



Mobile Communications Services Terms



PART F

MOBILE COMMUNICATIONS SERVICES TERMS

Where, pursuant to the Master Services Agreement, the Customer requests or requires the supply of Mobile Communications Services from Air IT, the terms of this Part F shall also apply.

AGREED TERMS:

1 Interpretation

The definitions and rules of interpretation in the MSA and in the terms set out in this Order shall apply.

1.1 Definitions specific to this Part F

Authority: means any authority to provide an electronic communications network under the Communications Act 2003 or any licence granted to Air IT and/or any network operator by the Secretary of State under the Wireless Telegraphy Act 1949 (as amended in 1998).

Post Pay Administration Systems: those computerised data processing and billing systems established and operated by the relevant network operator from time to time for the purpose of facilitating (amongst other things) the connection of SIMs to the Systems and billing for the Mobile Communications Services.

SIM: a subscriber identity module which contains Customer information and which when used with the Hardware and/or the Customer's own hardware enables access to Mobile Communications Services provided by means of the Systems.

Systems: means those mobile telecommunications systems which the relevant network operator is licensed to run and have made available to Air IT.

2 Mobile Communications Services

2.1 These terms together with the MSA, any Order and any relevant terms associated with the supply of Hardware and/or Managed Services terms comprise the agreement between the parties in relation to the relevant Mobile Communications Services.

2.2 The Hardware Supply Terms at Part B shall apply to the sale or provision of any Hardware provided in relation to the Mobile Communications Services.

2.3 This Order shall commence on the Order Start Date (as defined on the Order) and subject to any rights to terminate this Order or the Agreement early shall continue for the Term set out on the Order. Thereafter this Order shall continue for 12 month periods unless and until terminated by either of the parties serving on the other no less than 90 days' written notice such notice to expire on the next anniversary of the Order Start Date. The parties may elect that the Term shall start on the Mobile Communications Start Date rather than the Order Start Date in which case the words Mobile Communications Start Date shall be used in place of Order Start Date in this clause.

2.4 The Order constitutes an offer by the Customer to purchase the Mobile Communications Services from Air IT in accordance with the Order. The Order shall only be deemed approved when Air IT issues a written acceptance of the Order or starts to supply the Mobile Communications Services.

2.5 At any time after the Order Start Date the Customer may request a change or a variation to the Mobile Communications Services. In these circumstances Air IT reserves the right to:

- (a) charge associated costs at its sole discretion including without limitation, any cancellation costs charged by third party suppliers in respect of any services that must be cancelled to accommodate the change (including in respect of any telecommunications or airtime provider);
- (b) extend the remaining unexpired duration of this Order; and/or
- (c) update the Charges to reflect the changes required.

2.6 Subject to the terms set out in this Agreement, Air IT shall use reasonable endeavours to supply the Mobile Communications Services to the Customer. Where Air IT agrees to transfer a line from a current service provider Air IT will provide an estimate but shall not be liable for any delays associated with transferring a line which are due to the acts or omissions of the then current service provider. Time for delivery or performance shall not be of the essence and any specified dates or times for delivery are estimates only.

2.7 The Customer acknowledges and accepts the following non-exhaustive list of technical limitations and restrictions which may relate to the provision by Air IT of the Mobile Communications Services and Air IT shall not be liable to the Customer or any of its end users for any failure to supply the Mobile Communications Services (or any part thereof) in any of the following circumstances:

- (a) any technical limitations which impacts the provision of the Mobile Communications Services or the interoperability between them (including any associated supplied Hardware) which may not become apparent until after the Mobile Communications Services (and any Hardware) have working for some time and in such circumstances, the Mobile

(b) to observe the rules and procedures established by Air IT and published to its Customers from time to time for the operation of the Mobile Communications Services.

3 Hardware

3.2 Should the Customer fail to perform any of its obligations under this Agreement then Air IT will not be responsible for any delay, cost increase or other consequences arising from such failure and the Customer shall reimburse Air IT for any costs or expenses incurred due to such failure.

4 Service Management

4.2 Air IT shall be entitled to make alterations to any of the Mobile Communications Services. Such alterations may result in disruption to the relevant Mobile Communications Services and where such changes are within Air IT's control, Air IT will use reasonable endeavours to minimise any disruption to the Customer, and where practicable, Air IT will give the Customer prior notice of such alterations that Air IT in its sole discretion believes is reasonable in the circumstances.

4.3 The Customer must report all faults to Air IT as soon as reasonably practicable. If the fault is not attributable to the Hardware or the Mobile Communications Services supplied by Air IT or if the fault is attributable to damage or theft equipment, then Air IT may charge the Customer for replacement of the necessary equipment.

5 Charges

5.2 Air IT reserves the right to pass on to the Customer on a costs-plus basis (adding 10%) any additional charges levied by external service providers to which the Mobile Communications Services relates, to which is exposed as a result of the Customer's actions.

5.3 Air IT shall, following the end of each calendar month on the date agreed from time to time, submit

to the Customer one or more invoice(s) that shall itemise the Charges payable by the Customer.

5.4 Unless otherwise stated on the Order, the Customer shall pay all Charges and any other sums due from the Customer to Air IT by direct debit (direct debit details are available on request) within 14 days of the invoice date, without set off or deduction in accordance with the MSA save that on termination of this Agreement for any reason any Termination Fees (as stipulated if any on the Order) or unpaid (but properly invoiced) Charges shall be payable on demand unless such termination has arisen as a result of a default of Air IT in which case the payments shall be made pursuant to the normal payment terms referred to in this clause.

5.5 Unless otherwise stipulated all Charges for the Mobile Communications Services shall be based upon billing data recorded by Air IT pursuant to these terms.

5.6 The Customer shall be liable for any charges (including without limitation any Early Termination Fee) made by third party suppliers for any transfer services or otherwise.

5.7 Where any third party charges are incurred as part of any Mobile Communications Services, the Customer shall remain liable (in addition to any Early Termination Fees) for such charges where the Customer terminates an Order prior to the expiry of the Minimum Period.

6 Customer's obligations

6.1 In addition to its obligations set out in the MSA and these terms, the Customer undertakes to Air IT that throughout the Term of this Order it will (and procure that its employees, agents and sub-contractors will):

- (a) comply with all applicable laws, any published instructions and any safety or security procedures applicable to the use of the Mobile Communications Services;
- (b) not act or omit to act in any way which will or may place Air IT or any network provider in breach of any provisions of the Authority any other licences authorisations provisions of law and/or any directions applicable to Air IT or any network provider and co-operate fully with Air IT to enable Air IT to comply with all of the same;
- (c) not use the Mobile Communications Services for any improper immoral or unlawful purpose;
- (d) not act or omit to act in any way which will or may injure or damage any persons or the property of any persons (whether or not employees, agents or

representatives of Daisy), the System and/or the Post Pay Administration Systems or howsoever cause the quality of the Mobile Communications Services to be materially impaired.

- (e) comply with any acceptable use policies and fair use policies from either Air IT, a network provider or any other third party that are applicable or are notified to the Customer from time to time;

6.2 The Customer will indemnify Air IT against all liability and any losses, damages, costs and expenses arising or incurred by Air IT or any of its agents, employees or sub-contractors in respect of any actions, claims or legal proceedings which are brought or threatened against Air IT, its agents, employees or sub-contractors by a third party (including the network provider or operator) if the Mobile Communications Services are used in breach of clause 6.

6.3 The Customer agrees that it is ordering and using the Mobile Communications Services solely for its and its employees own use and furthermore that it will not resell or otherwise act as any form of distributor in respect of the Mobile Communications Services, or any other Services provided by Air IT.

7 Termination and Suspension

7.1 Without prejudice to any other rights or remedies of Air IT under this Agreement, Air IT may terminate the Mobile Communications Services and/or this Order in the event of any of the circumstances referred to in clause 13 of the MSA to the extent that such failure or circumstance applies to the Mobile Communications Services.

7.2 The consequences of termination (set out in clause 14 of the MSA) shall apply specifically to the Mobile Communications Services where they are terminated independently of the Agreement as a whole.

7.3 Unless terminated earlier in accordance with this clause 7, this Order shall terminate on Air IT giving to the Customer at least than 3 months' written notice. Any such termination shall not affect any other Orders which are in force at the effective date of termination, and the terms and conditions of this Agreement shall survive to the extent necessary to give effect to such extant Orders.

7.4 In addition to the rights set out in the MSA and in clause 10, Air IT may, from time to time and without notice suspend the Mobile Communications if:

- (a) the Customer is in breach of any of its obligations (including, but not limited to, its payment obligations) or warranties contained in this Agreement;
- (b) the Customer allows to be done anything which in Air IT's reasonable

opinion may have the effect of jeopardising the operation of the Mobile

- (c) Communications Services whether to the Customer or any other party or which puts (or may in Air IT's sole discretion put) Air IT in breach of any contractual obligation it has to any third party (including a network operator or provider);
- (d) Air IT is instructed to do so by the Government or any other competent regulatory, administrative or judicial authority.
- (e) the Mobile Communications Services are being used in a manner prejudicial to the interests of Air IT and/or the network provider or operator;
- (f) if Air IT has reasonable cause to suspect fraudulent use of the Mobile Communications Services (including any non-compliance with clause 6);
- (g) there is any unusual or excessive usage of the Mobile Communications Services;

7.5 In addition, the Customer acknowledges and agrees that, Air IT or a network provider or operator may:

- (a) occasionally, introduce or withdraw features, introduce process changes, change the technical specification of the Mobile Communications Services (or any service on which the Mobile Communications Services rely) including without limitation service or system upgrades; and/or
- (b) change the codes or the numbers allocated only in order to meet the national numbering requirements of OFCOM or such replacement body,

7.6 During any period of suspension (as envisaged under this Agreement) the Customer shall remain liable for all Charges levied in accordance with this Agreement.

7.7

Where one or more of the Mobile Communications Services (or part of the Mobile Communications Services) are terminated at any time after agreement of an Order by Air IT to the expiry of the Minimum Period in respect of that particular Mobile Communications Services, an early Termination Fee shall be payable. The Termination Fee in this instance shall be either as stipulated on the Order or (in the absence of the same) equal to:

- (a) 100% (one hundred per cent) of the fixed Charges which remain payable by Customer for the unexpired portion of the Minimum Period in respect of that terminated Mobile Communications Services; and
- (b) any termination charges or other costs or expenses incurred by Air IT or one of its Affiliates for the termination of, or cancellation of, any services or equipment (or part thereof) provided to Air IT in connection with the terminated Mobile Communications Services.

7.8

Where one or more of the Mobile Communications Services are suspended in accordance with the Agreement and subsequently reconnected the Customer may be liable for a reasonable reconnection fee which shall be notified to the Customer in advance.

7.9

If an Order is terminated at any time in accordance with the MSA at clause 13, the Customer will be liable for all recurring Charges for each site to which the Mobile Communications Services are being provided as set out in the Order up until the last day of the month in which such Mobile Communications Services were ceased.

8

General

Any claim which either party may have against the other (whether in contract, tort (including without limitation negligence) or otherwise) arising out of or in connection with the Mobile Communications Services shall be treated as if it was made under the MSA and in particular all limits and exclusions of liability contained in the MSA shall apply to this Part F.