

## Terms and Conditions of Talk Time UK

“Agreement” means these terms, and any amendments notified to the Customer to these terms and the terms that apply to the supply of Services.

“Airtime” means wireless telecommunications airtime and network capacity procured from the Network Operator.

“Agreement Number” means any reference number allocated to the Customer for the purpose of the Services.

“Commencement Date” means the date upon which Services are first provided to the Customer or the date of signature of the Sales/Purchase Order and/or Network Contract by the Customer (whichever is the earlier).

“Customer” means the customer of Talk Time UK whose details appear on the Network Contract, Sales/Purchase Order and any of its group or subsidiary companies.

“Device” means a wireless telecommunications device; this includes handsets, SIM cards, tablets, MIFI equipment and dongles.

“Equipment” means the items provided by Talk Time UK to the Customer under this Agreement and includes any Device, software and documentation supplied under this Agreement.

“Equipment Prices” means the standard prices charged by Talk Time UK for Equipment identified in the Sales/Purchase order and/or Network Contract.

“Form(s)” means the Sales/Purchase order, Network Contract, Invoice, Standing Order or similar forms of Talk Time UK and/or the Network Operator.

“Minimum Period” means 24 to 36 months from the Commencement Date. The number of months will be stated on your Network Contract and/or sales/purchase order and may have a roll over term on top of this which will be stated on the Network Contract.

“Network Operator” means the Network Operator who operates the telecommunications network or networks to which the Equipment is connected and from whom Airtime is procured by Talk Time UK for the benefit of the Customer or directly procured by the Customer.

“Network Contract” is an agreement in the form of a contract outlining the services required to be supplied by the network operator and costs required to be paid by the customer for a minimum term. This is a contract between the customer and network operator put in place by Talk Time UK. Network Contracts will state some or all of the following: customer name, customer details, numbers, tariffs, services required, monthly costs, minimum terms, payment details, handsets and handset costs. Contracts are required to be signed by the customer. The network contract and sales/purchase order form the agreement.

“Numbers” means the telephone numbers allocated to Talk Time UK by the Network Operator and used by the customer to access the services of the Network Operator.

“PAC” means the Porting Authorisation Code to enable the mobility to switch telephone numbers from one Network Operator to another.

“Talk Time UK” means Talk Time UK of Glenelg, 18 Ulundi Road, Johnstone, Renfrewshire PA5 8TE.

“Sales/Purchase Order” means a request by the Customer for the Contract requirements. This will include some or all of the following: tariffs, costs, minimum terms, equipment, and equipment prices. Sales/Purchase orders are required to be signed by customers. The network contract and sales/purchase order form the agreement.

“SIM Card” means the subscriber identity module supplied by the Network Operator (and which shall remain the property of the Network Operator) which identifies as a Device as belonging to the Customer and being in service.

“Termination Fee” means the charge where the Customer cancels within the Minimum Period.

“Services” means the provision by Talk Time UK to the Customer of Equipment or any other service that Talk Time UK may provide to the Customer.

“Roll Over Term” means if a number is upgraded early, the remaining term of the current Network Contract is rolled over to the new Network Contract.

### Agreement for the Sale and Purchase of Equipment

Talk Time UK agrees and undertakes:

To sell and supply to the Customer the Equipment; and subject to acceptance by Talk Time UK of a satisfactory Sales/Purchase Order and/or Network Contract and subject to availability of stock, to arrange for any such Equipment to be delivered to the Customer.

Talk Time UK will use its reasonable endeavours to ensure that all Equipment when delivered is in full working order and performs in accordance with the manufacturer’s description and specification.

Any guarantee does not extend to fair wear and tear. Talk Time UK does not guarantee that any software supplied under this Agreement will be error free. If the Customer reports a fault during any guarantee period and Talk Time UK investigates such reported fault and

reasonably concludes that the fault is due to faulty design, manufacture or materials then Talk Time UK shall, at its own executive option, either replace the faulty Equipment with new or similar Equipment or repair the faulty Equipment provided always that:

The Equipment, and any software associated with the Equipment, has been used always in strict accordance with Talk Time UK or the manufacturer’s/supplier’s instructions and advice; and the fault is not due to damage (including lightning, electrical and accidental) or the actions or inaction of any party other than Talk Time UK; and Talk Time UK obligation to sell and supply Equipment shall cease as and from the date of any termination notice.

Acceptance of the Equipment by the Customer shall take place when the Customer takes delivery or possession of the Equipment.

Where Equipment is provided to the Customer on a chargeable basis then notwithstanding delivery and acceptance of the Equipment title in the Equipment shall not pass to the Customer until the date upon which all invoices relating to the Equipment have been paid in full to Talk Time UK.

Where Equipment is provided to the Customer on a free of charge basis, then notwithstanding delivery and acceptance of the Equipment title in the Equipment shall remain with Talk Time UK. Following any upgrade of the Equipment or disconnection of the equipment from the Airtime, Talk Time UK shall reserve the right to require the safe return of the Equipment from the Customer to Talk Time UK. The Customer shall keep the Equipment in good working order during the period of use by the Customer. Talk Time UK reserves the right to charge the Customer any applicable replacement or repair charges as set out from time to time in the Form (which failing, such replacement or repair charges as Talk Time UK at their reasonable discretion may require) for any Equipment that is not returned to Talk Time UK in accordance with the provision of this clause.

Unless and until title in the Equipment has passed from Talk Time UK to the Customer, the Customer undertakes not to sell, transfer, lease, charge, assign, by the way of security or otherwise deal in or encumber the Equipment in any way.

Risk in the Equipment will pass to the Customer upon delivery and the Customer will be liable for any loss or damage of the same as and from the time when the Equipment is delivered to the delivery location specified in the Sales Order unless the damage is caused by the negligence of Talk Time UK.

Talk Time UK reserves the right to add to, substitute, or to discontinue any item of Equipment at any time. Talk Time UK does not guarantee the continuing availability of any particular item of Equipment and (as the Customer acknowledges) may be dependent upon third parties in this respect.

The Customer agrees to purchase and to accept delivery of the Equipment on the terms of this Agreement and undertakes to notify Talk Time UK of any alleged fault, defect, shortage or discrepancy, in any Equipment within 14 days of delivery.

### Agreement for Equipment Issued Prior to Connection

Where Talk Time UK provides equipment in advance, prior to the connection date, as part of a mobile phone agreement for which the Customer has contracted, which agreement is to commence following expiry of the Customer’s existing mobile phone agreement, the Customer must comply with the following:

- (i) Upgrade/Connect their numbers on the contracted date as per the agreed and signed Network Contract and sales/purchase order letter.
- (ii) The agreement cannot be cancelled or terminated until 30 days prior to the contract end date.
- (iii) If the Customer does not comply with the above then they are liable to pay the full cost of the equipment in addition to any costs payable to the Network Operator. Return of the equipment will not be accepted.
- (iv) An additional administration fee of £25 per handset will also be payable by the Customer in the event of the Customer not upgrading/connecting the numbers on the eligible date as per the agreed and signed Network contract and sales/purchase order letter.

### Agreement for the Services

On acceptance by Talk Time UK of an application by the Customer of Services Talk Time UK agrees and undertakes that it will use its reasonable endeavours to provide the Services on the following terms:

Talk Time UK will provide the Services by a date, which it shall specify. If the Customer requests any change to its application for the Services then Talk Time UK may at its sole discretion determine a new date for provision of the Service. All dates for provision of the Services by Talk Time UK are estimates only and Talk Time UK accepts no liability for failure to meet any estimated date for provision.

The Customer by signing the Forms grants Talk Time UK the permission, authority and the right to cancel on behalf of the Customer any existing mobile phone account with the Customer’s existing mobile phone provider and to obtain the PAC.

The Customer agrees that any Equipment provided by Talk Time UK to it for the purpose of providing the Services shall remain the property of Talk Time UK unless Talk Time UK has received and accepted payment from the Customer, The Customer shall be responsible for the proper use of the equipment. If any part of such Equipment is lost, destroyed or damaged (save for fair wear and tear) the Customer shall pay to Talk Time UK its replacement value. The Customer shall not interfere with or permit any third party to interfere with such Equipment.



The Customer agrees that where any equipment of its own connects to the Equipment provided by Talk Time UK in connection with the Services, such equipment of the Customer shall meet all relevant standards and licences applicable to such equipment.

Talk Time UK may have to place certain telecommunications equipment at the Customer's and/or at a third party's premises in order to be able to provide the Services. The Customer agrees to provide a suitable place and conditions for such Equipment at its own expense at its or third party's premises.

The Customer agrees to purchase the Services from Talk Time UK on the terms of the Agreement.

#### **Service Standards**

Talk Time UK warrants that it will perform its obligations in this Agreement with the reasonable skill and care to be expected of a competent wireless telecommunications equipment provider.

The Customer acknowledges that Talk Time UK is entirely dependent upon its suppliers and the Network Operator in relation to:

The quality of Airtime, in terms of line clarity, and call interference; and geographic extent of Airtime coverage; and local geography, topography and/or atmospheric conditions and/or other causes of physical or electromagnetic interference that may from time to time adversely affect the provision of Airtime.

Talk Time UK may, where reasonable, from time to time and without notice suspend the Services for technical reasons or where the Customer fails to comply with the terms of this Agreement until such failure to comply is remedied or if the Customer allows to be done anything which in Talk Time UK reasonable opinion may have the effect of jeopardising the operation of the Services or in the reasonable opinion of Talk Time UK, the Services are being used in a manner prejudicial to the interest of the Customer and/or Talk Time UK.

The Customer shall at all times remain liable for all charges levied in accordance with this Agreement.

#### **Sales/Purchase Orders**

Sales/Purchase orders are required in conjunction with a Network Contract to form an agreement.

At any time after the Commencement Date the Customer may by means of a Sales/Purchase Order request a change or a variation to the Services (but not a disconnection). In placing a Sales/Purchase Order the Customer shall make use of any Agreement Number allocated to it.

All Sales/Purchase Orders shall be subject only to the terms of this Agreement only.

Talk Time UK undertakes to use its reasonable endeavours to fulfil any Sales/Purchase Order as soon as reasonably practicable.

The Customer undertakes to use its reasonable endeavours to keep Talk Time UK informed whenever reasonably practicable of likely future Sales/Purchase Order.

As and from the date of any notice of termination Talk Time UK shall have no obligation to fulfil any Sales/Purchase Orders, but may in its discretion choose to do so and for the avoidance of any doubt any Device supplied under the terms of this Agreement will be charged to the Customer at its full price as appears on the Form.

#### **Basis of Charge**

Where the Customer cancels the agreement with the Network Operator or Talk Time UK, cancels the Services, the Devices or the Equipment within the Minimum Period the Customer shall pay to Talk Time UK the amount in full for the Equipment as set out in the Forms or Sales/ Purchase Order, including without limitation the administration charges and cost of Equipment (the Termination Fee) and shall pay an administration fee to Talk Time UK of £250 per single connection.

Billing for Network Operator Services shall be subject to the terms agreed between the Customer and the Network Operator.

Without prejudice to any other rights of Talk Time UK in the event of the Customer failing to pay any sum due to Talk Time UK on time or at all (time being of the essence of the contract) notwithstanding delivery of a written reminder to the Customer, Talk Time UK shall be entitled to charge interest (both before and after any judgement) on amounts overdue from the Customer under this Agreement from the due date until the payment is actually made at the rate of 4% per annum over the base rates of HSBC Bank plc for the time being during the relevant period; and reclaim from the Customer all costs and expenses (including legal costs) incurred in the collection of overdue amounts and any equipment from the Customer, and suspend the provision of the Services until such time as all payments due including all interest accrued have been paid and satisfied in full.

#### **Obligations of the Customer**

The Customer undertakes with Talk Time UK that throughout the provision of the Services that it will:

Not itself permit or suffer its employees to act or omit to act in any way which may injure or damage the Equipment; not itself use or allow its employees to use the Equipment or to have access to the Service for any improper, immoral or unlawful purpose; and comply with all statutory requirements in relation to the use of the Equipment and the Services; and provide Talk Time UK with such information as Talk Time UK reasonably request in connection with this Agreement; and not use Equipment and the Services for any purpose other than that for which it was designed or intended; and notify Talk Time UK immediately (and to confirm in writing) on becoming aware that any Equipment or Device has been lost or stolen or that any person is making improper or illegal use of the Equipment or the Services. The Customer will be responsible for any charges incurred as a result of unauthorised use of any Device, or SIM Card, or the information contained within a SIM Card; and not damage or tamper with the Equipment so as to invalidate any warranty provided by the Equipment manufacturer and to pay the standard charges levied by Talk Time UK or the Equipment manufacturer or Network Operator; not damage or tamper with any software so as to invalidate any warranty provided by the supplier of the same; and use the Equipment and any software in accordance with the user guide or other reasonable instruction of any manufacturer or supplier of the same or reasonable instruction of Talk Time UK and not to copy, (save as permitted by law) reverse engineer or modify the software in any way.

In the event that Equipment or software is damaged, destroyed, lost or stolen than the Customer agrees to pay the applicable replacement or repair charges and shall be liable to Talk Time UK in respect of any charges, losses or expense associated with such damage, destruction, loss or theft.

The terms of this Agreement shall also apply to any Sales/Purchase Orders placed by any subsidiaries or group companies of the Customer (unless the parties agree in writing otherwise). The Customer agrees that it is the authorised agent of its subsidiary and group companies and will be liable to Talk Time UK for all claims, losses and expenses arising out of the breach of the terms of this Agreement by any subsidiary or group companies.

#### **Termination**

Either party may terminate this Agreement if the other party is in material breach, and the breach is capable of remedy and the party in breach shall have failed to remedy the breach within thirty (30) days of notice specifying the breach and requesting its remedy, or the breach is not capable of remedy. Talk Time UK may terminate this Agreement at any time on the grounds that: the Customer has persistently failed to pay monies due to Talk Time UK under this Agreement or the Customer is otherwise materially or persistently in breach of the Agreement; or bankruptcy or insolvency proceedings are brought against the Customer, or if an arrangement with creditors is made, or a receiver or administrator is appointed over any of the Customer's assets, or the Customer goes into liquidation; or Airtime becomes unavailable due to the termination of any of Talk Time UK agreements with the Network Operator(s) or the Customer's agreement with the Network Operator.

Upon the expiry of any notice of termination or otherwise upon the determination of this Agreement the Customer will pay to Talk Time UK any applicable Termination Fee.

#### **Confidentiality**

The parties will each keep confidential any proprietary information and/or any information obtained from the other in connection with this Agreement which is reasonably identified by either party as commercially confidential except as regards such of the Customer's employees, contractors and agents as may need to know the same for the purposes of implementation of this Agreement and who agree to be bound by the provisions of this clause.

The obligations aforesaid shall not apply in relation to any material which is in the public domain (other than as a result of a breach of this agreement); already known to the receiving party, lawfully received from a third party and/or ordered to be disclosed by any court or other tribunal or regulatory authority of competent jurisdiction.

#### **General**

The Customer undertakes to indemnify Talk Time UK against all liabilities, claims, demands, actions, costs, damages or loss arising out of any breach by the Customer of any of the terms of this Agreement.

This Agreement supersedes all previous agreements, representations or promises and sets out all the terms agreed between the parties. Any amendments or alteration to this Agreement must be in writing and signed by an authorised signatory of Talk Time UK.

This Agreement shall not be deemed to create any partnership, employment or agency relationship between the parties. Neither party shall be entitled to pledge, comment or authorise any matter that is not set out under the terms of this agreement.

All sums payable under this Agreement are exclusive of any value added tax that may be payable by either party. This Agreement is not intended to confer any benefit or burden upon any third party not a signatory to this Agreement.

In the event that this agreement cannot be performed or its obligations fulfilled for any reason beyond the reasonable control of Talk Time UK, including such events as war, industrial action, floods or acts of God, then such non-performance or failure to fulfil its obligations shall be deemed not to be a breach of this Agreement. In the event that this Agreement cannot be performed or its obligations fulfilled for any reasons beyond the



reasonable control of Talk Time UK for a continuous period of 3 months then either part may, at its discretion, terminate this Agreement by notice in writing at the end of that period.

Where any clause is deemed by a court of competent jurisdiction to be unlawful then that clause shall be deemed removed and the rest of the Agreement unaffected.

This agreement shall be subject to the Laws of Scotland the courts of which shall have exclusive jurisdiction.