

1. INTERPRETATION

- 1.1 **CALL CHARGE:** predetermined charge unit of time, rates set out in the tariff sheets published by Modulation Telecom Limited from time to time. The initial call charges are those set out in the Agreement overleaf. **CONNECTION & DATE:** connection of the mobile phone, SIM Card or eSIM to the Network and date connected. **CREDIT:** means a monthly financial limit applied for charges incurred under the agreement. **DATA CHARGE:** the pre-determined charge per megabyte of data costed at the rates set out in the tariff sheets. **INVOICE DATE:** the same date as appears on the invoice raised. **COMPANY & BUSINESS:** Means Modulation Telecom Limited, doing business as Modutel, a Limited Company incorporated and registered in England and Wales with company number 11872942 whose registered office is at Avenue HQ, 10-12 East Parade, Leeds, LS1 2BH: any company of which the Company is a Subsidiary (its holding company) and any other Subsidiaries of any such holding company. **SUBSIDIARY:** in relation to a company wherever incorporated (a holding company) means a “subsidiary” as defined in section 1159 of the Companies Act 2006 and any other company which is a subsidiary (as so defined) of a company which is itself a subsidiary of such holding company. **MONTHLY CHARGE:** means the relevant sum for access to the Network and provision of Services as provided in the Agreement under Service Information or any additional Services requested. **NETWORK:** means any telecommunications network available from the Company. **SERVICES:** means the telecommunications services provided by means of the Network. **SIM CARD:** means the “Subscriber Identity Module” which is a unique card containing information and when used with a mobile phone, enables access to the Services. **ESIM:** means the “Embedded Subscriber Identity Module” which is a unique microchip containing information and when used with a mobile phone, enables access to the Services. **SUBSCRIBER:** means the Customer named overleaf. **DEBT COLLECTOR:** means any Debt Collection Company the Business may appoint.

2. CONNECTION TO THE NETWORK AND PROVISION OF THE SERVICE

- 2.1 Subject to the Agreement and these Terms and Conditions the Company will connect and maintain the Connection of the mobile phone, SIM Card or eSIM to the Network and the Company will use its reasonable endeavours to make the Services available to the Subscriber throughout the Term (as specified in clause 4 below). A £20.00 Connection Fee may be applied per connection on the SIM Card or eSIM connection date. If this is not applied at the connection date and the contract is terminated under Clause 8.1, then the Connection Fee may be applied retrospectively.
- 2.2 The mobile phone number remains the exclusive property of the Company, until the end of the Minimum Contract Term as stated in the Agreement.
- 2.3 The Subscriber acknowledges that the Company charges calls to certain businesses (principally access call service providers which have been notified to it) at a premium rate or bars calls to such numbers. The Subscriber acknowledges this and agrees to it.

3. PAYMENT

- 3.1 Payment is due Seven (7) days from the invoice date by Direct Debit, unless otherwise specified overleaf.
- 3.2 All charges must be paid in full without deduction, set off or withholding.
- 3.3 The Subscriber will be asked to pay the Monthly Charge in advance, dependent upon the particular tariff rate, this may be one or two months Monthly Charge. Call charges will be paid one month in arrears.

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- 3.4 Ordinarily, the Company will invoice on a monthly basis, where possible on the same date each month. The Company reserves the right to amend the date and frequency of the invoices and to submit interim invoices if it so chooses. All invoices will be submitted via email.
- 3.5 Value Added Tax is payable on all charges levied by the Company unless otherwise specified.
- 3.6 The Company reserves the right to withhold or withdraw discounts on any invoices that remain unpaid.
- 3.7 During the Term the Company may ask for an upfront payment as security for payment in respect of additional Services to be provided.
- 3.8 The Company reserves the right to review the Credit Limit applicable to the Agreement and if the total charges under the Agreement exceed the Credit Limit the Company shall be entitled to demand immediate repayment of whole or part of the total charges outstanding.
- 3.9 If the Subscriber fails to pay any part of the aforesaid charges in accordance with these Terms and Conditions, the Company reserves the right to charge interest at the rate of 8% above the base rate of the Bank of England from time to time calculated from the invoice date until the date of actual payment.
- 3.10 The Company reserves the right to vary payment terms in the event of the Subscriber failing to pay any Charges in accordance with these Terms and Conditions or the Company having concerns about the Subscriber's financial situation and their ability to pay the Charges.
- 3.11 The Subscriber shall indemnify the Company, and keep the Company indemnified, fully from and against all liability, loss, damage, costs and expenses of any kind whatsoever arising from or in connection with any charges due to the Company, or the Network Provider direct from the Subscriber for the supply of Services including (but without limitation) connection charges, monthly access charges, call charges and all other valid charges rendered from time to time.

4. TERM

- 4.1 Each mobile phone number connected shall have the Minimum Term as stated in the Agreement.
- 4.2 The Agreement shall commence on the date of supply of the mobile phone Services and shall continue thereafter unless suspended or terminated:-
- 4.2.1 At any time by the Company giving notice under Clause 7 (suspension) and Clause 8 (termination)
- 4.2.2 By the Subscriber giving not less than thirty (30) days prior written notice to the Company following the minimum Agreed Term (24 months from commencement date). This notice must coincide with the anniversary of the commencement date or any subsequent anniversary thereof, such notice to be sent to the Company's place of business via Recorded Delivery.
- 4.2.3 At any time that the subscriber requests to be moved to another airtime provider (Network) they will automatically enter into a new 24-month term with the Company and said provider from the date the service with the new airtime provider commences.

5. WARRANTIES AND LIABILITIES

- 5.1 Except as expressly provided in these Terms and Conditions all warranties, conditions or other terms (whether expressed or implied by statute or common law or otherwise) as to the quality of the Services or their fitness for any particular purpose are hereby excluded to the fullest extent permitted by law.
- 5.2 The Company shall not be liable for any indirect or consequential costs, claims damages or expenses arising out of any negligent or tortuous act or omission or any breach of contract or statutory duty.
- 5.3 The Company shall not be liable or be deemed to be in breach of its obligations by reason of any delay in performing or failure to perform any of its obligations if the delay or failure was due to any cause beyond the reasonable control of the Company.
- 5.4 The Subscriber agrees that it shall be solely liable for and, if so required, indemnify the Company for any costs of or occasioned by any interference with and/or usurpation of and/or unauthorised access to the calls (whether incoming or outgoing) provided by the Network by any third party whether such interference or usurpation is a part of a fraud, attempted fraud or any course of action with fraudulent intent or otherwise. The Subscriber further agrees that it will pay any sum demanded in writing by the Company under this clause 5.4 forthwith to the Company.

6. USE OF THE SERVICES VIA THE MOBILE PHONE, SIM CARD OR ESIM

- 6.1 The Subscriber should be aware that the current statutory provisions relating to wireless telegraphy and telecommunications services apply to the use of the Services via the mobile phone, SIM Card or eSIM and in addition the Subscriber must:
- 6.1.1 generally observe the Wireless Telegraphy Acts 1949 to 1967, the Telegraphy Act 1984, other relevant legislation, statutory instruments, and comply with any directions made by the Director General of the Office of Telecommunications or the Secretary of State;
- 6.1.2 not use or allow others to use the Services for any improper immoral or unlawful purpose;
- 6.1.3 not act or omit to act in any way which may injure or damage any persons property or the Network or howsoever cause the quality of the Services to be impaired;
- 6.1.4 comply with any reasonable instructions issued by the Company which concern the Subscriber's use of the Services or mobile phone, SIM Card or eSIM;
- 6.1.5 provide the Company with all such necessary information that the Company may reasonably require;
- 6.1.6 only use the mobile phone, SIM Card or eSIM supplied under the agreement which is approved for use with the Network.
- 6.2 The Subscriber should recognise that the Services may from time to time be adversely affected by local geography, topography and/or atmospheric conditions and/or other causes of interference.

6.3 The Subscriber acknowledges that Roaming Services are provided using third party networks and that the availability and performance of such Roaming Services is outside of the Company's control. The Company shall have no liability whatsoever to the Subscriber whether in contract, tort or otherwise (including negligence) arising out of or in connection with the use of the Roaming Services.

7. SUSPENSION

7.1 The Company may from time to time and without notice suspend the Services (and at the Company's discretion, disconnect the mobile phone, SIM Card or eSIM from the Network) and any other services provided to the Subscriber by the Company or member of the Company Group ("Other Services") in any of the following circumstances without prejudice to the liability of the Subscriber to continue to pay the Minimum Charge:

7.1.1 if the Subscriber fails to comply with any of these terms and conditions (including but not limited to failure to pay any charges when due) until the failure to comply is remedied to the Company's satisfaction;

7.1.2 if the Credit Limit for this Agreement is exceeded;

7.1.3 if the Subscriber allows to be done anything which in the Company's opinion may have the effect of jeopardising the operation of the Services;

7.1.4 if the Subscriber fails to pay the Company any sum or sums due, and/or any suppliers or fitter in respect of the cost of supply and/or fitting of the mobile phone, SIM Card, eSIM or any part thereof;

7.1.5 if in the absolute discretion of the Company the Services are being used in a manner prejudicial to the interest of the Subscriber and/or the Company and/or the Network.

7.2 If the Company in their sole discretion reinstate the Services following suspension the Subscriber may be liable for an administration fee of £50.00 if suspension is due to the default of the Subscriber.

8. TERMINATION

8.1 Without prejudice to any other claims or remedies which the Company may have against the Subscriber, the Company may terminate the Agreement by giving notice to the Subscriber with immediate effect in any of the following circumstances:

8.1.1 if the Subscriber fails to comply with any of the terms of these Terms and Conditions including but not limited to failure to pay any charges due;

8.1.2 if the Subscriber enters into a deed of arrangement or commits an act of bankruptcy or compounds with creditors or if a receiving order is made against it (being a company) it shall pass a resolution or the court shall make an order that the Subscriber shall be wound up (otherwise than for the purposes of amalgamation or reconstruction) or if a receiver (including an administrative receiver) shall be appointed of any of the assets or undertaking of the Subscriber or if the Subscriber suffers the appointment or the

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presentation of a petition for the appointment of an administrator or if circumstances shall arise which entitle the court or a creditor to appoint a receiver (including an administrative receiver) or a manager or which entitle the court to make a winding-up order or if the Subscriber takes or suffers any similar action in consequence of debt;

8.1.3 if the Subscriber does or allows to be done anything which in the Company opinion will or may have the effect of jeopardising the operation of the Services;

8.1.4 any licence to operate or use the Network, whether under the Wireless Telegraphy Act 1949 to 1967 or the Telecommunications Act 1984 or otherwise is revoked or terminated for any reason;

8.1.5 if the operation of the Network is terminated or if the provision of the Services to the Company is discontinued for any reason;

8.1.6 if information supplied to the Company by the Subscriber is false or misleading.

8.2 The Company may terminate the Agreement with immediate effect for any reason whatsoever by giving notice in writing to the Subscriber during the period of twenty-eight (28) days following the Connection Date of the Mobile Airtime Agreement.

8.3 Upon the Termination of the Agreement the Company shall disconnect the mobile phone, SIM Card or eSIM from the System. If the Company in their sole discretion reconnects the subscriber following such disconnection and such disconnection arises as a result of circumstances set out in Clauses 8.1.1, 8.1.2 or 8.1.3, the subscriber shall be liable for an additional Connection Fee and the agreement shall be deemed to continue.

8.4 On Termination of the Agreement by the Company under clauses 8.1.1, 8.1.2, 8.1.3 or 8.1.6 or by the Subscriber then the Subscriber shall pay to the Company immediately on demand: (a) all charges payable up to the date of Termination; and (b) A cancellation charge equivalent to the outstanding Monthly Charges for the remaining Minimum Term as stated in the Agreement. (c) In the event the Subscriber requires PAC codes then these will be chargeable at £30.00 per connection. Handsets supplied by the Company will be returned to the Company.

8.5 On Termination of the Agreement by the Company under Clauses 8.1.1 or 8.1.2, the rights and obligations under the Agreement may be assigned to a Debt Collector under Clause 9.1. An additional Administration fee of £50.00 will be applied to the termination fee. After the assignment of the Agreement to the Debt Collector, the Debt Collector may choose to enact their own Terms & Conditions either alongside or in place of these Terms & Conditions.

8.6 In the event that a hardware fund has been established for the Subscriber then any monies due to the Subscriber on Termination of the Agreement shall be determined on a pro rata basis for each month of the Agreement completed prior to the Termination of the Agreement. Where all or part of the fund has been utilised at the time of Termination of the Agreement then the Subscriber shall immediately pay to the Company any proportion of the original fund value due pro rata. The fund shall be managed by the Company throughout the Term of the Agreement in accordance with the manner agreed between the Subscriber and the Company.

8.7 In the event of early Termination of the Agreement if the Subscriber has received:

8.7.1 free or reduced price hardware from the Company then the Subscriber shall immediately pay to the Company the difference between the actual price paid for the hardware and the price charged by the Company in accordance with the monthly schedule of prices issued by the Company from time to time;

8.7.2 a subsidy in the form of either money or hardware discount then the Subscriber shall immediately repay to the Company the money or value of the discount of the hardware;

8.7.3 a free or reduced monthly charge then the Subscriber shall immediately repay to the Company the difference between the base Monthly Charge and the actual charge paid by the Subscriber subject to such payment being pro rata for the period of the Term from commencement to Termination.

9. TRANSFER OF LIABILITY

9.1 The Company may at any time assign its rights and obligations under the Agreement to any third party including but not limited to a debt collection company. The Subscriber may not assign its rights and obligations under the Agreement. The Subscriber will receive no less than twenty-eight (28) days notice of the contract assignment.

9.2 The Subscriber whether selling or otherwise, cannot transfer their obligations to pay charges or bring the Agreement to an end. Any other transfer should be notified to the Company in advance for the Company to accept or otherwise as it sees fit. If a new user of the mobile phone, SIM Card or eSIM is accepted by the Company and enters into a new Agreement, satisfactory to the Company, it is company policy to release the existing Subscriber from liability from future charges.

9.3 The Company's acceptance of payment from another person other than the Subscriber does not imply that the Company has amended any of the rights or obligations of the Subscriber.

10. VARIATION

10.1 The Company may vary all or any of its charges by publishing any such variation on the Company website (www.modutel.co.uk). Such variation will have immediate effect under the Agreement unless otherwise stipulated.

10.2 Any such variance in prices or tariffs does not allow the Subscriber to Terminate the Agreement.

10.3 Although the Company may vary prices without notice, the Company will endeavour to provide as much notice as possible.

10.4 The Company may change these Terms and Conditions (including the charges) at any time. The Company will publish details of such changes online on the Company website (www.modutel.co.uk/tcs) at least two weeks before the change is to take effect.

11. DATA PROTECTION

11.1 The Subscriber acknowledges that the details of the Subscriber's name, address and payment record may be submitted to a credit reference agency.

12. MISCELLANEOUS

- 12.1 Each and every mobile phone, SIM Card or eSIM and ancillary service connected by the Company to the Network shall be governed by these Terms and Conditions.
- 12.2 The Subscriber must promptly advise the Company of any change of address in writing and by recorded delivery or by email (to info@modutel.co.uk, customerservice@modutel.co.uk or billing@modutel.co.uk). Any notice hereunder sent by the Company to the Subscriber shall be deemed to be served within 48 hours of posting to the last address notified in writing to the Company by the Subscriber, including but not limited to the email address that the last three (3) months invoices have been sent to.
- 12.3 The Subscriber must notify the Company immediately if the SIM Card is lost or stolen.
- 12.4 The Company reserves the right to add to the Agreement, the reasonable costs incurred in recovering any outstanding debt due from the Subscriber.
- 12.5 The Company will use reasonable endeavours to co-operate with any reasonable request from the Subscriber to transfer any telephone numbers allocated to the Subscriber hereunder to another service provider upon Termination of this Agreement or from one network to another network in either case upon the Subscriber paying the Company reasonable costs or charges incurred in complying with that request. Any such request shall be made in the form prescribed by the Company from time to time and shall be made subject to the Terms and Conditions set out in such form.
- 12.6 The Subscriber agrees that these Terms and Conditions (and any Service Level Agreement or specifications where applicable) shall govern the Agreement between the Company and the Subscriber to the exclusion of any other Terms and Conditions oral or written and all representations or communications between the parties relating to the subject matter of the Agreement.
- 12.7 The invalidity, illegality or unenforceability of any provision of these Conditions should not affect the other Conditions of the Mobile Airtime Agreement.
- 12.8 A person who is not party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any Term of this Agreement. This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 12.9 The Agreement (and any proceedings whereby one party might be entitled to join the other as a third party) shall be governed by and construed in all respects in accordance with English law and the parties hereby submit to the exclusive jurisdiction of the English courts.
- 12.10 The Company does not maintain any devices and is not responsible for the non-pairing of any devices, whether third-party or provided by the Company. This is solely an issue for the device manufacturers. Each device provided will come with a warranty of which the Subscriber will be made aware of at the time of signing and/or purchase. The Company will only maintain devices if the Subscriber chooses to enter into an Annual Maintenance Support Agreement, which will be discussed at the time of signing. The cost of the Annual Maintenance Support Agreement will be determined dependant on the value of the device(s). The Annual Maintenance Support Agreement will have its own separate Terms and Conditions.