

## **TERMS AND CONDITIONS**

### **1 DEFINITIONS**

<b>“Agreement”</b>	shall mean this Agreement for Issuance of Devices;
<b>“Customer”</b>	shall mean the purchaser of the Device of whose details appear in Section A hereto;
<b>“Dialog”</b>	shall mean Dialog Axiata PLC (Company No. PQ 38) a Company duly incorporated under the laws of Sri Lanka and having its registered office at No.475, Union Place, Colombo 2, Sri Lanka and shall include its subsidiaries, affiliates, successors and assigns;
<b>“Device”</b>	shall mean the device detailed in section B hereto;
<b>“Due Date”</b>	shall mean the due date for payment of Installments;
<b>“Down Payment”</b>	shall mean the part of the Purchase Price to be paid by the Customer at the submission of the duly completed Agreement to Dialog;
<b>“Guarantor”</b>	shall mean the person whose details appearing in Section F of his Agreement;
<b>“IMEI No.”</b>	shall mean International Mobile Station Equipment Identity;
<b>“Installment”</b>	shall mean the part of the Purchase Price paid or to be paid by the Customer to Dialog at each selected time interval as set out in Section B herein;
<b>“Party”</b>	Shall mean either Dialog or the Customer individually;
<b>“Parties”</b>	shall mean Dialog and the Customer both collectively;
<b>“Purchase Price”</b>	shall mean the selling price of the Device as set out in Section B herein.

### **2 SCOPE AND PERIOD OF THE AGREEMENT**

- 2.1 The scope of this Agreement shall be for Dialog to provide the Device to the Customer on credit basis and the Customer to make payments as set out in Section B herein subject to the terms and conditions of this Agreement.
- 2.2 This Agreement shall be effective upon fulfillment on conditions set out in Clause 3 hereto and valid until full payment of Purchase Price by the Customer or until it is terminated in accordance with Clause 9 of this Agreement.

### **3 COMMENCEMENT OF AGREEMENT**

This Agreement shall become effective upon fulfillment of all of the following:

- 3.1 Payment of Down Payment by the Customer;

- 3.2 Due completion and signature by the Customer of this Agreement and acceptance of this Agreement by Dialog;
- 3.3 Submission of satisfactory supporting documents by the Customer and the Guarantor as required by Dialog from time to time, including proof of identity, residential/billing address and income;
- 3.4 Satisfactory evaluation, verification and acceptance of supporting documents submitted by the Customer and Guarantor to Dialog as per the policies and guidelines prevailing at Dialog from time to time;
- 3.5 The Customer and Guarantor satisfying the eligibility criteria set out by Dialog for issuance of the Device.
- 3.6 The Customer and Guarantor not owing Dialog any dues in lieu of any product and/or services provided by Dialog to the Customer;

#### **4 DOWN PAYMENT AND DOCUMENTS**

- 4.1 The Customer shall make the Down Payment and submit to Dialog duly executed this Agreement together with the supporting documents as set out in Clause 3.3 herein for evaluation of the Customer application for issuance of the Device by Dialog. For avoidance of doubt, neither making of the Down Payment nor the submission of this Agreement together with the supporting documents to Dialog shall commence / effect this Agreement unless same is communicated to the Customer by Dialog.
- 4.2 The Customer shall represent and warrant that all the Agreement, applications and/or supporting documents submitted by the Customer to Dialog further to this Agreement are genuine, and all the information contained therein are true and correct. Forgery, misrepresentation and/or falsification of documents and/or any unsatisfactory documents submitted by the Customer shall entitle Dialog to cancel/terminate the Agreement prior to or after issuance of the Device to the Customer.
- 4.3 Notwithstanding anything set out herein, Dialog shall be entitled to reject the application of the Customer at its sole discretion.

#### **5 ISSUANCE OF THE DEVICE**

- 5.1 Subject to fulfillment of Clause 3 herein, the Device will be delivered to the Customer at the address set out in Section A herein on credit basis as per timelines communicated to the Customer by Dialog. Dialog shall not be obliged to deliver the Device until the conditions set out in Clause 3 are fulfilled.
- 5.2 This Agreement shall be deemed cancelled and the Down Payment will be refunded, free of interest, to the Customer in the event the Customer's application for the Device is rejected due to any reason and/or Dialog is unable to deliver the Device. The Down Payment will be refunded to the Customer mobile account number specifically set out in Section C herein provided such account is active in Dialog records at the time of refund of the Down Payment or bank account number set out in Section C herein.
- 5.3 Unless otherwise decided by Dialog at its sole discretion, the Device will not be issued to the Customer until settlement of charges applicable for any mobile handset or other device already procured by the Customer from Dialog but not yet fully paid for.

#### **6 OBLIGATIONS OF THE CUSTOMER**

- 6.1 The Device shall contain a Dialog mobile SIM connection continuously actively connected to Dialog mobile network until expiration of this Agreement.

## 6.2 Lost or damaged Device

- 6.2.1 The Customer shall not be entitled to delay, stop or interrupt payment of Installments irrespective of whether the Device is lost or damaged.
- 6.2.2 It shall be the responsibility of the Customer to effect necessary repairs and/or replace the Device at the expense of the Customers where the Device is damaged or rendered defective due to a cause other than that which is covered by the warranty provided for the Device.
- 6.3 The Customer shall inform Dialog in writing of any change of residential address set out in Section A herein and/or any other address informed to Dialog subsequently, at least fourteen (14) days prior to such change.
- 6.4 The Customer shall not be entitled to change the ownership of the Device until full settlement of the Purchase Price.
- 6.5 The Customer shall not attempt to sell or transfer the Device to any other party or represent to any person that the Customer has the right to do so, until the full Purchase Price is paid by the Customer to Dialog.
- 6.6 During the continuation of this Agreement ,
  - 6.6.1 the Customer shall maintain the Device in good order and avoid using the same at improper operational environments, which are outside the normal home/office conditions in terms of excessive corrosive atmosphere, temperature, humidity, shock or vibration to ensure that no damage occurs to same either by impact or other causes within the control of the Customer.
  - 6.6.2 the Customer shall always follow instructions given by Dialog as to the proper use and maintenance of the Device.
  - 6.6.3 the Subscriber shall not use the Device for any purpose which is unlawful, illegal or is prohibited by any authority or by Dialog.
  - 6.6.4 the Subscriber shall not at any time tamper with, alter, replace, dismantle, modify, repair and/or attach any accessory/ancillary item to the Device or accessories provided by Dialog hereunder or obliterate any marks thereon unless same is authorised in writing by Dialog.

## 7 PAYMENT TERMS

- 7.1 The Customer shall be entitled to purchase the Device from Dialog at the Purchase Price which Purchase Price shall be settled to Dialog as per the Installment payment plan set out in Section B hereto.
- 7.2 The Customer shall make the Down Payment set out in Section B hereto at the time of submission of the duly completed Agreement.
- 7.3 The Installments will be charged to the Customer account number set out in Section B hereto as per the Installment payment plan set out in Section B hereto and the Customer shall settle same in full, as per the payment settlement options available from time to time, to Dialog on or before the Due Date for settlement of Installments.

- 7.4 Where Dialog offers early settlement, the early settlement of the Purchase Price may be selected by the Customer at any time, including in the instances where the Device is lost or damaged beyond repair. The early settlement charges shall be determined by Dialog at the time of early settlement.
- 7.5 In the event of any Installment, fee or charge remaining unpaid after becoming due, Dialog reserves the right to charge interest at the rate of 2% per month of the total amount due for the period between the Due Date and the date of settlement.
- 7.6 Nonpayment
- 7.6.1 Any unpaid full or part Installment shall be treated by Dialog as outstanding payment of Installment and subject to credit recovery actions of Dialog for recovery of Purchase Price. As part of credit recovery actions, Dialog shall be entitled to block the Device as acknowledged by the Customer in Section D herein.
- 7.6.2 Where the Customer has failed to settle the Installments, Dialog shall be entitled to terminate this Agreement with immediate effect without notice to the Customer and charge the total outstanding amount under this Agreement to the Customer's account number set out in Section B hereto. The Customer shall pay Dialog the total outstanding immediately to Dialog.
- 7.6.3 In the event the Device is blocked as set out in Clause 7.6.1 herein and the Device requires to be activated, the Customer shall pay any charges stipulated by Dialog for reconnection of the Device.
- 7.7 The Customer agrees to bear all legal costs and expenses incurred by Dialog in recovering any money, charges costs and expenses payable by the Customer under these terms and conditions and the Customer also indemnifies Dialog against all costs, expenses payable by the Customer.
- 7.8 All prices under this Agreement shall be exclusive of taxes, levies or charges imposed by the Government of Sri Lanka.
- 7.9 Any eZcash transactions to be effected by the Parties under or in connection with this Agreement shall be effected via the eZcash account details set out in Section A hereto.

## **8 DIALOG'S OBLIGATIONS, RIGHTS AND LIABILITIES**

- 8.1 Dialog shall provide a standard product warranty for the period set out in Section B herein and effect repairs of errors or malfunctions of the Device caused due to any inherent product defects and which are not caused due to an act or omission of the Customer.
- 8.2 Dialog shall be entitled to decide at its sole discretion, from time to time, the supporting documents required from the Customer and the Guarantor, policies and guidelines related to evaluation, verification and acceptance of supporting documents submitted by the Customer and Guarantor and any other eligibility criteria for issuance of the Device.
- 8.3 Dialog reserves the right from time to time to vary, add to or amend the terms and conditions herein set-out. The Customer shall be given prior written notice and shall be bound to observe and comply with such amendments.
- 8.4 Dialog reserves the right at anytime to disclose information of the Customer to its subsidiaries or holding companies in order to provide an integrated service.

- 8.5 Dialog reserves the right at any time to require the Customer to pay any outstanding amount within a stipulated period of time.
- 8.6 Dialog reserves the right to recover any outstanding payment by utilizing any deposit and/or account balance in any other subscription (post-paid/pre-paid) in the name of the Customer.
- 8.7 Dialog shall not be liable to any Customer or any third party authorised by or claiming through a Customer for any loss or damage, whether direct indirect special or consequential, or loss of business revenue or profits or of any nature suffered by any Customer or any person authorised by the Customer, or for any injury caused to or suffered by a person or property arising from/or occasioned by;
- a) use of Device by the Customer or any persons authorised by the Customer.
  - b) any malfunction or defect in the Device or the loss of any data contained in the Device for any reason.
- 8.8 Dialog shall not be liable for any claim for illegal, slander, infringement of copyright arising from the transmission and receipt of material in connection with the Device and any claims arising out of any act or omission of the Customer in relation to the Device.
- 8.9 Dialog shall not be liable in any manner whatsoever for any loss of business, loss of revenue, consequential or incidental loss or any other loss to the Customer as a result of fault, error, malfunction and/or blocking of the Device as set out in Section D hereto or suspension / termination of this Agreement for any reason whatsoever or exercise of any right of Dialog hereunder.
- 8.10 Dialog shall not be liable for any interference or adverse effect caused to any other equipment/apparatus of the Customer due to operation of Device provided hereunder.
- 8.11 Unless Dialog decides anything contrary at its sole discretion, Dialog shall not be liable to correspond including but not limited to sending reminders on payments, with the Customer via any other contact number other than the numbers set out in Section A hereto.

## **9 TERMINATION AND CONSEQUENCES OF TERMINATION**

- 9.1 Dialog may terminate this Agreement if the Customer breaches any of the terms herein contained and not cured within Thirty (30) days' notice of the said breach by Dialog to the Customer, unless such time period allowed for curing of the breach is further extended by Dialog.
- 9.2 Dialog may terminate this Agreement
- 9.2.1 in the event Dialog becomes aware or has reasonable grounds to believe that any documents and/or information submitted by the Customer to Dialog under or in connection with this Agreement are forged, false and misleading.
  - 9.2.2 in the event its license to operate and provide the services granted by the Government/Governmental Authority is withdrawn or not renewed for any reason whatsoever.
  - 9.2.3 if it comes to the notice of Dialog that any gift or consideration of any kind was offered or given to any Dialog employee or authorised agent by such Customer as an inducement or reward to assist such Customer in being accepted as Customer or to facilitate the acceptance of this Agreement.

- 9.2.4 in the event it is brought to Dialog's notice that the Device is utilized by the Customer or any person authorized by the Customer for illegal purposes and in contravention of any law, or if the Customer entered into this Agreement and obtained the Device producing forged and/or fraudulent documentation and information.
- 9.3 In the event this Agreement is terminated prior to expiry by either Party as provided herein, the Customer shall immediately pay the remaining Purchase Price to Dialog and nonpayment shall be subject to the credit recovery actions of Dialog as set out in Clause 7.6 herein.
- 9.4 Termination or expiry of this Agreement shall not prejudice any rights and liabilities of the Parties already accrued at the date of such termination or expiry.
- 9.5 Exercise of any right of either Party hereunder shall not prejudice its right to terminate this Agreement or to exercise any other right thereunder

## 10 MISCELLANEOUS

- 10.1 **FORCE MAJEURE** - Dialog shall not be liable for any breach of this Agreement caused by an act of God, terrorist activities, and insurrection or civil disorder, military operations, all emergency acts or omission of Government, or any competent authority, industrial disputes, of any kind of fire, lightning, explosion, flood, acts or omission of persons or bodies for whom Dialog is not responsible or any cause outside Dialog's control.
- 10.2 **SEVERABILITY**- If any of the term of this Agreement shall be invalid, illegal or unenforceable under any applicable law, the legality and enforceability of the remaining provisions shall not be affected or impaired in any way and such invalid, or unenforceable provision shall be deemed deleted.
- 10.3 **GOVERNING LAW** - These terms and conditions shall be governed by and construed in accordance with the laws of Sri Lanka.

### 10.4 NOTICES

- a) Any notice by Dialog to the Customer under these terms and conditions shall be in writing and sent to the residential address set out in Section A hereto and/or any other address informed to Dialog subsequently, atleast Fourteen (14) prior to such change.
- b) Any notice by the Customer to Dialog under these terms and conditions shall be in writing and sent to the following address which may be changed and notified from time to time.

Head of Business - Mobile Telecommunications  
Dialog Axiata PLC (PQ 38)  
475, Union Place,  
Colombo 02, Sri Lanka.

- c) Any notice given pursuant to this clause shall be deemed to have been served if sent by prepaid registered post, within five (05) business days after the date of posting; if sent by ordinary post within six (06) business days after the date of posting; if hand delivered, upon delivery; if sent via facsimile, upon facsimile transmission.

- 10.5 **ASSIGNMENT**- The Customer shall not be permitted to assign or transfer any part of their rights or obligations under these terms and conditions to anyone, without the prior written consent of Dialog.
- 10.6 **WAIVER** - No delay, neglect or forbearance on the part of Dialog in enforcing against the Customer any term or condition of this Agreement and no grant of any extension of time by Dialog (whether with or without consideration thereof) shall be deemed to be a waiver of or in any way prejudice any right of Dialog under this Agreement against the Customer. No waiver of any term or condition hereof by Dialog shall be deemed to be by the Customer of a subsequent waiver of such term/condition or a waiver of any other term or condition.
- 10.7 **ENTIRE AGREEMENT** - This Agreement constitutes the complete agreement between the Parties hereto and supersedes all prior or contemporaneous agreements or understandings or representations written or oral concerning the subject matter of this Agreement. This Agreement may not be amended except in writing signed by duly authorized representatives of each party. No other act, document, usage or custom shall be deemed to amend or modify this Agreement. .
- 10.8 **WARRANTY OF AUTHORITY** - The parties hereto represent and warrant to each other that their authorized signatories are entitled to sign on their behalf and the rights and obligations of each of the parties hereto shall be legally valid and binding and enforceable on them.
- 10.9 **INTERPRETATION**
- a) Words importing the singular number include the plural number and vice versa.
  - b) Words importing the masculine gender include the feminine.
  - c) The expression importing a natural person includes a body corporate.
  - d) The headings are for the ease of reference only and shall in no way affect the interpretation of any provision herein.