

# CSL (DUALCOM) LIMITED TERMS AND CONDITIONS

## 1. Interpretation

### 1.1. In these terms and conditions unless the context otherwise requires:-

- "Agreement" means this agreement between CSL and the Customer comprising these terms and conditions;
- "Connection Charges" means the connection charges and any other non-periodic charges;
- "CSL" CSL (Dualcom) Limited of Salamander Quay West, Park Lane, Harefield, Middlesex UB9 6NZ
- "Customer" means the customer named on these terms and conditions;
- "Customer's Delivery Address" means any delivery address within the United Kingdom specified on the orders placed by the customer, to which the SIMs or the Equipment are to be supplied;
- "Customer Terminal Equipment" means any equipment or apparatus (including the Equipment) that is or is to be connected to the Systems for the purpose of enabling the Customer to access the Services made available by CSL;
- "Effective Date" means the date for the commencement of the Services on the customers order;
- "Equipment" means the radio pads or GSM products and all other equipment or apparatus that is or is to be purchased or rented by the Customer or as subsequently agreed by CSL in writing for the purpose of enabling the Customer to access the Services made available by CSL;
- "Force Majeure Event" shall include (without limitation) Act of God, inclement weather, flood, lightning or fire, industrial action or lockouts, the act or omission of government, any regulatory body or other competent authority, war or military operations, riot, or congestion or non-operation of any public telecommunications network (other than that of a System Provider) and any cause or circumstance whatsoever beyond the reasonable control of the party concerned;
- "Fraud" shall include (without limitation):-
- theft fraud and/or deception (whether actual or attempted) in relation to any of the Systems and/or the Services and/or SIMs and/or Software and/or the Equipment; and/or
  - unauthorised and/or unlawful use (whether actual or attempted) of any of the Systems and/or the Services and/or the SIMs and/or the Software and/or the Equipment;
- "Index Figure" means the monthly figure given by the Retail Prices Index;
- "Licence" means any licence to run a public telecommunications system granted to any of the System Providers by the Secretary of State under the Wireless Telegraphy Acts 1949-1967 or the Telecommunications Act 1984 or any replacement of or modification to any such licence;
- "Minimum Period" has the meaning given in Clause 4.1;
- "Periodic Charges" means any charge payable by the Customer on a recurring basis and includes the Airtime Charges, management charges and rental in respect of rented Equipment;
- "Retail Prices Index" means the General Index of Retail Prices which is currently Table 18.1 in the Monthly Digest of Statistics published by the Central Statistical Office;
- "Services" means any and all airtime on the Systems and any other services provided or made available by CSL from time to time or as subsequently agreed by CSL and the Customer in writing;
- "SIM" means a subscriber identity module which contains Customer information and which when used with approved GSM mobile equipment and connected to the Systems enables access to the Services and to other services provided by Vodafone AirTouch Companies;
- "Software" means the computer programs (whether in object or source code), instructions, data and firmware that may be supplied by CSL to the Customer;
- "Systems" means any and all of the telecommunications systems operated by Vodafone Ltd, VVADS, and/or Vodafone Paging Ltd as may be made available by CSL to the Customer for the purposes of providing the Services pursuant to this Agreement, and 'System' means any of them;
- "System Provider" means the operator of the relevant System;
- "Vodafone AirTouch Company" means Vodafone AirTouch Plc and any company or corporation in respect of which Vodafone AirTouch Plc owns (directly or indirectly) 15% or more of the issued share capital of such company or corporation;

- 1.2. References in this Agreement to any statute, licence or other regulation includes a reference to that statute, licence or regulation as re-enacted or amended from time to time. Where the context so admits, words denoting the masculine gender shall include the feminine or the neuter and vice versa and words denoting the singular shall include the plural and vice versa. The clause headings in this Agreement are for the purposes of reference only and do not form part of this Agreement, nor do they affect the validity or enforceability of this Agreement. References to 'month' shall mean calendar month unless otherwise agreed.

## 2. Effectiveness of this Agreement

This agreement serves as a master agreement between CSL and the Customer. The Customer agrees that by entering into this master agreement all orders tendered by the Customer for the Services, SIMs and/or the Equipment plus all existing connections to Vodafone AirTouch shall be subject to the terms and conditions contained within. The Customer recognizes and agrees that not all orders placed by the Customer will be acknowledged by CSL but that such orders are subject to these terms and conditions. Once accepted by CSL, no order can be amended or cancelled by the Customer (except as provided in these terms and conditions)

## Capacity of CSL

The Services are made available to the Customer by CSL as Service provider and authorised distributor for Vodafone AirTouch.

## 4. Duration

- 4.1. This Agreement shall commence on the date that both parties' signatures are on the agreement and (subject to earlier termination in accordance with this Agreement) shall continue in force for a minimum period of 12 months. Thereafter, this Agreement shall (subject as aforesaid) continue in force until terminated by either party giving to the other at least the written notice set out on the order form or, if none is specified at least three months' written notice, to terminate this Agreement to expire at any time on or after the end of the Minimum Period, such notice to expire at the end of the billing period applicable to the Customer. Any subsequent order for Services, SIMs or Equipment shall be deemed to be subject to these terms and conditions, save in respect of:
- any minimum period applying to the Services (which, unless otherwise agreed, shall be the length of the Minimum Period, or if none is stated 15 months, but in either case, beginning from the date of connection of the Services as the case may be; and
  - any other terms which are agreed between CSL and the Customer.
- 4.2. If this Agreement is terminated during the Minimum Period by CSL (due to a breach of this Agreement by the Customer) or by the Customer (otherwise than pursuant to its rights under this Agreement), the Customer shall pay a sum (by way of agreed compensation for CSL's loss of revenue by reason of such early termination and not as a penalty) equal to the Periodic Charges which would have been payable for the balance of the Minimum Period.

## 5. Supply of Equipment and Services

Subject to the terms of this Agreement, CSL agrees to supply and the Customer agrees to purchase the purchased Equipment and rent the rented Equipment and CSL agrees to use its reasonable endeavours to make available the Services on the Effective Date and thereafter for 24 hours in every day on every day of the year for the duration of this Agreement and the Customer agrees to purchase the Services.

## 6. Charges

- 6.1. Subject to any period during which charges are fixed as shown on the order form, CSL may from time to time introduce new charges or (but only when 12 months has expired from CSL's last increase) increase any Periodic Charges by giving the Customer not less than 14 days notice before the increase or the new charges are due to take effect. In the event that any increase represents more than the percentage increase in the Index Figure last published before the review date and the Index Figure for the same month of the previous year plus 5% then the Customer shall be entitled to terminate this Agreement provided that the Customer gives CSL written notice prior to the increase taking effect.
- 6.2. All charges set out or referred to in this Agreement are exclusive of Value Added Tax and any other relevant charge or levy from time to time, which shall (if applicable) be paid by the Customer at the applicable rate.
- 6.3. If any discounts or rebates are applicable, the discounts and the rebates are only available on condition that the Customer is not in breach of this Agreement. In addition, if this Agreement is terminated during the Minimum Period, such discounts or rebates will become repayable immediately by the Customer to CSL in full without any deduction or set off (in addition to any payments pursuant to Clause 4.2).
- 6.4. Save as expressly agreed by CSL in writing, any discounts and rebates offered by CSL to the Customer are mutually exclusive and do not include any other discounts or early payment discounts, loyalty bonuses or similar rebates, discounts or payments which relate to the same Services or Equipment. The references to 'discounts and rebates' in this Clause 6.4 shall be deemed to include any Services or Equipment offered to the Customer free of charge, in which case the discount or rebate shall be deemed to be 100% of CSL's current published price (or in the absence of a published price, the current published price of the relevant System Provider) in respect of the same.

## 7. Payment

- 7.1. The Customer shall pay the Periodic Charges annually in advance unless otherwise agreed. Any excess Airtime Charges (such as airtime used in excess of that allowed in the Customer's selected access module) shall be paid monthly in arrears. All other charges shall be paid annually in advance or as CSL shall otherwise advise. All payments shall be made by direct debit unless otherwise agreed by CSL in writing.
- 7.2. All payments due hereunder shall be paid together with Value Added Tax and any other relevant charge or levy at the appropriate rate, upon the date due or within 30 days of the date of CSL's invoice, whichever is the earlier. CSL shall be entitled to charge interest on any sum not received when due at the rate of 2% per annum above the base lending rate of Barclays Bank Plc from time to time compounded daily until payment thereof, such interest to be calculated on a daily basis. Whenever under this Agreement any sum of money shall be recoverable from or payable by the Customer, the same may be deducted from any sum then due or which at any time thereafter may become due to the Customer under this Agreement or any other agreement with CSL, any System Provider or any Vodafone AirTouch Company. Exercise by CSL of its rights under this Clause 7.2 shall be without prejudice to any other rights or remedies available to CSL. CSL will only consider billing queries from the Customer if made within six (6) months of the date of CSL's invoice.
- 7.3. CSL may at any time require the Customer to enter into bank or other guarantees (or to provide some other form of financial security) which in the opinion of CSL is/are appropriate as security against the Customer's non-compliance with or non-observance of any of the provisions hereof (including failure to pay charges due). Refusal to provide such security or failure to provide such security within thirty (30) days (or such longer period as CSL may reasonably allow) of the date of CSL's request for the same shall be deemed to be a breach of this Agreement by the Customer.

## 8. Equipment

- 8.1. Unless otherwise stated or agreed in writing, the price or rental of the Equipment excludes the cost of delivery to the Customer and CSL's charges for transport, packaging and insurance. The Customer shall examine the Equipment and notify CSL within 3 days of delivery of the nature and extent of any loss or damage in transit. All risks of damage to or loss of the Equipment shall pass to the Customer at the time of delivery or, if the Customer fails to take delivery of the Equipment, the time when CSL has tendered delivery. Rented Equipment shall remain at the Customer's risk until it is returned to CSL. Unless otherwise agreed, CSL shall arrange for delivery of the Equipment to the Customer's Delivery Address. CSL shall use all reasonable endeavours to meet any agreed delivery date which shall be provisional only and CSL will not be responsible for any consequence of delay if the delivery date is not met. Time for delivery shall not be of the essence. When a number of items of Equipment have been the subject of one order, delivery of

each such item of Equipment shall constitute a separate contract and failure by CSL to deliver any particular item of Equipment, or any other failure by CSL to perform its obligations with respect to such item of Equipment shall not affect the validity of the separate contracts with respect to the other items of Equipment included in such order. CSL may in its absolute discretion withhold delivery pending payment of any sum due from the Customer to CSL. Installation of Equipment (where applicable) will be effected by a person authorised by CSL in accordance with the installation procedures that will be made available to the Customer by CSL from time to time. All installation costs shall be for the Customer's account.

- 8.2. Notwithstanding delivery and the passing of risk in the purchased Equipment the Customer shall acquire legal ownership of the purchased Equipment only when CSL has received in cash or cleared funds payment in full of the price of the purchased Equipment, including CSL's charges for transport, packaging and insurance. Until such time as legal ownership in the purchased Equipment passes to the Customer, the Customer shall hold the purchased Equipment on trust for CSL and shall keep the purchased Equipment separate from that of the Customer's and third parties' property and properly stored, protected, insured and identified as CSL's property. Until that time the Customer shall have the right to sell or otherwise dispose of the purchased Equipment in the ordinary course of its business, but shall hold on trust and shall account to CSL for all sums owing to CSL in respect of the purchased Equipment including the proceeds of sale, insurance or otherwise. Until such time as the property in the purchased Equipment passes to the Customer, if there is any threatened seizure of the purchased Equipment by third parties CSL shall be entitled at any time to enter the premises of the Customer or any third party where the purchased Equipment is stored to repossess the purchased Equipment. The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the purchased Equipment which remains the property of CSL, but if the Customer does so all moneys owing by the Customer to CSL shall (without prejudice to any other right or remedy of CSL) forthwith become due and payable. The title and control of rented Equipment shall at all times remain vested in CSL. The Customer shall not do or permit anything to be done which prejudices CSL's title to any rented Equipment. The Customer shall keep all rented Equipment lent to the Customer in good condition and, where appropriate, return it to CSL in the same condition fair wear and tear excepted. The Customer shall provide CSL with a prompt report of any loss or damage to the rented Equipment whilst at the Customer's risk. The Customer shall not, and shall not permit any person to carry out or try to carry out any repairs or alterations to any rented Equipment, unless the Customer has been authorised by CSL. Failure, for any reason, to return rented Equipment when required to CSL or to permit disconnection (as appropriate) shall cause the Customer to be liable for such replacement or other costs as shall apply from time to time.
- 8.3. If any purchased Equipment has become defective within 12 months from the date of delivery as a result of faulty design, manufacture or workmanship and provided that the purchased Equipment has not been wilfully damaged, misused, overloaded, modified or repaired and all sums due to CSL have been paid by the due date, CSL shall at its discretion either replace (with equipment of a similar age, specification and condition) or repair such Equipment free of charge. Faulty rented Equipment will be repaired or replaced free of charge, provided always that faults are the result of fair wear and tear and not caused by any negligence or default on the part of the Customer. In the case of faults caused by negligence or default on the part of the Customer, CSL shall have no obligation to repair or replace such Equipment (and the Customer shall not be relieved from the obligation to pay any charges due to CSL), but if CSL does so the Customer shall pay CSL's repair or replacement charges as shall apply from time to time. The costs of return shipment of repaired or replaced Equipment will be borne by CSL except where the faults were caused by the Customer's negligence or default.
- 8.4. CSL reserves the right to advise the Customer of further terms and conditions in relation to the supply of Leased Line Access as a consequence of the terms and conditions upon which such access is granted to CSL. Any network management facilities, alarm monitoring, line fault diagnosis or network port configuration agreed to be provided shall extend to the network terminating point but not beyond. If CSL orders a private dedicated transmission circuit on behalf of the Customer, the Customer shall be responsible for complying with and observing all the relevant supplier's terms and conditions in respect of that circuit and shall indemnify CSL in respect of any liability CSL may incur to such supplier or other third party in respect of the same.

## 9. Supply of SIMs

In the event that CSL agrees to supply SIMs to the Customer, such SIMs shall only be used to enable the Customer to access the Services in accordance with the terms of this Agreement. The SIMs do not belong to the Customer. CSL may change the Customer's SIMs. Upon disconnection of the SIMs or if CSL changes them or when this Agreement expires or is terminated, the SIMs shall, at CSL's option, either be returned in good condition to CSL or destroyed in accordance with CSL's instructions. It is the Customer's responsibility to keep SIMs secure, as CSL is not liable for any loss or liability incurred by the Customer resulting from their unauthorised use. In the event that the Customer notifies CSL that a SIM has been stolen, lost or damaged, CSL shall as soon as reasonably practicable disconnect the relevant SIM. The Customer will have to pay for stolen, lost or damaged SIMs.

## 10. Software

- 10.1. In respect of any Software supplied to the Customer under this Agreement (whether such Software is loaded or embedded in any Equipment or supplied on any other medium), the Customer is licensed to use the Software only for the purposes for which it is supplied and on the equipment or apparatus and at the place (if any) specified by CSL. Where the Software is loaded or embedded in the Equipment, the Customer shall not load, use or copy the Software on any other equipment without the prior written consent of CSL.
- 10.2. The Customer is not permitted:
- 10.2.1. to transfer the Software (or any of its associated documentation) and/or the benefit of the licence granted in this Clause to another person;
  - 10.2.2. to load the Software onto a network server for the purposes of distribution to any third parties or to effect such distribution;
  - 10.2.3. except as expressly permitted by this Agreement and save to the extent and in the circumstances expressly required to be permitted by law, to rent, lease, sub-licence, loan, copy, modify, adapt, merge, translate, reverse engineer, decompile, disassemble or create derivative works based on the whole or any part of the Software or its associated documentation or use, reproduce or deal in the Software or any part thereof in any way.
- 10.3. The licence granted in this Clause 10 to the Customer to use the Software is effective until the Customer terminates it by destroying the Software together with all copies or by returning the Software and its associated documentation to CSL and destroying any copies of the Software on any hard disk of any computer under its control. The licence to use the Software will also terminate if the Customer fails to abide by any of the terms of this Agreement.
- 10.4. Except where the Customer has purchased the Software, upon termination or expiry of this Agreement the Customer agrees to destroy all copies of the Software and its associated documentation including any Software stored on the hard disk of any computer under its control or return the Software and its associated documentation to CSL and destroy any Software on any such hard disk, as CSL may require. Where the Customer has purchased the Software, the provisions of this Clause 10 shall survive termination of this Agreement. The Customer shall procure that all officers, employees and/or sub-contractors shall comply with the terms of this Clause 10.

## 11. Services

- 11.1. It is the Customer's responsibility to make sure that its request for the Services accurately reflects what the Customer wants. The Customer is also responsible for making sure that CSL has sufficient information to administer and make the Services available to the Customer.
- 11.2. The provision of the Services in respect of each of the Systems is, save as expressly provided in this Agreement, independent of other Services and independent of any other arrangement for the provision of other services and/or for the provision and/or maintenance of equipment offered or made available to the Customer by the System Providers. Any other equipment and/or services must be obtained separately and shall be subject to the terms and conditions relating to that equipment and/or those services.
- 11.3. The Services depend on the availability of the Systems and the telecommunications services provided by British Telecommunications plc and other telecommunications network operators and, by their nature, may from time to time be adversely affected by physical features such as buildings and underpasses, or by atmospheric conditions or other causes of interference and may fail or require maintenance without notice.
- 11.4. It is technically impracticable to make available a totally fault-free service and CSL does not guarantee to do so or give any warranty in respect of the Services. Certain maps detailing the coverage of the Systems (provided by the System Providers) are available from CSL, but the Customer acknowledges and agrees that these coverage maps are only an indication of service coverage.
- 11.5. CSL and the System Providers make every effort to ensure the security of the Services. The Customer is however advised that for reasons beyond CSL's and the System Providers' control there is a risk that any use of the Services may be unlawfully intercepted or accessed by those other than the intended recipient. For example, communications may pass over third party networks over which CSL's and the System Providers' have no control. In respect of analogue networks there is no protection for communications over the air interface. In respect of the GSM and GPRS digital network communications over the air interface are encrypted, thereby providing a significantly greater level of protection, but even this cannot be guaranteed. The Customer is also advised to read the operating instructions provided with Customer Terminal Equipment carefully. Depending upon the type of equipment, manufacturer and model, Customer Terminal Equipment may send information stored on it and receive information to and from certain third parties without the Customer's or the user's knowledge. Where Customer Terminal Equipment is used to access the Internet, the Customer acknowledges that the Internet is not a secure environment. Unwanted programs or material may be downloaded without the Customer's or the user's knowledge, which may give unauthorised persons access to Customer Terminal Equipment and the information stored on it. These programs may perform actions that neither the Customer nor the user has authorised, possibly without the Customer's or the user's knowledge.

## 12. Use of the Services

- 12.1. The Customer shall use (and shall permit other persons to use) the Services only:
- 12.1.1. in accordance with such instructions or forms of guidance as may be notified in writing or issued to the Customer by CSL or the System Providers from time to time;
  - 12.1.2. for the purpose for which the Services are provided; and
  - 12.1.3. in accordance with all provisions of law applicable to the Services.
- 12.2. The Customer shall not act or omit to act in any way which will or may place any of the System Providers in breach of any provisions of their respective Licences any other licences authorisations provisions of law and/or any directions applicable to them and co-operate fully with them to enable them to comply with all of the same.
- 12.3. The Customer shall observe the respective Licences of the System Providers (insofar as they may be applicable to the Customer) the Wireless Telegraphy Acts 1949-1967, the Telecommunications Act 1984, other relevant legislation or statutory instruments and comply with any requirement of the Director General of the Office of Telecommunications or the Secretary of State (or persons authorised on their behalf) under the Licence and/or any such legislation or statutory instruments.
- 12.4. Without prejudice to the generality of Clause 18.6 the Customer shall not use and shall not permit any person to use the Services for any improper, immoral or unlawful purpose, or for recording or sending abusive, offensive, illegal, menacing or obscene messages, or in a manner which violates or infringes the rights of any person, firm or company (including but not limited to rights of copyright or confidentiality) or any statutory or other duty or obligation whether in contract, tort or otherwise and any message in breach of this provision may be erased by CSL or any System Provider without notice to the Customer.
- 12.5. If at any time either CSL or any System Provider reasonably deems the Customer's use of the Services to be excessive, CSL shall notify the Customer accordingly, and CSL or the System Provider shall have the right at their option either to make an additional charge for excessive use or to take such action as they deem in their sole discretion to be necessary to relieve such congestion. If the Customer is notified to remedy such excessive use and such excessive use is not remedied within 7 days of such notification, CSL reserves the right to terminate this Agreement immediately in respect of the affected System. The word 'excessive' in this Clause 12.5 means a volume of use as indicated on the order or/overlaid or, if no indication is given, as agreed by the parties in writing, or failing such agreement, a volume of use that in the opinion of CSL's or the System Provider's technical personnel is, or is likely to, impair or congest the System.
- 12.6. The Customer shall not act or omit to act in any way which will or may injure or damage any persons, property or any of the Systems.

- 12.7. The Customer shall not do or permit anything to be done which, in CSL's opinion or in the opinion of any System Provider, may degrade, obstruct, interrupt, impair or otherwise adversely affect the quality, function, operation or performance of the System or the Services.
- 12.8. The Customer shall not directly or indirectly be involved or knowingly recklessly or negligently permit any other person to be involved in any Fraud and shall notify CSL immediately upon becoming aware of any such Fraud and the Customer will implement and comply with such procedures and rules adopted by CSL from time to time concerned with Fraud.
- 12.9. CSL may from time to time grant facilities to the Customer to access information on its use of the Services. Such access shall be for the Customer's auditing and management purposes only and shall be without prejudice to the right of CSL to assess and calculate the Customer's use of the Services for administration and billing purposes.
13. **Suspension of the Services**
- 13.1. CSL may elect to suspend availability of the Services and/or the Systems in whole or in part or disconnect any SIMs or Customer Terminal Equipment in any of the following circumstances:
- 13.1.1. if the Customer fails to comply with any of these terms and conditions (including failure to pay or delay in paying any charges due) until the breach (if capable of remedy) is remedied; or
- 13.1.2. if the Customer does anything (or allows anything to be done) which in CSL's or the System Provider's opinion may degrade, obstruct, interrupt, impair or otherwise adversely affect the quality, function, operation or performance of the Services and/or the Systems; or
- 13.1.3. if the manner of use of the Services by any person may constitute a violation or infringement of the rights of others, of any statutory duty or any obligation in contract, tort or otherwise; or
- 13.1.4. if the Customer at any time fails to meet CSL's reasonable requirements as to credit-worthiness, or if CSL reasonably believes that this Agreement has been entered into fraudulently, or if CSL reasonably believes that the Services are being used for criminal or unlawful activities by the Customer or any other person; or
- 13.1.5. upon the occurrence of a Force Majeure Event;
- and any exercise by CSL of its rights of suspension or disconnection in respect of an event referred to in this Clause 13.1 shall, subject to Clause 14, not affect the Customer's obligation to pay the Periodic Charges and any other charges due for the period of such suspension and shall not exclude CSL's rights subsequently to terminate this Agreement. CSL shall be entitled to charge a reasonable fee for reconnection of SIMs or Customer Terminal Equipment.
- 13.2. CSL reserves the right to suspend the availability of the Services or the System in whole or in part in the event that the System Provider:
- 13.2.1. improves, modifies, suspends, tests, maintains or repairs the System and/or the Services in whole or in part provided that CSL shall use reasonable endeavours to minimise all forms of disruption resulting therefrom; or
- 13.2.2. improves, modifies, suspends, tests or withdraws the Services and/or the System in whole or in part in order to prevent or limit the incidence of any Fraud or to facilitate the early detection of any Fraud; and
- CSL shall endeavour to give to the Customer as much notice as is reasonably practicable in the circumstances in advance of any improvement, modification, suspension, withdrawal, discontinuance, testing, maintenance or repair as referred to above.
14. **Rebate of Periodic Charges**
- 14.1. Where the Services have been wholly and continuously unavailable for a continuous period of 6 hours in any day for 2 consecutive days or more after a failure in the Services has been reported to CSL by reason of some fault in any part of the Systems and not as a result of:
- 14.1.1. the fault or negligence of the Customer;
- 14.1.2. failure of the Customer to comply with any of these terms and conditions;
- 14.1.3. a Force Majeure Event; or
- 14.1.4. failure of Customer Terminal Equipment (save in respect of Equipment supplied in breach of this Agreement),
- the Customer shall be entitled to a proportionate rebate (by way of deduction from CSL's next invoice) of the Periodic Charges applicable to the affected System or part thereof for each day that such failure continues up to a maximum of 15 days in any month.
15. **Customer Terminal Equipment**
- The Customer shall at all times ensure that Customer Terminal Equipment connected to any of the Systems shall comply with (or be approved in accordance with) any requirements of law in respect of such equipment for use with the Systems and the Customer shall at all times comply with any conditions of approval. CSL reserves the right to bar the Services in relation to any Customer Terminal Equipment, and shall incur no liability whatsoever in so doing, if the Customer does not fulfil its obligations under this Clause 15, or if in the opinion of CSL or if CSL is so advised by any System Provider it is liable to cause the death of, or personal injury to any person, or damage to the property of CSL or any System Provider or it is liable to degrade, obstruct, interrupt, impair or otherwise adversely affect the quality, function, operation or performance of the Services or the System.
16. **Allocation of Numbers**
- The title and control of all network user and other numbers or addresses allocated to the Customer for use with the Services shall at all times remain vested in CSL or the System Provider and the Customer shall not be entitled to use the same upon disconnection of the relevant SIM or Customer Terminal Equipment or upon termination or expiry of this Agreement. CSL reserves the right to alter such numbers or addresses at any time.
17. **Customer's Obligations**
- 17.1. The Customer shall provide CSL with all such information that CSL may reasonably require and comply with any reasonable instructions issued by CSL from time to time in connection with the Customer's use of the Services, SIMs or Customer Terminal Equipment. The Customer is required to insure against all loss or damage the Customer may suffer as a result of CSL's and/or the System Providers' acts or omissions whether negligent or not, on the basis that their potential liability could be disproportionate to the loss which the Customer may suffer.
- 17.2. The Customer agrees and acknowledges that it is not entitled to, nor shall it purport to, resell or offer for resale nor seek to procure and/or supply the Services or the Equipment to any other persons including, but not Ltd to the Customer's associated companies (if any) without CSL's prior written consent. Where such consent is given, unless expressly agreed otherwise by CSL, any resale or supply of the Services shall only be made in conjunction with the Customer's own products or services so that such resale or supply by the Customer adds value to the Services. It shall be a condition of such consent that the Customer provides a high standard of billing, customer service and support for the products and services provided to its own customers. The Customer agrees that it shall indemnify CSL in respect of any claims made against CSL by the Customer's own customers in connection with the Customer's resale or supply of the Services.
- 17.3. The Customer agrees that it shall not (without the prior written consent of CSL, such consent not to be unreasonably withheld or delayed) delegate or sub-contract to any third party any of the rights granted to the Customer nor any of the obligations of the Customer under this Agreement including, but not Ltd to, the Customer's associated companies (if any), which rights and obligations are personal to the Customer. For the avoidance of doubt, any such delegation or sub-contracting as CSL may consent to shall not, save as expressly stated otherwise, operate to discharge the Customer from its obligations in respect of this Agreement.
18. **Liability**
- 18.1. **THE CUSTOMER'S ATTENTION IS DRAWN TO THE PROVISIONS OF THIS CLAUSE 18** which sets out the entire liability of CSL to the Customer in respect of the matters contained herein whether in contract, tort or otherwise including liability for negligence and all other statutory, express, implied or collateral terms, conditions, representations and warranties are, to the extent allowed by law, excluded.
- 18.2. CSL accepts liability for death or personal injury resulting from its negligence and any liability to the extent to which it is attributable to the fraud of CSL, its employees or agents.
- 18.3. Save as provided in these terms and conditions, CSL will not be liable whether in contract, tort or otherwise (including liability for negligence) for any loss of business, profits, contracts, goodwill, data, revenue or any consequential or indirect loss suffered by the Customer arising out of the provision or a failure to provide the Services or the supply of SIMs or Equipment or from any claim made against the Customer by any other party whether or not foreseeable.
- 18.4. Subject to Clause 18.2 CSL's aggregate liability whether under this Agreement or not, and whether in contract, tort or otherwise (including liability for negligence) shall be Ltd to a sum equal to the total Periodic Charges in the 12 months preceding the date of the relevant claim.
- 18.5. Each provision of this Clause 18 is to be construed as a separate limitation applying and surviving even if for any reason any provision is held to be inapplicable, unreasonable or unfair in any circumstances and shall remain in force notwithstanding any termination of this Agreement.
- 18.6. The Customer is responsible for its use of the Services and shall indemnify CSL against all loss or liability incurred by CSL or for which CSL becomes liable as a result of any claim made by any third party as a result of or in relation to the Customer's use of the Services, together with all legal costs incurred by CSL relating to any such claim.
- 18.7. **NOTHING IN THIS AGREEMENT AFFECTS THE STATUTORY RIGHTS OF A CONSUMER.**
19. **Termination**
- 19.1. This Agreement may be terminated forthwith by either party giving written notice to the other at any time:
- 19.1.1. if the other party is unable to pay its debts (within the meaning of Section 123 of the Insolvency Act 1986) makes or offers to make any arrangement or composition with any one or more of its creditors (including CSL) or commits any act of bankruptcy or if any petition or receiving order in bankruptcy is presented or made against that other party or if any resolution or petition to wind up that other party (being a Ltd company) is issued or passed or presented otherwise than for reconstruction or amalgamation or if a receiver of that other party's undertaking property or assets or any part thereof is appointed; or
- 19.1.2. if the other party is in material breach of any provision of this Agreement (which shall include any failure by the Customer to pay any charges when due as set out in Clause 7) which is not remedied within 21 days of receipt of a notice detailing the failure.
- 19.2. This Agreement may be terminated forthwith with respect to any System by written notice at any time:
- 19.2.1. by either party if the Services in respect of the System have been wholly unavailable (other than as a result of any of the matters mentioned in Clauses 13.1.1 – 13.1.4) for 15 days or more in any month after the failure in the Services was reported to CSL;
- 19.2.2. by CSL if the System Provider withdraws the Services generally or if the Licence of the System Provider is revoked or terminated (in whole or in part); or
- 19.2.3. by CSL if the Customer does anything (or allows anything to be done) which in CSL's opinion or in the opinion of the System Provider may degrade, obstruct, interrupt, impair or otherwise adversely affect the quality, function, operation or performance of the Services or the System.
- 19.3. Upon the termination or expiry of this Agreement:
- 19.3.1. CSL may disconnect SIMs or the Customer Terminal Equipment and the Customer shall permit the same;
- 19.3.2. all rented Equipment shall be returned to CSL forthwith; and
- 19.3.3. the Customer shall pay immediately to CSL on demand all charges payable and outstanding at the date of such termination and all amounts (if any) payable to CSL pursuant to Clause 4.2.
- 19.4. CSL shall be entitled to recover as a debt upon invoice addressed to the Customer all costs reasonably incurred by CSL in or about the enforcement of any obligations of the Customer under this Agreement, including but not Ltd to all costs which CSL reasonably incurs as a result of the Customer's failure at any time to provide accurate information as and when required under this Agreement or in connection with it.
- 19.5. Termination of this Agreement shall not affect any accrued rights or obligations of either party or affect the coming into force or the continuance of any provision which is expressly or by implication intended to come into or continue in force on termination.
20. **Transfer of this Agreement**
- CSL may transfer or assign any of its rights and obligations under this Agreement to any company at any time without the Customer's consent. This Agreement is personal to the Customer who may not assign this Agreement or transfer its rights or obligations to any third party without CSL's prior written consent. The payment by a third party of any moneys owing to CSL arising out of this Agreement shall not be deemed to be acceptance by CSL that the rights and obligations of the Customer have been transferred.
21. **Force Majeure**
- 21.1. Neither the Customer (except for failure by the Customer to pay any charges due hereunder) nor CSL shall be liable to the other or be deemed to be in breach of this Agreement by reason of any delay in performing, or any failure to perform, any of its obligations hereunder if the delay or failure to perform was due to a Force Majeure Event.
- 21.2. The performance of the obligations of the party in breach shall be suspended during the period that the Force Majeure Event persists, and that party shall be granted a fair and reasonable extension of time for performance sufficient to enable it to perform the obligations, performance of which has been suspended as aforesaid, and the following provisions shall have effect:
- 21.2.1. any costs arising from such delay or failure shall be borne by the party incurring the same; and
- 21.2.2. either party may, if such delay or failure continues for more than 6 weeks, terminate this Agreement forthwith on giving notice in writing to the other.
22. **Confidentiality**
- 22.1. The Customer shall not without the prior consent of CSL disclose, publish or make use of, for its own purposes or for the benefit of any other person, any confidential or proprietary information concerning or belonging to CSL, Vodafone Paging Ltd, Vodafone Ltd or any other Vodafone AirTouch Company, and CSL shall not disclose, publish or make use of, for its own purposes or for the benefit of any other person, any confidential or proprietary information concerning or belonging to the Customer, which may come to the knowledge of the Customer or CSL (as the case may be) prior to entry into this Agreement or as a result of anything done pursuant to it.
- 22.2. Notwithstanding the provisions of Clause 22.1, CSL shall be entitled to disclose any confidential and/or proprietary information of the Customer to any Vodafone AirTouch Company having a need for the same or to third parties in relation to enquiries concerning the prevention and detection of crime or the apprehension or prosecution of offenders.
- 22.3. The provisions of Clause 22.1 shall not apply to the disclosure or publication of any confidential or proprietary information to any person having a legal right thereto, or in or for the purpose of any legal proceedings or arbitration to which the Customer or CSL may be a party or where such confidential or proprietary information has been disclosed or published to the general public (other than as a result of a previous unauthorised disclosure, publication or use by the recipient party).
- 22.4. The provisions of this Clause 22 shall remain in full force and effect notwithstanding the termination of this Agreement in whole or in part, howsoever caused.
23. **Use of Personal Information**
- 23.1. Without prejudice to the provisions of Clause 22, CSL may hold information relating to individuals (such as the Customer, if the Customer is an individual or a group of individuals, or an employee of the Customer) that the Customer has provided to CSL (such as on the order overlay), or that CSL may have obtained from another source (such as its suppliers or marketing organisations), including information collected as result of the individual's use of the Services. Personal information may be held and used by CSL for, among other things, marketing purposes, including contacting the individual concerned (including by post, e-mail, fax, short text message or telephone) about CSL's and other Vodafone AirTouch Companies' products and services and the products and services of carefully selected third parties which CSL feels may be of interest to the Customer or the individual concerned (unless the individual concerned asks CSL in writing not to). CSL may share personal information with Vodafone AirTouch Companies (some of which are based outside of the European Union) who may use and disclose that information for the same purposes as CSL.
- 23.2. If any other individual (such as an employee of the Customer) uses the Services that CSL provides to the Customer or if the Customer provides any personal information about any other individual to CSL, the Customer is required to ensure, prior to such use commencing or prior to the provision to CSL of that information, that that individual is informed of the purposes for which their personal information may be used by CSL and to ensure that that individual has consented to such use of their personal information, including the monitoring or recording of their calls in accordance with provisions of Clause 25. Upon request, the Customer shall provide written evidence to CSL of having done this. The provisions of this Clause 23 shall remain in full force and effect notwithstanding the termination of this Agreement in whole or in part, howsoever caused.
24. **Intellectual Property Rights**
- All intellectual or industrial property rights in or relating to the Systems, the Services, the Equipment, the SIMs or the Software including the right to promote the Services under the "Vodafone" or "Data Direct" trade marks (whether copyright, database rights, patents, registered designs or trade or service marks or similar rights) shall be retained by CSL and the System Providers and the Customer shall acquire no such rights by reason of the provision of the same in respect of this Agreement.
25. **Calling Line Identification and Call Monitoring**
- The identifying number of any apparatus ("CLI") may be sent through the Systems so as to be identified to the apparatus being called and the CLI may be used to direct messages to CSL and/or any System Provider and/or any other telecommunications operator for administration and/or prevention of fraud purposes. The Customer may be charged for any diversion. Any calls or messages to CSL and/or any System Provider may be monitored or recorded.
26. **Miscellaneous**
- 26.1. This Agreement sets out the entire agreement between the parties, and replaces all understandings or prior agreements whether oral or written and all representations or other communications between the parties.
- 26.2. CSL may terminate, suspend or vary any provision of this Agreement (and/or introduce new provisions from time to time) as a result of new legislation, European Union law, statutes, statutory instruments, government regulations or any regulations or directions issued by any regulatory authority and any variations, modifications, expiry, termination or amendments to the System Providers' respective Licences. In the event of variation such variation shall be limited to the extent necessary for these purposes. CSL will endeavour to give the Customer the maximum period of notice reasonably practicable before implementing any such variation which shall be effective upon WVADS or CSL giving written notice of such implementation to the Customer. No other variation to this Agreement shall be effective unless agreed to in writing by the parties.
- 26.3. All notices sent by one party to the other shall be in writing and delivered by hand or sent by first class post or facsimile (with a confirming copy sent by first class post) to the address set out on the order form overlay or to any other address or facsimile number notified by the addressee to the other from time to time. Notices shall be deemed served on the day on which such notices ought to have been received in due course of post or facsimile transmission.
- 26.4. No extension of time or other concession granted by either party to the other or failure by either party at any time to enforce any provision of this Agreement shall be construed to restrict the rights of that party under this Agreement or construed as a waiver by that party of that or any other provision and shall not affect any party's right to take subsequent action.
- 26.5. The invalidity or unenforceability of any part of this Agreement for any reason will not affect the validity or enforceability of the remainder.
- 26.6. This Agreement shall be governed by the laws of England and shall be subject to the jurisdiction of the English courts except that the Customer may have the right to refer certain disputes to arbitration under any code of practice issued in the conditions of the System Providers' Licences.