



## 1 DEFINITIONS

In this agreement:

"Act" means the Telecommunications Act 2003 and any amendments to the Act from time to time or any subsequent substitution thereof.

"Airtime Service Provider" means a third party supplying airtime services to the Customer.

"Contract" means a Customer Order Form submitted by the Customer to ST Telco for Services.

"Customer" means the customer detailed on the Contract.

"Direct Debit" means any request(s) for any payment or series of payments by bank direct debit payment method.

"Equipment" means any equipment or product (including for the avoidance of doubt mobile telephones) supplied by ST Telco or any third party on behalf of ST Telco to the Customer.

"Minimum Term" means the period of 18 months from the Commencement Date or such other period as is prescribed for the relevant service or as is otherwise stated on the Contract.

"Mobile Services" means the provision of services in relation to mobile telephony

"Services" means the provision of telecom services and/or Equipment and/or Mobile Services.

"ST Telco" means Straight Talking Telco Limited whose registered office is at Premier Business Centre, 47-49 Park Royal Road, London NW10 7LQ (registered number 6838085)

## 2 THE SERVICES AND EQUIPMENT

- 2.1 Save as provided in these terms and conditions ST Telco shall provide the Customer with such Services and Equipment as are requested by the Customer and any use of the Services or payment for the Services is deemed acceptance of these terms and conditions. ST Telco shall only become liable to supply Services to the Customer once satisfactory responses to credit checks and criminal bureau checks have been received by ST Telco and (where appropriate) any airtime service provider.
- 2.2 The Customer shall be responsible for the safe keeping and safe and proper use of the Services and any related Equipment after installation of the Services and the Customer undertakes in particular:
- 2.2.1 not to cause any attachments other than those approved for connection under the Act to be connected to any Equipment.
- 2.2.2 not to contravene the Act or any other relevant regulations or licences.
- 2.3 The Customer hereby agrees that its apparatus shall at all times conform to the standard or standards (if any) for the time being designated under the Act and ST Telco shall not be under any obligation to connect or keep connected any Customer apparatus if it does not comply or if in the reasonable opinion of ST Telco it is likely to cause death, personal injury, damage or to impair the quality of any Services provided by ST Telco.
- 2.4 The Customer undertakes to use the Services in accordance with the Act and ST Telco's acceptable use policy and fair usage policy (as published from time to time at [www.STTelco.co.uk/terms](http://www.STTelco.co.uk/terms)) and the Customer further undertakes not to use the Services and to procure that none of its employees use the Services:
- 2.4.1 as a means of communication for a purpose other than that for which the Services are provided, and
- 2.4.2 for the transmission or receipt of any material which is defamatory, offensive or of an abusive or menacing character or otherwise is in breach of ST Telco's acceptable use policy.
- 2.5 Any Equipment supplied by ST Telco remains the property of ST Telco and must be made available for collection on the expiry or termination of this agreement.
- 2.6 The Customer will not procure or be party to an agreement or arrangement to provide or receive telecommunications material, Services or services similar to the Services by way of telecommunication provision via the Equipment without the permission of ST Telco in writing and the prior payment in full for the Equipment.

For the avoidance of doubt the use and/or provision of services using the Equipment and/or Services which may be deemed by the airtime services provider as a gateway is a material breach of this agreement.

- 2.7 The Customer shall not publicise any number in any way or commit to any advertising or publicity until such time as it has received from ST Telco in writing confirmation that the number is ready for service. Where ST Telco is supplying network services as part of the Services the Customer must provide to ST Telco details of all the related services that it wishes to receive relating to any telephone number that the Customer wishes to use. ST Telco will provide network Services through such party as it deems appropriate.
- 2.8 The Customer shall give ST Telco at least 30 days written notice in the event that above average use of the Services is likely to occur. ST Telco shall not be liable for failure/withdrawal of any part of the Services should such notice not be given.
- 2.9 ST Telco's acceptable use policy and fair usage policy form part of this agreement and includes any restrictions imposed on ST Telco by the provider to it of the Services and/or Equipment and is designed to protect the level and quality of the services that ST Telco offers to all of its customers and permits ST Telco to regulate the Customer's use of the Services.
- 2.10 The Customer hereby specifically authorises ST Telco to send/resend CPS during the continuance of this agreement, and hereby waives ST Telco's obligation to notify it of the same being done. If the Customer wishes to receive such notification then it must so inform ST Telco in writing.
- 2.11 Where ST Telco provides software to the Customer as part of the Services and/or Equipment ST Telco hereby licences the software to the Customer solely for the use of the same by the Customer in connection with the Services and/or Equipment. This licence automatically terminates on termination of this agreement. ST Telco does not warrant that the software will be error-free and the Customer hereby agrees to make proper back-ups of all data.

### 3 TERM

- 3.1 This agreement shall commence on the date hereof and subject to the remaining terms of this Clause 3 shall continue for the Minimum Term and thereafter for further periods each equivalent to the Minimum Term until terminated by either party giving to the other not less than 30 days prior written notice (or such longer period of notice as is set out on the Customer's contract) expiring at the end of the Minimum Term or at the end of any subsequent period as appropriate, such notice to be sent by recorded delivery mail effective on the date the notice is received by ST Telco.
- 3.2 Either party shall be entitled forthwith to terminate this agreement by giving written notice to the other if:
  - 3.2.1 the other commits a continuing or material breach of this agreement and, if the breach is capable of remedy, fails to remedy it within 14 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied; or
  - 3.2.2 an administrator takes possession or a receiver is appointed over any of the property or assets of the other party, the other party makes any voluntary arrangement with its creditors or becomes subject to an administration order, the other party becomes bankrupt or goes into liquidation (except for the purposes of an amalgamation, reconstruction or other reorganisation and so that the company resulting from the reorganisation effectively agrees to be bound by or to assume the obligations imposed on the other party under this agreement); or
  - 3.2.3 the other party ceases, or threatens to cease, to carry on business.
- 3.3 ST Telco may terminate this agreement immediately if:
  - 3.3.1 any licence or agreement under which ST Telco or the Customer has the right to run its telecommunications system and in the case of the Customer connect it to the ST Telco system is revoked, amended or otherwise ceases to be valid; or
  - 3.3.2 the Customer is suspected, in the reasonable opinion of ST Telco, of involvement with fraud or attempted fraud in connection with use of the Services or this Agreement; or
  - 3.3.3 ST Telco reasonably suspects that the Customer is unable to pay or is refusing to pay ST Telco charges and/or budget plan payments.

- 3.4 For the purpose of clause 3.2, a breach shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects other than as to the time of performance (provided that time of performance is not of the essence).
- 3.5 A waiver by either party of a breach of a provision of this agreement shall not be considered as a waiver of a subsequent breach of the same or another provision.
- 3.6 If the Customer gives less than the specified amount of written notice to terminate this agreement (as per Clause 3.1) or ceases to use the Services or a part thereof (including reduced usage) or attempts to terminate this Agreement prior to the expiry of the Minimum Term or any subsequent period equivalent to the Minimum Term or fails to achieve any minimum call spend as set out on the contract, ST Telco reserves the right to invoice the Customer for the loss it suffers, which includes loss of revenue for the short notice given for the balance of the Minimum Term based upon an average of 6 calendar months bills of the Customer in which periods the Customer has made full use of the Services (or such lesser period as is available). Upon termination ST Telco shall be entitled to raise invoices for all sums due and all invoices (whenever raised) shall become due for payment immediately.
- 3.7 In the event of termination by either party for any reason:
- 3.7.1 ST Telco shall be entitled to recover from the Customer the Equipment or cost there of as appropriate, including where appropriate, but not limited to the cost of installing or removing the Equipment, all liabilities, claims, costs, losses and expenses incurred by ST Telco including the initial CPS and engineering costs and of providing the Services and all losses suffered by ST Telco by way of third party claw-back where such claw-back is due to the breach by the Customer of this agreement or the third party agreement;
- 3.7.2 and until such time as the Customer has transferred to a new provider, ST Telco shall be entitled to amend its charges to the standard published usage charges.
- 3.8 The rights to terminate this agreement given by this clause shall not prejudice any other right or remedy of either party in respect of the breach concerned (if any) or any other breach. Continued use of the Services post termination will result in ST Telco levying its standard published usage charges for all Services used, which charges the Customer shall pay immediately upon demand.

## 4 ACCESS TO PREMISES

- 4.1 To enable ST Telco to comply with its obligations under the Agreement:
- 4.1.1 the Customer shall allow or procure permission for ST Telco and any other person(s) authorised by ST Telco to have reasonable access to the Customer's premises and the Services' connection points or, where network connection services form part of the Services, such location on the Customer's premises and/or any neighbouring premises as ST Telco reasonably requires and shall at all times provide such reasonable assistance as ST Telco requests.
- 4.1.2 ST Telco will endeavour to carry out work by appointment and during normal working hours, but may request the Customer to provide access at other times. If at the request of the Customer ST Telco carries out work outside its normal working hours the Customer will be responsible for ST Telco's reasonable additional charges.
- 4.1.3 the Customer shall carry out such site preparations as ST Telco may reasonably require.
- 4.2 If the Customer requests maintenance or repair work which is found to be unnecessary or results from an act or omission of the Customer, ST Telco will charge for the work and the costs incurred.
- 4.3 The Customer hereby duly authorises ST Telco, its dealers and agents to reprogram and or remove existing access equipment in order to provide the Services. In the event that the work is undertaken by the Customer's existing telephone system maintainer and not ST Telco, ST Telco will pay a maximum contribution of £75 plus VAT towards any charges raised by the Customer's existing telephone system maintainer. The Customer to pay all other costs.

## 5 CHARGES AND PAYMENT

- 5.1 Unless otherwise specified in writing by ST Telco the Customer agrees to pay ST Telco's charges and/or budget plan payments monthly by Direct Debit, the first payment to be made at the discretion of ST Telco within thirty

days of the start of the provision of the Services. Where network connection and/or line rental services form part of the Services the charges shall be paid in advance.

- 5.2 Usage charges will be such charges for the use of the Services by the Customer as ST Telco may notify to the Customer from time to time by e-mail or by post. Details of the Customer's current charges can be obtained by emailing ST Telco at [info@sttelco.co.uk](mailto:info@sttelco.co.uk) with full account details. There will be a minimum monthly usage charge and low usage charge for each Service as set out in ST Telco's price list from time to time. Usage charges payable shall be calculated by reference to any data recorded or logged by ST Telco or its service carrier and not by reference to any data recorded or logged by the Customer. ST Telco shall be entitled to estimate the usage charges in circumstances where the relevant data is not available to ST Telco in a timely manner, and any estimated usage charge shall be reconciled on a subsequent invoice.
- 5.2.1 Unless otherwise stated all other amounts due from the Customer to ST Telco shall be paid within 7 days of the date of ST Telco's invoice.
- 5.3 The price for the Services is exclusive of any applicable value added tax, which the Customer shall be additionally liable to pay to ST Telco.
- 5.4 The Customer agrees to pay ST Telco in full without any set-off all sums due to ST Telco under this Agreement.
- 5.5 ST Telco shall be entitled to require the Customer to pay a deposit in respect of future usage charges and the Customer shall pay the amount so required within 7 days of a request for the same.
- 5.6 The Customer authorises ST Telco to vary the amount, frequency and time of any Direct Debit to such level as ST Telco deem reasonably appropriate (a) to take account of either an increase or decrease in usage of the Services by the Customer (b) to reduce such indebtedness of the Customer to ST Telco and/or (c) to such other operational matter affecting the Services as ST Telco shall in its discretion deem reasonable.
- 5.7 If any Direct Debit is cancelled or returned unpaid by the Customer's bank or if the Customer fails to discharge any invoice within 7 days of its due date, then, without limiting any other right or remedy available to ST Telco (such failure to pay being a material breach of this Agreement), and without prejudice to any right or remedies under this Agreement, ST Telco shall from the time of such failure provide the Services at the standard published usage charges and in addition charge the customer any costs incurred by ST Telco for the collection of any outstanding amounts. For the avoidance of doubt, the time of payment is of the essence of this Agreement and a failure to pay on time or the cancellation of a Direct Debit shall be a material breach of contract allowing ST Telco to terminate this Agreement immediately.
- 5.8 Should the Customer have any dispute with regard to the usage charges or any other charges, the Customer shall give written notice to ST Telco of the amount in dispute and the reason for the dispute. Such notice must be received prior to the Customer not paying any amount due to ST Telco, failing which the Customer shall be deemed to be in breach of contract and clause 3.3.3 shall apply together with clause 5.8 in respect of the entire balance. The Customer shall remain liable to pay all amounts not in dispute in accordance with the terms of this agreement

## **6 SUSPENSION OF THE SERVICES**

- 6.1 ST Telco shall be entitled, for business, operational or technical reasons or in order to comply with any numbering scheme or other obligation imposed on ST Telco by its licence or by any other competent authority (including any network provider), to withdraw or change any telephone number or code or group of numbers or codes allocated to the Customer whether on a temporary or permanent basis provided that ST Telco gives the Customer the maximum period of notice in writing thereof practicable in the circumstances.
- 6.2 If the Customer is in breach of a material term of this agreement ST Telco may at its sole discretion and upon giving the Customer written notice elect to suspend without compensation the provision of Services for a period not exceeding 14 days. If the breach is capable of remedy and is remedied by the Customer within the 14-day period then ST Telco shall recommence the provision of Services. If the breach is not capable of remedy or if so capable is not remedied within the period of 14 days, then ST Telco shall have the option of either terminating this Agreement under the provision of clause 6.1 or of continuing the Services.
- 6.3 If the Customer's call charges exceed the estimated call spend or the credit limit given to the Customer by ST Telco, whichever is the lower, then ST Telco reserves the right to request immediate payment of the excess amount and to demand in accordance with clause 5.6 a deposit be paid in such amount as ST Telco shall deem to be reasonable. If payment is not made forthwith by the Customer, ST Telco shall be entitled to suspend all or any of the Services until payment of the excess amount is made in full.

- 6.4 Notwithstanding and without prejudice to any of its rights under this Agreement, ST Telco reserves the right to withdraw the Services or any part thereof at any time if the monthly charges to the Customer are not, in the opinion of ST Telco, sufficient to make provision of the Services viable for ST Telco.

## **7 LIABILITY**

- 7.1 Nothing in this agreement shall exclude or restrict the liability of either party for death or personal injury resulting from its negligence.
- 7.2 If the Services fails to operate or the Customer diverts traffic to another carrier, ST Telco will not be responsible for that carrier's charges.
- 7.3 Neither party shall be responsible to the other in contract, tort or otherwise for any loss of business, loss of data, contracts, anticipated savings or profits or for any other indirect or consequential loss whatsoever save that this exclusion shall not apply to the fraudulent activities of either party nor to any claw-back or other loss suffered by ST Telco pursuant to the determination by an airtime services provider that the Customer has used and/or provided services using the Equipment and/or Services which is deemed a gateway.
- 7.4 Each party's liability in tort, contract or otherwise arising out of or in connection with the performance of either party's obligations under this Agreement shall be limited to £1,000,000 for any one incident or series of incidents and £2,000,000 in aggregate.
- 7.5 Neither party shall be liable to the other for any damage or loss which may be incurred by the other party due to any cause beyond the first party's reasonable control including without limitation any act of God failure or shortage of power supplies, trade dispute, any act or omission of Government, highways, regulatory bodies, other public telecommunication operators or other competent authority, or supply of services by third parties.

## **8 MOBILE SERVICES**

- 8.1 In respect of Mobile Services and unless ST Telco advise otherwise the Customer shall enter into an agreement direct with the Airtime Services Provider and is responsible for all aspects (including the management) of that airtime service agreement. ST Telco shall assist the Customer wherever possible in the management of the airtime service agreement.
- 8.2 If ST Telco agrees to reimburse to the Customer charges for specified mobile numbers in respect of the Customer's transferring Airtime Service Provider in respect of such mobile numbers reimbursement must unless otherwise agreed in writing (i) be claimed by the Customer not earlier than four months from the date of transfer and (ii) be only claimed in respect of such mobile numbers as remain live and have not had a notice of termination of contract served at the date of the claim.
- 8.3 ST Telco will be paid commission (initially and on an ongoing basis) by the Airtime Service Provider for introducing the Customer and other customers to it. Such commission may be clawed back in certain circumstances due to the act or omission of the Customer, including if the airtime service agreement is terminated or in respect of gateway or unauthorised use by the Customer. The Customer shall indemnify ST Telco against any such claw-back and immediately on demand pay to ST Telco an amount equivalent to that clawed-back.
- 8.4 Where it is agreed that ST Telco shall pay to the Customer a cash incentive inducement or subsidy for entering into an airtime services agreement, any such amounts must be invoiced by the Customer in three equal amounts such invoices to be dated and delivered at the end of months 6, 12 and 18 of the airtime services agreement. Payment shall only be due to the Customer where the airtime services agreement has not been terminated before the end of the minimum term of the airtime service agreement. The Customer shall produce to ST Telco such evidence as ST Telco may reasonably require as to the continuation in force of the airtime service agreement.
- 8.5 Any cash incentives or subsidies due under this clause 8 that have not been claimed by the Customer within 14 days from the end of the minimum term of the airtime service agreement become null and void.
- 8.6 Any Equipment supplied in connection with Mobile Services shall be supplied subject to these terms and conditions. ST Telco shall endeavour to supply the Equipment as soon as practicable and reserves the right to alter specifications or designs at any time to meet such delivery target.
- 8.7 All such Equipment will be supplied with the manufacturer's guarantee, unless otherwise agreed in writing. The Customer hereby acknowledges that the manufacturer's guarantee is only valid if the Customer complies with the terms and conditions of manufacturer's guarantee.

8.8 The Customer shall be liable for the full costs of any repairs carried out to the Equipment which are not covered by the manufacturer's guarantee.

## 9 GENERAL

9.1 ST Telco reserves the right to change the provider of the Services to it at any time; further ST Telco reserves the right to change these terms and conditions at its sole discretion by giving the Customer not less than 14 days notice (usually on the front page of the monthly bill and/or on its website at [www.sttelco.co.uk](http://www.sttelco.co.uk)), and continued use of the Services thereafter will be deemed acceptance of such changes.

9.2 A notice required or permitted to be given by either party to the other under this agreement shall be in writing addressed to that other party at its principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice and, save in respect of a notice pursuant to clause 3.1, shall be deemed served on the second after the same has been posted.

9.3 If any provision of this agreement is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this agreement and the remainder of the provision in question shall not be affected

9.4 The Customer shall not assign sub-license, delegate or otherwise deal with all or any of its rights and obligations under this agreement without ST Telco's prior written consent, such consent not to be unreasonably withheld. Nothing in this agreement shall be deemed to grant to the Customer a licence to use any software or other intellectual property right (which shall include the ST Telco trade marks) other than strictly in accordance with the terms of this agreement. For the avoidance of doubt, the Customer shall not be entitled to sub-license any such software or other intellectual property right.

9.5 These terms and conditions together with any terms set out in the order constitute the entire agreement between the parties, supersede any previous agreement or understanding and, subject to clause 9.1 and 5.2, may not be varied except in writing and signed by ST Telco or varied orally and then confirmed in writing by ST Telco. All other terms, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law. In entering into this agreement the Customer acknowledges that it does not rely on any representations which are not confirmed in the terms of this agreement, but nothing in this agreement affects the liability of either party for fraudulent misrepresentation.

9.6 The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall not apply to this agreement.

9.7 The laws of England shall govern this agreement, and the Customer agrees to submit to the exclusive jurisdiction of the English Court.