.

“**Party**” means the Company or You, and “**Parties**” shall refer to both of them.

“**Payment Date**” means the date determined by the Company on which the Company's invoices fall due for payment.

“**Personal Data**” has the meaning given to it in the Data Protection Act 1998.

“**Promotional Terms**” means any additional terms which are to apply in relation to the Charges payable by You under the Contract (for any particular goods or Services to be provided thereunder) and which may be specified on the Order Form and/or notified by the Company in writing to You in relation to the relevant goods and/or Services, at the time the relevant Order Form was submitted.

“**Relevant Laws**” means any statute, regulation, byelaw, ordinance or subordinate legislation which is in force for the time being to which a Party is subject; the common law as applicable to the Parties (or any one of them); any binding court order, judgment or decree applicable to the Parties (or any one of them); and any applicable industry code, policy, guidance, standard or accreditation terms (i) enforceable by law which is in force for the time being, and/or (ii) stipulated by any regulatory authority to which a Party is subject, in each case, for the time being.

“Service/s” means the provision of airtime, SMS, MMS and/or data, together with any other Services identified in the Contract, by means of the Systems offered by the Company.

“Service Provider” means any mobile network operator.

“SIM Card” means a module which contains Your information and which, when used with the Equipment, enables access to the Services.

“Small Business Customer” means a customer who has been identified on the Order Form as being a customer who: (i) is not a communications provider; and (ii) has 10 or fewer workers (whether as employees or volunteers or otherwise).

“Specific Conditions” means any additional terms and conditions which are to apply to the Contract as specified on the Order Form or these Terms and Conditions in respect of specific Services.

“Software” means software provided by the Company to You to enable You to use the Services.

“Subsidiary Undertaking” has the meaning given to it in section 1162 of the Companies Act 2006.

“System” means the public telecommunications systems that the Company makes available to You.

“Tariff” means the Company’s tariff for each of the Services which is provided to You and/or set out at www.swiftcomm.co.uk or at such other web address as is notified to You by the Company from time to time and/or used by the Company to calculate the Charges.

“You/Your” means the person, firm or company specified on the Order Form as the principal entity taking the Services from the Company and any other person appearing to act within that person’s, firm’s or company’s authority and includes where relevant Your permitted assigns.