

Standard Terms and Conditions

These terms and conditions of business are between Air Telecom UK Limited and you (from now on referred to as 'the Customer').

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CONDITION 8

1. INTRODUCTION AND DEFINITIONS

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

These are:

1.1.1 the Agreement; and

1.1.2 the Airtime Agreement with the relevant network / service provider.

1.2 The following words and expressions shall have the meanings set out below:

"Agreement" the agreement between Air Telecom UK Limited and the Customer for the supply of Equipment and/or Services which incorporates these Conditions.

"Airtime Agreement" means the agreement which governs the provision of Airtime Services from the relevant network/service provider to the Customer, a copy of which will be provided with this Agreement;

"Airtime Services" means cellular mobile telecommunications airtime and network capacity procured from the network/service provider to the Customer under the Airtime Agreement or (if relevant) any Upgrade Agreement;

"Conditions" means these terms and conditions as amended from time to time in accordance with condition 11.8.

"Connection" means the connection of an End User to the relevant network/service provider such that the End User is capable of accessing and utilising the Airtime Services;

"Customer" means the company ordering the Equipment and/or Services whose full details are set out in the Order;

"Downward Migration" means in respect of a Connection, the transfer (at the request of the Customer) from one tariff provided by the network/service provider ("the Old Tariff") to another tariff provided by that same network/service provider ("the New Tariff") which results in the Customer being charged a lower monthly line rental under the New Tariff than it was being charged under the Old Tariff and the phrase Downward Migrated shall be construed accordingly;

"End User" means a person using Equipment and/or Services who is an employee or contractor of the Customer;

"Equipment" means mobile telecommunications handsets and other associated equipment set out in the Order;

"Minimum Term" means the minimum period of time which the Customer has agreed to maintain Connection(s) under the Airtime Agreement plus the minimum period of time which the Customer has agreed to maintain Connection(s) under any Upgrade Agreement(s) (if any);

"Monthly Subsidy Amount" means the amount which is derived by dividing the Subsidy payable for each Connection by the number of months in the Minimum Term applicable to each Connection;

"Network Connect Commission" means commission paid to Air Telecom UK Limited by the network/service provider in respect of that Connection;

"Order" means the Customer's order for the supply of Equipment and/or Services as set out in the Customer's purchase order form.

"Services" means any services ordered by the Customer and provided by Air Telecom UK Limited as set out in the Order;

"Subsidy" means the sum payable by Air Telecom UK Limited to the Customer as is determined by Air Telecom UK Limited in its sole discretion, taking into consideration the number of Connections which the Customer is taking out, any other subsidies provided by the network/service provider to the Customer during the Minimum Term, the applicable tariffs and the Minimum Term which the Customer is prepared to enter into;

"Termination Charges" means any termination charges in respect of line rental only charged to the Customer by their previous network or service provider for terminating their previous airtime agreement; and

"Upgrade Agreement" means an upgrade airtime agreement which the Customer enters into during the Minimum Term of the then current Airtime Agreement or then current Upgrade Agreement.

2. APPLICABLE TERMS

2.1 The Order constitutes an offer by the Customer for the supply by Air Telecom UK Limited of the Equipment and/or Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when Air Telecom UK Limited issues written acceptance of and on which date the Agreement shall come into existence.

2.3 Unless other terms and conditions are expressly accepted by Air Telecom UK Limited by means of a specific written amendment signed by a Director of Air Telecom UK Limited, the supply of Equipment and/or Services will be on these Conditions to the exclusion of any other terms and conditions whether or not the same are endorsed upon, delivered with or referred to in any Order or other document delivered or sent by the Customer to Air Telecom UK Limited or which are implied by trade, custom, practice or course of dealing.

2.4 For the avoidance of doubt, these Conditions will apply to any Order placed via email for Equipment and/or Services by the Customer to Air Telecom UK Limited.

2.5 The Agreement constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Air Telecom UK Limited which is not set out in the Agreement.

2.6 Any quotation given by Air Telecom UK Limited shall not constitute an offer.

2.7 Any samples, descriptive matter or advertising issued by Air Telecom UK Limited and any descriptions of the Equipment or descriptions of the Services contained in Air Telecom UK Limited's catalogues, brochures or website are issued or published for the sole purpose of giving an approximate idea of the Equipment and/or Services described in them. They shall not form part of the Agreement or have any contractual force.

3. SUPPLY OF EQUIPMENT

3.1 Conditional upon the Customer entering into the Airtime Agreement, Air Telecom UK Limited shall hire to the Customer the Equipment and supply the Services subject to these Conditions together with any Equipment and/or Services as is ordered by the Customer from time to time.

3.2 The hire of the Equipment shall continue until this Agreement is terminated in accordance with these Conditions.

3.3 Air Telecom UK Limited shall deliver the Equipment to the location set out in the Customer's Order or such other location as the parties agree (**Delivery location**). Delivery of the Equipment shall be completed on the arrival of the Equipment at the Delivery Location.

3.4 Air Telecom UK Limited shall use its reasonable endeavours to deliver the Equipment on the date agreed by the parties but the Customer acknowledges such dates are approximate only and that time shall not be of the essence. Air Telecom UK Limited shall not be liable for any delay in delivery of the Equipment that is caused by a Force Majeure Event or the Customer's failure to provide Air Telecom UK Limited with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.

3.5 If Air Telecom UK Limited fails to deliver the Equipment, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement equipment of similar description and quality in the cheapest market available, less the price of the Equipment. Air Telecom UK Limited shall have no liability for any failure to deliver the Equipment to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide Air Telecom UK Limited with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.

3.6 Air Telecom UK Limited may deliver the Equipment by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

3.7 During the term of this Agreement the Equipment shall at all times remain the property of Air Telecom UK Limited, and the Customer shall have no right, title or interest in or to the Equipment (save the right to quiet possession and use of the Equipment subject to these Conditions), except where title to the Equipment passes to the Customer pursuant to condition 9.8 or title to the Equipment passes to the Customer pursuant to condition 9.7.

3.8 The risk in the Equipment will pass to the Customer upon delivery and the Customer will be liable for any loss, theft, damage or destruction of the Equipment as and from the time when the Equipment is delivered to the Delivery Location. The Equipment shall remain at the sole risk of the Customer during the term of the Agreement and any further term during which the Equipment is in the possession, custody or control of the Customer (**Risk Period**) until title to the Equipment passes to the Customer pursuant to conditions 9.7 or 9.8 or until such time as the Equipment is redelivered to Air Telecom UK Limited pursuant to condition 9.6. During the term of this Agreement and the Risk Period, the Customer shall, at its own expense, obtain and maintain the following insurances (and shall be responsible for paying any deductibles due on any claims under such insurance policies):

3.8.1 insurance of the Equipment to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as Air Telecom UK Limited may from time to time nominate in writing;

3.8.2 insurance for such amounts as a prudent owner or operator of the Equipment would insure for, or such amount as Air Telecom UK Limited may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Equipment; and

3.8.3 insurance against such other or further risks relating to the Equipment as may be required by law, together with such other insurance as the Air Telecom UK Limited may from time to time consider reasonably necessary and advise to the Customer.

3.9 The Customer undertakes to notify Air Telecom UK Limited as to any alleged defect, shortage or discrepancy in any Equipment within 7 days of delivery of the Equipment to the Customer. In the event that the Customer fails to notify Air Telecom UK Limited within this period then the Customer will be deemed to have accepted the Equipment and Air Telecom UK Limited shall have no liability to the Customer whatsoever in respect of such Equipment.

3.10 The Customer shall during the term of this Agreement:

3.10.1 ensure that the Equipment is used only for the purposes for which it is designed;

3.10.2 maintain at its own expense the Equipment in good and substantial repair in order to keep it in as good an operating condition as it was on delivery (fair wear and tear only excepted) including replacement of worn, damaged and lost parts, and shall make good any damage to the Equipment;

3.10.3 make no alteration to the Equipment and shall not remove any existing component(s) from the Equipment. Title and property in all substitutions, replacements, renewals made in or to the Equipment shall vest in Air Telecom UK Limited immediately upon installation, until such time, if any, as title to the Equipment passed to the Customer under the terms of this Agreement but the risk remains with the Customer in accordance with condition 3.8;

3.10.4 not part with control of (including for the purposes of repair or maintenance), sell or offer for sale, underlet or lend the Equipment or allow the creation of any mortgage, charge, lien or other security interest in respect of it;

3.10.5 not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of Air Telecom UK Limited in the Equipment;

3.10.6 not use the Equipment for any unlawful purpose;

3.10.7 deliver up the Equipment in accordance with condition 9.6; and

3.10.8 not do or permit to be done anything which could invalidate the insurances referred to in condition 3.8.

3.11 The Customer acknowledges that Air Telecom UK Limited shall not be responsible for any loss of or damage to the Equipment arising out of or in connection with any negligence, misuse, mishandling of the Equipment or otherwise caused by the Customer or its officers, employees, agents and contractors, and the Customer undertakes to indemnify Air Telecom UK Limited on demand against the same, and against all losses, liabilities, claims, damages, costs or expenses of whatever nature otherwise arising out of or in connection with any failure by the Customer to comply with the terms of this agreement.

3.12 Air Telecom UK Limited shall not, other than in the exercise of its rights under the Agreement or applicable law, interfere with the Customer's quiet possession of the Equipment.

3.13 The Customer shall be responsible for recording all IMEI numbers in relation to the Equipment and Air Telecom UK Limited shall not be responsible for keeping a record of these.

3.14 Air Telecom UK Limited shall provide to the Customer copies of any purchase orders made for the Equipment between Air Telecom UK Limited and the supplier of the Equipment and the Customer shall keep copies of these. Air Telecom UK Limited shall not be responsible for keeping copies of such purchase orders.

4. PROVISION OF THE SERVICES

4.1 Air Telecom UK Limited shall use its reasonable endeavours to provide the Services on the dates agreed by the parties but any such dates shall be estimates only and time shall not be of the essence for the provision of the Services.

4.2 Air Telecom UK Limited shall use its reasonable endeavours to ensure that the Services are provided with reasonable skill and care.

4.3 Air Telecom UK Limited shall have the right to make changes to the Services which are necessary to comply with any applicable law or requirement, or which do not materially affect the nature or quality of the Services.

4.4 The Customer shall:

4.4.1 ensure that the terms of the Order are complete and accurate;

4.4.2 co-operate with Air Telecom UK Limited in all matters relating to the Services;

4.4.3 provide Air Telecom UK Limited with such information as Air Telecom UK Limited may reasonably require to supply the Services and ensure that such information is accurate in all material respects.

4.5 If Air Telecom UK Limited's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (including the obligations set out in condition 4.4) (**Customer Default**):

4.5.1 Air Telecom UK Limited shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Air Telecom UK Limited's performance of any of its obligations;

4.5.2 Air Telecom UK Limited shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Air Telecom UK Limited's failure or delay to perform any of its obligations as set out in this condition 4.5; and

4.5.3 the Customer shall reimburse Air Telecom UK Limited on written demand any costs or losses sustained or incurred by Air Telecom UK Limited arising directly or indirectly from the Customer Default.

5. PAYMENT AND ADDITIONAL CHARGES

5.1 The Customer hereby agrees to pay Air Telecom UK Limited for the hire of each item of Equipment and for any Services ordered by and provided to the Customer within 5 days from the date of the invoice issued by Air Telecom UK Limited in full and cleared funds to a bank account nominated in writing by Air Telecom UK Limited and time for payment shall be of the essence of the Agreement.

5.2 All amounts payable by the Customer under the Agreement are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Agreement by Air Telecom UK Limited to the Customer, the Customer shall, on a valid VAT invoice from the Supplier, pay to Air Telecom UK Limited such additional amounts in respect of VAT as are chargeable on the supply of the Services or Equipment at the same time as payment is due for the supply of the Services and/or Equipment.

5.3 Interest at an annual rate of 4% above Barclays Bank plc's base rate from time to time will accrue daily and be calculated on a daily basis on overdue accounts from the due date until payment of the overdue sum, whether before or after judgment.

5.4 A debt collection agency may be instructed to act on behalf of Air Telecom UK Limited in cases of non-payment of invoices. The Customer shall reimburse Air Telecom UK Limited on written demand for any costs or losses sustained by Air Telecom UK Limited arising directly or indirectly from the Customer's breach of its payment obligations as set out in this Agreement.

5.5 All amounts due from the Customer under this Agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

5.6 In the event that for any reason howsoever arising:

5.6.1 the Customer fails to enter into the Airtime Agreement with the relevant network/service provider in accordance with clause 1.1.2);

5.6.2 the Customer cancels or terminates the Airtime Agreement or this Agreement prior to the date of Connection, or cancels or terminates the Airtime Agreement, this Agreement or any Upgrade Agreement (if relevant) after the date of Connection but prior to the expiry of the Minimum Term;

5.6.3 any Connection is disconnected prior to the expiry of the Minimum Term;

5.6.4 any Connection is Downward Migrated prior to the expiry of the Minimum Term; and/or

5.6.5 at any time prior to the expiry of the Minimum Term for the period of one calendar month or more there is (in Air Telecom UK Limited's reasonable opinion) no reasonable use/activity in respect of a Connection;

then Air Telecom UK Limited shall be entitled to charge the Customer the additional charges set out in condition 5.7 which the parties agree are a fair and genuine estimate of Air Telecom UK Limited's costs due to the default of the Customer.

5.7 In the event that any of the circumstances in condition 5.6 arise, Air Telecom UK Limited shall be entitled to charge the Customer:

5.7.1 an administration charge of £300 per Connection, or per proposed Connection (as set out in the Order), in respect of circumstances arising in conditions 5.6.1 or 5.6.2; and/or

5.7.2 £300 for each Connection which is disconnected or Downward Migrated (pursuant to conditions 5.6.3 or 5.6.4); and/or

5.7.3 a sum (up to a maximum of £300) for each Connection deemed inactive in accordance with condition 5.6.5; and/or

5.7.4 a sum equal to the cost of the Equipment to Air Telecom UK Limited at the date of purchase of such Equipment by Air Telecom UK Limited less a discount of 25%.

5.8 Any sum which is charged to the Customer pursuant to conditions 5.6 and 5.7 shall be invoiced to the Customer by Air Telecom UK Limited and shall be payable in accordance with the usual payment terms as set out in condition 5 of this Agreement.

5.9 The additional charges stated in condition 5.7 are separate to and in addition to any termination charges payable by the Customer to the network/service provider under the Airtime Agreement or (if relevant) any Upgrade Agreement.

6. SUBSIDY AND RECLAMATION

6.1 Air Telecom UK Limited may, acting in its sole discretion, provide the Customer with a Subsidy as a result of the Customer entering into the Airtime Agreement with the network/service provider, which shall be provided in accordance with this condition 6, and Air Telecom UK Limited shall confirm in writing to the Customer if it exercises its discretion to provide a Subsidy to the Customer and any conditions which attach to such Subsidy.

6.2 Air Telecom UK Limited at its sole discretion may provide the Subsidy to the Customer using the following methods or any combination of them:

6.2.1 deducting part or all of the amount equal to the Subsidy (including by instalments) from the value of the Equipment and/or the Services;

6.2.2 payment of part or all of the amount equal to the Subsidy (including payment by instalments) to the Customer; and/or

6.2.3 subject to condition 6.3, using such amount to discharge any Termination Charges.

6.3 Subject to condition 6.4, in the event that Air Telecom UK Limited acting in its sole discretion provides all or part of the Subsidy using the method in condition 6.2.3:

6.3.1 the Customer shall within 7 days from the date on which the Connection(s) commenced provide Air Telecom UK Limited with a copy of the relevant invoice from such network/service provider confirming the amount of Termination Charges;

6.3.2 within 7 days from the date on which Air Telecom UK Limited receives the copy invoice from the Customer pursuant to condition 6.3.1 Air Telecom UK Limited shall provide the Customer with written confirmation of the amount required to be paid by Air Telecom UK Limited to discharge the Termination Charges.

6.4 Air Telecom UK Limited shall only provide all or part of the Subsidy (by whichever method or methods set out in condition 6.2) once it has received the commission in full from the network/service provider in respect of the tariff applied to the Customer under the Airtime Agreement. If for whatever reason Air Telecom UK Limited does not receive the commission in full from the network/service provider it reserves the right (at its sole discretion) to withhold payment of the Subsidy until payment of the commission has been received in full.

6.5 A Subsidy (or instalment payment of a Subsidy) shall be paid to the Customer by Air Telecom UK Limited (at its sole discretion) at any time during the Minimum Term provided that;

6.5.1 the Customer shall raise an invoice for the Subsidy within 7 days of commencement of the Connection(s);

6.5.2 at all times all the Connections are still active on the relevant payment date that the Subsidy (or instalment payment of the Subsidy) is due;

6.5.3 once the appropriate trigger date has passed or condition has been satisfied where the Subsidy is subject to conditions set out by Air Telecom UK Limited and the invoice referred to in condition 6.5.1 is therefore payable in instalments or after a prescribed period of time.

6.6 Where a Subsidy is to be provided by Air Telecom UK Limited in accordance with condition 6.2.1, this amount will be provided during the Minimum Term.

6.7 In the event that the Customer fails to raise an invoice for a Subsidy to Air Telecom UK Limited in accordance with condition 6.5.1 then the Customer's right to the Subsidy shall cease.

6.8 The Customer acknowledges that the payment of the Subsidy is conditional upon;

6.8.1 the Customer maintaining each Connection for the duration of the Minimum Term;

6.8.2 the Customer not Downward Migrating any Connection at any time during the Minimum Term;

6.8.3 Air Telecom UK Limited receiving an invoice in accordance with condition 6.5.1; and

6.8.4 such other conditions as are notified to the Customer by Air Telecom UK Limited.

6.9 Air Telecom UK Limited shall be entitled to reclaim from the Customer an amount equal to the Subsidy (or such proportion of the Subsidy) already provided to the Customer (or withhold such amount from any Subsidy or instalment of a Subsidy to be paid to the Customer) in the event that;

6.9.1 any Connection is for any reason whatsoever disconnected or not maintained prior to the expiry of the Minimum Term;

6.9.2 any Connection is for any reason whatsoever Downward Migrated prior to the expiry of the Minimum Term; or

6.9.3 the relevant network/service provider (for any reason whatsoever) reclaims or withholds in full or in part from Air Telecom UK Limited any Network Connection Commission.

6.10 The proportion of the Subsidy that Air Telecom UK Limited shall be entitled to reclaim from the Customer shall be the Monthly Subsidy Amount for each month (and such pro rata amount for each incomplete month) of the balance of the Minimum Term which is unexpired at the date of disconnection, the date of the Downward Migration or the date on which the relevant network/service provider reclaims or withholds the Network Connection Commission.

6.11 Any sum which is reclaimed or withheld from the Customer pursuant to conditions 6.9 to 6.10 shall be invoiced to the Customer by Air Telecom UK Limited and such sum shall be payable in accordance with the usual payment terms as set out in condition 5 of this Agreement.

7. WARRANTIES

The Customer acknowledges that Air Telecom UK Limited is not the manufacturer of the Equipment, and accordingly, that the warranty given by Air Telecom UK Limited is limited as follows.

7.1. Air Telecom UK Limited warrants that on delivery the Equipment shall be free from material defects in material and workmanship.

7.2 Subject to condition 7.3, if:

7.2.1. the Customer gives notice in writing within 7 days of the date of delivery that some or all of the Equipment does not comply with the warranty set out in condition 7.1;

7.2.2 Air Telecom UK Limited is given a reasonable opportunity of examining such Equipment

7.2.3 in the reasonable opinion of Air Telecom UK Limited the Equipment does not comply with the warranty set out in condition 7.1; and

7.2.4 the Customer (if asked to do so by Air Telecom UK Limited) returns such Equipment to Air Telecom UK Limited's place of business at the Customer's cost,

Air Telecom UK Limited shall at its option, repair the Equipment, replace the Equipment, substitute substantially equivalent goods, or refund or credit the Customer in respect of any such Equipment.

7.3 Air Telecom UK Limited shall not be liable for the Equipment's failure to comply with the warranty in condition 7.1 if:

7.3.1 the Customer makes any further use of such Equipment after giving notice in accordance with condition 7.2;

7.3.2 the Equipment has been altered in any way whatsoever or has been subjected to misuse or unauthorised repair;

7.3.3 the Equipment has been improperly installed or connected (unless Air Telecom UK Limited carried out such installation and connection);

7.3.4 the defect arises as a result of fair wear or tear, wilful damage, negligence or abnormal working conditions;

7.3.5 the Customer has failed to observe any oral or written instructions as to the storage, installation, use or maintenance of the Equipment or (if there are none) good trade practice; or

7.3.6 the Equipment has been expressly sold on a "no warranty" basis or in respect of any promotional items supplied from time to time with or in connection with the Equipment and Air Telecom UK Limited has notified the Customer of this during the order process.

7.4 Except as provided for in this condition 7, Air Telecom UK Limited shall have no liability to the Customer in respect of the Equipment's failure to comply with the warranty set out in condition 7.1.

7.5 The terms of these Conditions shall apply to any repaired or replacement Equipment supplied by Air Telecom UK Limited under condition 7.2.

8. LIMITATION OF LIABILITY – THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

8.1 Nothing in these Conditions shall limit or exclude Air Telecom UK Limited's liability for:

8.1.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

8.1.2. fraud or fraudulent misrepresentation;

8.1.3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);

8.1.4. breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or

8.1.5. defective products under the Consumer Protection Act 1987.

8.2. Subject to condition 8.1:

8.2.1. Air Telecom UK Limited shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Agreement;

8.2.2. Air Telecom UK Limited's total liability to the Customer in respect of all other losses arising under or in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the sum paid by the Customer to Air Telecom UK Limited in respect of the Equipment and/or Services with which such liability arises.

8.3 Subject to condition 8.1, Air Telecom UK Limited shall not be liable to the Customer for any loss as a result of electromagnetic frequencies or any similar result from use of the Equipment.

8.4 The terms implied by section 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Agreement.

8.5 This condition 8 shall survive termination of the Agreement.

9 TERMINATION AND CONSEQUENCES OF TERMINATION

9.1 Following expiry of the Minimum Term the Customer may terminate this Agreement by providing 30 days written notice to Air Telecom UK Limited.

9.2 This Agreement may be terminated forthwith at any time by either party on written notice to the other if:

9.2.1 the other commits a material breach, or series of breaches resulting in a material breach, of the Agreement and such breach is not remediable or is not remedied within 30 days of written notice to do so;

9.2.2 the other: (i) suspends or threatens to suspend payment of its debts, (ii) is unable to pay its debts as they fall due or (iii) is unable to pay its debts (being a company) within the meaning of s 123 of the Insolvency Act 1986 or (being an individual) within the meaning of s 268 of the Insolvency Act 1986 or (being a partnership) there is any partner to whom any of the foregoing applies;

9.2.3 the other: (i) negotiates with its creditors for rescheduling of its debts, (ii) makes a proposal to or compounds with its creditors in respect of its debts or (iii) makes an application to court for protection from its creditors generally;

9.2.4 the other passes a resolution for winding-up or for the appointment of an administrator, or a liquidator or administrator is appointed in relation to the other, or a winding-up order is made in relation to the other;

9.2.5 a receiver or administrative receiver may be or is appointed in relation to the other or any of its assets;

9.2.6 any creditor of the other attaches, takes possession of, or any distress, execution or similar process is levied or enforced against, all or any part of the other's assets, and such attachment or process is not discharged within 14 days;

9.2.7 the other takes or suffers any action similar to any of the above events listed in 9.2.2 to 9.2.6 in any jurisdiction; or

9.2.8 the other suspends trading, ceases to carry on business, or threatens to do either.

9.3 In addition to its rights under condition 9.2, and without limiting its other rights or remedies, Air Telecom UK Limited may terminate the Agreement at any time:

9.3.1 if the Customer fails to enter into the Airtime Agreement in accordance with condition 1.1.2;

9.3.2 if the Customer terminates the Airtime Agreement before Connection;

9.3.3 if any Connection is disconnected prior to the expiry of the Minimum Term;

9.3.4 if any Connection is Downward Migrated prior to the expiry of the Minimum Term;

9.3.5 if at any time during the Minimum Term for the period of one calendar month or more there is (in Air Telecom UK Limited's reasonable opinion) no reasonable use activity in respect of any Connection;

9.3.5 on termination of the Airtime Agreement or (if relevant) any Upgrade Agreement after Connection but before the expiry of the Minimum Term;

9.3.6 on 30 days' written notice to the Customer; or

9.3.7 immediately on written notice to the Customer if the Customer has failed to pay any amount due under the Agreement on the due date for payment.

9.4 Without limiting its other rights or remedies, Air Telecom UK Limited may suspend the supply of Services or all further deliveries of Equipment under the Agreement or any other agreement between the Customer and Air Telecom UK Limited if the Customer fails to pay any amount due under this Agreement on the due date for payment, the Customer becomes subject to any of the events listed in conditions 9.2.2 to 9.2.6, or Air Telecom UK Limited reasonably believes that the Customer is about to become subject to any of them.

9.5 On termination of the Agreement for any reason:

9.5.1 the Customer will immediately pay all invoices of Air Telecom UK Limited then outstanding and not disputed in good faith;

9.5.2 Air Telecom UK Limited will, within 7 days, invoice the Customer for all Equipment and/or Services provided but not yet invoiced and the Customer will pay such invoice within a further 5 days (unless the invoice is disputed in good faith);

9.5.3 Air Telecom UK Limited will invoice the Customer any additional charges applicable under the terms of this Agreement and the Customer will pay such invoice within 5 days;

9.5.4 the accrued rights and liabilities of the parties will not be affected; and

9.5.5 conditions which expressly or by implication are to survive termination will remain in full force and effect.

9.6 On termination of the Agreement for any reason (other than the circumstances set out in conditions 9.3.1 or 9.3.2) the Customer shall within 7 days of the date of termination of the Agreement and at the Customer's cost, deliver up the Equipment to Air Telecom UK Limited at its place of business.

9.7 If the Customer fails to deliver up the Equipment in accordance with condition 9.6, Air Telecom UK Limited shall at its sole discretion be entitled to invoice the Customer for a sum equal to the cost of the Equipment to Air Telecom UK Limited at the date of purchase of such Equipment by Air Telecom UK Limited less a discount of 25% which has not been received by Air Telecom UK Limited and on payment in full

of such invoice by the Customer and all other outstanding amounts owing to Air Telecom UK Limited under this Agreement, title in the Equipment shall pass to the Customer.

9.8 On termination of the Agreement in circumstances set out in conditions 9.3.1 or 9.3.2, Air Telecom UK Limited shall be entitled to invoice the Customer for the cost of the Equipment within 7 days of the day on which the Agreement terminates and upon payment to Air Telecom UK Limited of all amounts owing under the Agreement, title in the Equipment shall pass to the Customer.

9.9. If Air Telecom UK Limited raises an invoice pursuant to condition 9.7, Air Telecom UK Limited may offset against that invoice any amount which it holds for the Customer under the Subsidy (if any).

10. FORCE MAJEURE

10.1 For the purposes of this Agreement, **Force Majeure Event** means an event beyond the reasonable control of Air Telecom UK Limited including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of Air Telecom UK Limited or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

10.2 Air Telecom UK Limited shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Agreement as a result of a Force Majeure Event.

10.3 If the Force Majeure Event prevents Air Telecom UK Limited from providing any of the Services and/or Equipment for more than 4 weeks, Air Telecom UK Limited shall, without limiting its other rights or remedies, have the right to terminate this Agreement immediately by giving written notice to the Customer.

11. GENERAL

11.1 Air Telecom UK Limited will be entitled to transfer, assign, sub-contract or sub-let all or any of its rights under this Agreement or any part thereof. The Customer shall not be permitted to transfer, assign, sub-let or deal in other manner with all or any of its rights or obligations under this Agreement or any part thereof without the prior written consent of Air Telecom UK Limited.

11.2 No failure or delay by Air Telecom UK Limited to enforce any of the provisions of this Agreement or to exercise any right or remedy will be construed as a waiver of any of its rights hereunder, nor prevent or restrict its further exercise of that or any other right or remedy.

11.3 In relation to all obligations of the Customer under this Agreement, the time or performance is of the essence.

11.4 The illegality, invalidity or unenforceability of any condition or part of the Agreement will not affect the legality, validity or enforceability of the remainder. If any such condition or part is found by any competent court or authority to be illegal, invalid or unenforceable the parties agree that they will substitute provisions in a form as similar to the offending provisions as is possible without thereby rendering them illegal, invalid or unenforceable.

11.5 Each of the parties hereto is an independent contractor and nothing contained in this Agreement shall be construed to imply that there is any relationship between the parties of partnership or of principal/agent or of employer/employee.

11.6 Any demand, notice or communication shall be made in writing or by fax addressed to the recipient at its registered office or its address stated in this Agreement (or such other address or fax number as may be notified in writing from time to time) and shall be deemed to have been duly served:

11.6.1 If delivered by hand, when left at the proper address for service;

11.6.2 If given or made by prepaid first class post, 48 hours after being posted (excluding Saturdays, Sundays and public holidays);

11.6.3 If given or made by fax at the time of transmission subject to receipt of the appropriate "clear" transmission report

provided that where in the case of delivery by hand or transmission by fax such delivery or transmission occurs either after 4.00 p.m. on a Business Day or on a day other than a Business Day service shall be deemed to occur at 10.00 a.m. on the next following Business Day (such times being local time at the address of the recipient). For the purpose of this condition a "Business Day" is a day when the banks in the location of the recipient are open for a full range of banking transactions. .

11.7 For the avoidance of doubt, notice given under this Agreement shall be validly served if sent by e-mail.

11.8 No variation to this Agreement may be made unless set out in writing and signed by a director of Air Telecom UK Limited and by an authorised signatory on behalf of the Customer. .

11.9 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by English law and the parties submit to the exclusive jurisdiction of the English Courts.