

PARTNER TERMS AND CONDITIONS
(VALID FROM JUNE 2019)

1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following words and expressions shall have the following meanings unless this Agreement states otherwise:

"Advance Payment" means an upfront payment of Commission made by CPW to the Partner from time to time;

"Affiliate" shall mean a Partner who introduces Prospective Customers to CPW for the sale of Products by CPW;

"Agent" means any individual engaged by the Partner in the provision of the Services, including Telephone Advisors;

"Agreement" means these terms and conditions and the Partner Application and any schedules thereto;

"Airtime" means the provision of a pre-pay or post-pay voice, data or broadband connection in relation to a Network;

"Anti-Corruption Laws" means the Prevention of Corruption Acts 1889 to 1916 and the UK Bribery Act 2010;

"Applicable Laws" means all laws, regulations, orders, rules, guidance, directions, judgments, directives, industry agreements or determinations in force from time to time applicable to a party and relevant to this Agreement including but not limited to the Act and the Consumer Protection (Distance Selling) Regulations 2000, all statutory and regulatory requirements (including The Unfair Commercial Practices Directive (2005/29/SC)) and all codes of practice relating to the provision of the Services, (including the Advertising Standard Authority Code of Advertising and the Code of Practice for the Sale and Marketing of Subscriptions to Mobile Networks dated 31 July 2007);, laws relating to Value Added Tax and laws relating to sanctions or embargoes;

"Approved Order" means a Customer Order for Airtime which is not a Reject;

"Brand Guidelines" shall mean CPW's brand guidelines the current version of which are set out in Schedule 1, as may be amended or updated by CPW from time to time;

"Business Day" means a day (other than a Saturday, Sunday or a public holiday in England) when the banks are open for business;

"Churn" means when a Connection is Disconnected from one Network and Connected to another Network;

"Churn Rate" shall be calculated by (a) taking the total number of Disconnections during the relevant Quarter and dividing that sum by the Average Base; and (b) multiplying the result by 100.

"Clawback" means the recovery of any Commissions by a Mobile Network Operator and/or CPW;

"Commission" means the commission, bonuses and other amounts for the provision of the Services payable to the Partner in accordance with clause 15;

"Commencement Date" means the date of the Partner Application;

"Confidential Information" means all financial, business and technical or other data and all other information (whether written, oral or in electronic form or on magnetic or other media) concerning the business and affairs of a party (or if that party is CPW, the business and affairs of CPW or any member of the CPW Group) and any other information of a confidential nature that the other party obtains, receives or has access to as a result of the discussions leading up to or the entering into or the performance of this Agreement;

"Confirmed Purchase" means where a Customer has completed an Accepted Order, the Customer successfully connects, for the first time to the relevant service and if applicable and/or able does not subsequently request cancellation of the service within the Customer Cancellation Period;

"Connection" means the activation of a SIM Card onto a given Network and/or the renewal of an existing connection for a new term with that Network;

"Connector Code" means the code used by the Partner to connect with each Mobile Network Operator's systems for the purpose of this Agreement;

"CPW" means The Carphone Warehouse Limited trading as Carphone Warehouse Business, a company registered in England under company number 2142673, whose trading address is 6th Floor, Merck House, Seldown, Poole, BH15 1TW, (with registered office at 1 Portal Way, London, W3 6RS);

"CPW Group" means CPW, its holding companies and ultimate holding companies and any of their respective subsidiaries whether direct or indirect from time to time, and shall include Dixons Carphone Plc and its subsidiary companies from time to time, "subsidiary" and "holding company" having the meanings ascribed to those terms in section 1159 of the Companies Act 2006;

"CPW Intellectual Property Rights" means any Intellectual Property Rights owned by, licensed to or otherwise used by CPW;

"CPW Website" means CPW's website found at <http://partners.carphonewarehouse.com> and any other website which CPW may notify in writing to the Partner from time to time;

"Customer" means a person who has completed a Customer Order (save where such Customer Order is a Reject);

"Customer Cancellation Period" means, in relation to an Accepted Order, any cancellation period set out in the Terms and Conditions of Service or any other cancellation of the Airtime service permitted by the Mobile Network Operator (if any);

"Customer Order" means an order for a Product obtained by the Partner from a Customer;

"Customer Services" means such support services (if any) forming part of the Services provided to Customers;

"Disconnection" means the cancellation of a SIM Card number on a Network or port out to any other Network and Disconnected shall be construed accordingly;

GDPR" means the General Data Protection Regulations;

"Good Industry Practice" means the exercise of that degree of reasonable skill, diligence, prudence and foresight which would be expected from a skilled and experienced provider of services similar to the Services, seeking in good faith to comply with its contractual obligations;

"Goods" means connected devices (including mobile handsets), SIM Cards, accessories and any such other goods as may be offered by CPW to the Partner from time to time;

"Intellectual Property Rights" or **"IPR"** means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world;

"Jointly Branded Advertising Materials" means any advertising material jointly created by CPW and the Partner in accordance with clause 18.11, including but not limited to point of sale displays, stands and signage, technical brochures and other materials to be used by Partner in connection with the promotion, advertising or sale of the Products;

"Mobile Network Operator" means any person from time to time who owns or operates a switched mobile public telecommunications system and is authorised to provide mobile telecommunication services pursuant to a licence, authority or permission granted from time to time by the relevant authority, including any mobile virtual Mobile Network Operators from time to time;

"Network" means a switched mobile public telecommunications system operated by a Mobile Network Operator;

"Order" means a Customer Order and/or a Purchase Order;

"Outbound/ Inbound Services" means outbound and/or inbound telemarketing services (if any) forming part of the Services provided by the Partner;

"Partner" means the person named as such in the Partner Application and will include Affiliates;

"Partner Application" means the application form completed by the Partner to which these terms and conditions apply ;

"Partner's Branding" means the name, trademarks (registered or otherwise) and logos owned by or licensed to the Partner (other than by CPW);

"Partner's Website" means the Partner's URL specified as such in the Partner Application or as otherwise agreed in writing by the parties;

"Personal Data" means any personal data (as defined in the GDPR) being processed pursuant to this Agreement;

"Premises" shall have the meaning given in clause 6.3;

"Price Book" means a publication issued and/or database made available by CPW from time to time, that lists, amongst other things, the Prices, Commissions, procedures and/or conditions on which Products are supplied by CPW and/or the Mobile Network Operators;

"Prices" means the prices for the Products as set out from time to time in the Price Book or as otherwise provided to the Partner by CPW;

"Products" means Goods, Airtime and other contracts and products offered by CPW to the Partner in accordance with this Agreement;

"Prospective Customer" means a person who may become a Customer;

"Purchase Order" has the meaning given in clause 5.1;

"Qualifying Criteria" means those criteria defined as such in the description of the Services;

"Quarter" means a period of three consecutive months starting on either of 1st May, 1st August, 1st November or 1st February in any given calendar year;

"Reject" means any Customer Order that is rejected by CPW and/or a Mobile Network Operator in accordance with CPW's and/or Mobile Network Operator's standard processing procedures;

"Services" means the services provided by the Partner to CPW which may include (but are not limited to) marketing and sales of Products to Customers, online selling of Products and Customer Services as agreed by CPW from time to time in writing;

"Sim Card" means a subscriber identity module card, which is a microchip that connects a mobile device to a specific Network;

"Slam" means any or several of the following, where the Prospective Customer or Customer:

- (i) has never been contacted by the Partner;
- (ii) has been contacted by the Partner, but has not given the Partner authorisation to register the Prospective Customer or Customer for a Product;
- (iii) has agreed to purchase a Product from the Partner and the Partner has submitted a request for a different product or service, which the Prospective Customer or Customer has not agreed to purchase;
- (iv) has agreed to purchase a Product from the Partner having understood, as a result of a deliberate attempt by the Partner to mislead, that it is making an agreement with a different Mobile Network Operator; or
- (v) any other form of sales and marketing practice which CPW may from time to time reasonably consider to constitute slamming or mis-selling,

and, in each case, **"Slams"**, **"Slammed"** and **"Slamming"** shall be interpreted accordingly;

"Space Requirements" means in each of the Partner's premises used for the sale and promotion of Products (if any) unless advised otherwise in writing:

- (a) the linear wall space dedicated to the demonstration and display of Products must equal at least 2 continuous metres;

- (b) power outlets must be available as necessary;
- (c) the window space dedicated to the demonstration and display of Products must equal at least 50% of the window space in each retail premise for a minimum of 5 months in each year (one of these months to be December);
- (d) not less than 20% of the in-store environment used to display mobile networks must be dedicated to the demonstration and display of Products; and
- (e) there must be at least one employee with expertise in the Products when each Partner premises are open for business;

"Special Order" means a Purchase Order for Goods which CPW is required to order specifically for the Partner or which CPW otherwise doesn't ordinarily stock or includes any customisation or variations or design specified by the Partner or is otherwise classified as a special item;

"Telephone Advisors" means individuals engaged by the Partner in the provision of the Outbound/Inbound Services and/or the Customer Services;

"Term" means the term of this Agreement as set out in clause 2;

"Terms and Conditions of Service" means the Mobile Network Operator terms and conditions relating to the provision of Airtime provided by CPW and/or the Mobile Network Operator to the Partner from time to time;

"TUPE Regulations" means the Transfer Of Undertakings (Protection Of Employment) Regulations 2006; and

"VAT" means value added tax or any similar sales tax.

- 1.2 Words in the singular include the plural and vice versa and words in one gender include all genders.
- 1.3 The table of contents and headings are inserted for convenience only and shall not affect the interpretation of this Agreement.
- 1.4 The words "including", "for example" and "in particular" (or similar) shall not limit the generality of any preceding words.
- 1.5 A reference to a party includes its successors in title and permitted assigns.
- 1.6 A "person" includes any individual, firm, body corporate, association or partnership, government or state (whether or not having a separate legal personality).
- 1.7 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it..
- 1.8 A reference to clauses, schedules and appendices is to clauses of and schedules and appendices to this Agreement and references to sub-clauses and paragraphs are references to sub-clauses and paragraphs of the clause or schedule in which they appear.

- 1.9 In the event that there is any conflict between the provisions of this Agreement then the following order of precedence shall apply:
- 1.9.1 these Terms and Conditions;
 - 1.9.2 Schedules;
 - 1.9.3 The Appendices; and
 - 1.9.4 The Partner Application.

2 TERM

This Agreement shall commence on the Commencement Date and shall remain in force unless and until terminated pursuant to clause 24.

3 APPOINTMENT

- 3.1 CPW is a business to business reseller. In buying from CPW, Partner agrees that they are buying Goods or Services only for business purposes. The liability and warranty provisions set out CPW's responsibilities to the Partner in more detail, but as a business customer, purchases the Partner makes from CPW will not benefit from the statutory protection available to consumers under the Sale of Goods Act 1979 (as amended) and related legislation.
- 3.2 The Partner shall be acting as CPW's non-exclusive representative to market and promote the Products and to provide support to Customers and to provide the Services on the terms and conditions of, and in accordance with, this Agreement.
- 3.3 CPW does not undertake to procure Services exclusively from the Partner.
- 3.4 The Partner shall agree to use its reasonable endeavours to promote the Products and to procure Customers for the Products.
- 3.5 **Carphone Warehouse Business Energy Saver**
- 3.5.1 The Business Energy services are brought in partnership with Fidelity Energy Limited ("**Fidelity**"). Payments and clawbacks in relation to Business Energy are subject to Fidelity's terms and conditions which are signed on application. All payments and clawbacks to the Partner on behalf of Fidelity shall feature on the monthly payments statement that will be sent to you directly by Fidelity.
 - 3.5.2 Payment terms and dates can vary from one energy provider to another and will be detailed on the 'Lock in' email for each individual deal.
 - 3.5.3 CPW shall not be liable for any payment to the Partner in the event where Fidelity ceases to trade for any reason.

4 THE PARTNER'S OBLIGATIONS TO CPW

- 4.1 At all times during the Term the Partner shall:

- 4.1.1 perform (and will procure that any employee, agent, subcontractor, partner or similar party shall provide) all of the Partner's obligations under this Agreement in accordance with Good Industry Practice, any customer service or other requirements reasonably specified by CPW from time to time;
 - 4.1.2 co-operate with CPW's reasonable directions, particularly –where applicable–with regard to standards and quality of promotion and service and any bulletins issued by CPW from time to time;
 - 4.1.3 immediately notify CPW of any breach of any of its obligations under this Agreement or any matter giving rise to any event under clause 24.1;
 - 4.1.4 ensure that any Customer is required to accept any relevant Terms and Conditions of Service and ensure that the Customer is given the option to tick a box to agree to accept contact by electronic communication (e.g. email and SMS) from the Mobile Network Operator (as these may be amended from time to time) before they complete their order for any Products;
 - 4.1.5 ensure that any services and products (other than the Products) provided by the Partner comply with all relevant statutory and regulatory requirements, are not obscene, gratuitous or defamatory or encourage conduct that would constitute a criminal offence or otherwise violate any applicable law;
 - 4.1.6 comply with the Space Requirements;
 - 4.1.7 comply with the applicable Mobile Network Operator and manufacturer's terms and conditions which are referred to in the Schedules attached to this Agreement as these may be amended from time to time;
 - 4.1.8 where applicable, ensure that it meets any key performance indicators notified to it by CPW from time to time; and
 - 4.1.9 comply with any and all Applicable Laws.
- 4.2 In addition, at all times during the Term the Partner shall notify CPW immediately in the following events:
- 4.2.1 any breach of any of the Partner's obligations under this Agreement or any matter giving rise to any event under clause 24.1;
 - 4.2.2 any existing or prospective significant change in the Partner's circumstances, including a change in control, a change of management (for example a material change to your board), and a deterioration in its financial position;
 - 4.2.3 any claim made or threatened against the Partner which is relevant to or arises in connection with this letter, including by:
 - 4.2.3.1 any manufacturer of the Goods or person acting on behalf of such manufacturer; or
 - 4.2.3.2 any Business Purchaser or user of the Products; or,
 - 4.2.3.3 any governmental or quasi governmental body; or,
 - 4.2.4 any breach by the Partner or any person acting on its behalf of any provision of this letter or of any applicable law.

- 4.3 If, in the reasonable opinion of CPW, the Partner has breached any provision of clause 4.1 the Partner shall immediately remove any offending services or product or material or content and shall take such steps as CPW may reasonably require (and at the Partner's expense) in order to restore the reputation of CPW. This shall not prejudice any claim CPW may have against the Partner.
- 4.4 In providing the Services, the Partner will:
- 4.4.1 immediately (and in any event, within 24 hours of the complaint being made and/ or the Slam alleged), provide to CPW, full details of any Slamming complaint of which it becomes aware and shall provide all assistance as required by CPW in relation thereto; and
- 4.4.2 if any Partner or any Partner employee, agent, subcontractor or partner ("**Agent**") is found acquiring customers through Slamming or in the event that CPW receives or becomes aware of any complaint which alleges Slamming by an Agent (regardless of whether the alleged Slam is established or not), CPW shall be entitled to (a) terminate this Agreement in whole or in part immediately on written notice or (b) suspend the Partner's appointment under clause 3 and/or (c) impose such requirements on the Partner as CPW may in its sole opinion deem reasonable.
- 4.5 The Partner shall ensure that the procedures notified to it by CPW from time to time are complied with fully, including but not limited to those relating to credit checks, Customer approvals and any other procedures regarding Customer verifications. Any misuse or failure to comply with these procedures will entitle CPW to (without prejudice to any other rights under this Agreement or at law) terminate this Agreement.
- 4.6 Where applicable, the Partner shall co-operate with CPW and comply with all of its reasonable directions, particularly with regard to standards of promotion, quality, service and marketing which may be advised by CPW to the Partner from time to time. In particular the Partner agrees to utilise all point of sale material supplied by CPW and to provide in advance to CPW for its prior approval any copies and samples of advertising, publicity, promotional and material concerning the Products and to employ qualified staff as will properly provide for sales, advisory, installation, repair and after sales service of the Products.
- 4.7 Any sale leads passed to the Partner by CPW are to be used only for the purpose of obtaining business customers for the Products as directed by CPW and use of sales leads by the Partner for any other purpose will entitle CPW to (and without prejudice to any other rights under this Agreement or at law) terminate this Agreement.
- 4.8 The Partner shall not make any representations or warranties in respect of the Products without CPW's prior written consent nor incur any liability on behalf of CPW or any Mobile Network Operator, and shall in no way make any unauthorised, false or misleading representations or statements regarding the Products and/or Services.
- 4.9 The Partner shall attend and shall ensure its staff attends such training as is necessary and at the Partner's cost to fulfil the Partner's obligations under the Agreement, or as required by CPW.
- 4.10 This Agreement and any agreements with any Mobile Network Operator shall not be deemed to create any partnership or employment relationship between the parties. The Partner shall act as principal on its own account in all circumstances and shall not hold itself out as the agent of CPW or any Mobile Network Operator or purport to act on CPW's or any Mobile Network Operator's behalf in dealing with third parties.

- 4.11 The Partner shall sell Airtime to end-user business customers only.
- 4.12 Where applicable, the Partner must take such steps as may be reasonably required to assist Customers to obtain updates issued by a Mobile Network Operator of any software or hardware comprised in the Products sold at any time by the Partner. The Partner shall inform Customers of the availability, if applicable, of CPW's network of service centres. Any service and installation work performed by the Partner shall be carried out in accordance with all the terms of the agreement between the Mobile Network Operator and CPW notified to the Partner from time to time.
- 4.13 The Partner must not unblock any blocked device or knowingly connect devices which have been blocked.

5 ORDER ACCEPTANCE

- 5.1 All orders placed by the Partner for Goods whether by email, online, in writing or oral (each a "**Purchase Order**") shall constitute an offer to CPW, under this Agreement, subject to availability of the Goods and to acceptance of the Purchase Order by CPW's representative. Any quotation given by CPW does not constitute an offer capable of acceptance. This Agreement shall apply in respect of all contracts for the supply of Goods of any nature whatsoever by CPW to the Partner.
- 5.2 CPW and/or the Mobile Network Operator shall be entitled to reject any Purchase Order and/or any order for Airtime for any reason in particular, but without limitation, if the Prospective Customer fails to meet the Mobile Network Operator's requirements as to credit worthiness or the Partner is in breach of any of the provisions of this Agreement. No Commissions or other payments shall be liable to be made to the Partner in connection with any Order that is rejected.
- 5.3 CPW shall be entitled to reject any Purchase Order which relates to (a) Airtime and (b) Goods for connection to a specific Network where the Partner does not provide as part of the Purchase Order a valid network code provided to the Partner by the Mobile Network Operator.
- 5.4 Although CPW shall make reasonable checks to avoid errors occurring, CPW reserves the right to cancel or refuse Orders for items shown on the Currys PC World Business website with an incorrect price or with any other incorrect information. No contract shall be made with the Business Purchaser until CPW have dispatched the Order. Where CPW have made a mistake, the Business Purchaser shall be given the option to either: (i) cancel its Order and obtain a refund of any sums paid in advance; and/or (ii) place the Order again at the correct price/on the correct terms.
- 5.5 All Purchase Orders are accepted and Products supplied subject to this Agreement only. No terms or conditions put forward by the Partner shall apply.
- 5.6 The Partner shall be responsible for ensuring the accuracy of the Purchase Order and for giving CPW any necessary information to enable CPW to perform its obligations under the Agreement.

6 DELIVERY

- 6.1 Any dates given for delivery are estimates only and CPW shall not be liable for any delays. Time for delivery shall not be of the essence. CPW will use reasonable endeavours to notify the Partner if it believes that its performance is likely to be delayed for any reason. CPW shall not be liable to the Partner where its performance of the contract is delayed

because of the Partner's acts and omissions or those of the Partner's employees, agents or contractors.

- 6.2 CPW reserves the right to make delivery by instalments. In such event this Agreement shall apply to each delivery as though it were the subject of a separate contract and failure by CPW to deliver any one or more installments or any claim by the Partner in respect of any one or more installments shall not entitle the Partner to treat the Purchase Order as repudiated.
- 6.3 If CPW agrees to make delivery to the Partner or its nominee (including a Customer) such delivery shall be effected to the address of the Partner or its nominee stated in the Purchase Order (or as otherwise agreed) ("**Premises**").
- 6.4 Subject to clause 6.12, the Goods shall be at the Partner's risk from arrival of the Goods to the Premises or from the time the Partner collects the Goods from CPW (whichever is the earlier).
- 6.5 Title in the Goods shall remain with CPW until CPW has received payment in full for all Goods whatsoever supplied to the Partner, together with VAT, interest payable and all other amounts due from the Partner to CPW under any contract or arrangement. Until payment in full has been made the Partner shall (i) hold the Goods in a fiduciary capacity for CPW separate from any other assets; (ii) not remove any branding or identifying marks; (iii) comply with the provisions of clause 6.10; (iv) not sell, transfer, charge, mortgage, pledge or grant any lien over, the Goods;(v) clearly mark the Goods as CPW's property.
- 6.6 The Partner may sell the Goods by way of bona fide sale in the course of business but may not otherwise deal with, sell, part with possession of or otherwise dispose of or handle any of the Goods sold hereunder until title has passed to the Partner in accordance with clause 6.5 above.
- 6.7 CPW may at any time immediately revoke the Partner's power of sale by written notice if the Partner is in default for longer than seven days in the payment of any sum whatsoever due to CPW or if any bill of exchange, cheque or other negotiable instrument drawn or accepted by the Partner in favour of CPW is dishonoured on presentation for payment or if CPW has reasonable grounds for doubting the Partner's solvency. Furthermore, the Partner's power of sale shall automatically cease where CPW has a right to terminate in accordance with clause 24.1.
- 6.8 Should CPW revoke the Partner's power of sale, the Partner will place the Goods at the disposal of CPW who shall be entitled on reasonable prior notice to enter the Premises for the purpose of collecting the Goods or any of it. The Partner will bear the cost of CPW removing any such Goods from the Premises.
- 6.9 Where any of the Goods is sold to a third party before title to it has passed to the Partner, that sale will constitute a sale by the Partner of CPW's property and accordingly the Partner will hold CPW's part of the proceeds of that sale on trust for CPW. In such circumstances CPW shall be legally and beneficially entitled to proceeds of sale and the Partner's shall pay any proceeds into a separate bank account or otherwise shall ensure that all such proceeds are kept by or on the Partner's behalf in a separate and identifiable form for CPW's sole benefit. In particular, but without prejudice to the generality of the foregoing, the Partner shall not pay the proceeds of sale into any bank account which is overdrawn.
- 6.10 Until full title has passed to the Partner or until the Goods have been sold to a third party under clause 6.9 above the Partner shall at all times keep the Goods comprehensively

insured in an amount at least equal to their full replacement value against any loss, damage or destruction and shall bear any costs or levies on export or import. The policy shall bear an endorsement recording CPW's interest and the Partner shall produce a copy of such policy on demand from CPW.

- 6.11 The Partner shall inspect the Goods on delivery or collection as the case may be. Unless the Partner shall deliver written notice to CPW within seven (7) days of delivery or expected delivery to the effect that the Goods are not those ordered, or are damaged or subject to shortage, and unless the Partner shall in all respects comply with the terms and conditions of the carrier (if any), the Partner shall be deemed to have accepted the Goods. If the Partner shall give written notice as aforesaid, it shall comply with CPW's instructions concerning the return or retention for inspection of such Goods which shall be at the Partner's risk until back in the possession of CPW. In no event shall the Partner be entitled to reject the Goods on the basis of any defect or failure which is so slight that it would be unreasonable for the Partner to reject the same. For the purpose of this clause the Business Purchaser shall inform the CPW Customer Services Department by telephone on 0344 561 6789.
- 6.12 If the Partner fails to collect the Goods, give adequate delivery instructions or accept delivery when tendered (as the case may be) the Goods shall be at the Partner's risk and CPW may:
- 6.12.1 claim payment;
 - 6.12.2 store the Goods until actual delivery and charge the Partner for the costs of storage;
 - 6.12.3 sell the Goods at the best price readily obtainable and (after deducting all storage, selling and other expenses) account to the Partner for the excess over sums owing by the Partner or charge the Partner for any shortfall; or
 - 6.12.4 terminate the Purchase Order and/or the Agreement.
- 6.13 Until such title in the Goods has passed to the Partner as aforesaid the Partner must immediately notify CPW if any Goods within its possession are stolen, lost, damaged or tampered with. For the purpose of this clause, time shall be of the essence.

7 CANCELLATION AND RESCHEDULING

- 7.1 Save in respect of any Special Order, any request by the Partner for cancellation of any Purchase Order or for rescheduling of deliveries will only be considered by CPW if made on the same day as the Purchase Order is placed where the Goods are subject to next day delivery or, otherwise at least 2 Business Days before dispatch of the Goods the subject of the Purchase Order, and shall be subject to acceptance by CPW at CPW's sole discretion, and subject to a reasonable administration charge therefore by CPW.
- 7.2 The Partner shall not be entitled to cancel or reschedule any Special Order unless agreed otherwise by CPW.
- 7.3 Where CPW agrees to the return of any Goods or the cancellation of any Purchase Order (including in relation to any Special Order) the Partner shall, as a minimum, be charged a restocking fee of £25 (or such other amount as CPW shall prescribe from time to time) per Product returned by the Partner.

8 EMPLOYEES

- 8.1 Partner shall be solely responsible, as between the parties, for making any appropriate PAYE deductions for tax and national insurance contributions ("**Contributions**"), from the remuneration which any Agents are paid for performing the Services. the Partner agrees to indemnify and keep indemnified, CPW and all other members of the CPW Group, from and against all liabilities, penalties, damages, claims, actions, proceedings, costs and expenses (including legal costs on a full indemnity basis) suffered or incurred by CPW or another member of the CPW Group which may be made by the relevant authorities or any Agent in respect of any Contributions or similar payments relating to the provision of the Services by the Partner and/ or any Agent.
- 8.2 Without prejudice to clause 37, nothing in this Agreement shall be deemed to imply that the relationship between CPW and the Partner or between CPW and any Agent is that of employer and employee or worker.
- 8.3 Neither party intends that either the entering into of this Agreement or the termination thereof shall operate so as to transfer the contracts of employment of any employee from one party to the other. However, should the TUPE Regulations apply in respect of this Agreement and/or the Services, then the Partner shall, or where the Partner is not the employer, it shall use its best endeavours to procure that, full and accurate details of each of the employees to whom the TUPE Regulations apply (the "Transferring Employees") and any other information which CPW may reasonably require relating to the Transferring Employees, is provided to CPW either by the Partner or by the employer of the Transferring Employees as appropriate.
- 8.4 In the event that the contracts of employment or any liability arising in respect of any Transferring Employees shall be transferred from the Partner to CPW whether by operation of law or otherwise, then the Partner shall indemnify (and keep indemnified) CPW against all damages, claims (including without limitation claims for redundancy, unfair and wrongful dismissal) costs, awards, penalties, fines, (including without limitation any liability to tax) and expenses which CPW may suffer, sustain, incur, pay or be put to by reason or on account of or arising from the transfer of such Transferring Employees from the Partner (or any other employee) which by virtue of the TUPE Regulations is deemed to be as a result of an act or omission of either party or any claim or other legal recourse by all or any of the Transferring Employees (or any other employee) in respect of any fact or matter concerning or arising from their employment whether arising under common law, statute or otherwise including but not limited to all payments and benefits accrued due to the Transferring Employees during any period provided that and subject to CPW making any claim pursuant to this clause within 1 year of the date of termination of this Agreement.

9 CPW'S RIGHTS AND OBLIGATIONS TO THE PARTNER

- 9.1 CPW undertakes that it will:
- 9.1.1 where applicable, provide the Partner with all reasonably necessary documents, data, information, products and/or materials relating to the Products within sufficient time to enable the Partner to provide the Services in accordance with this Agreement;
- 9.1.2 where applicable, without imposing any financial obligation on CPW provide such advice, assistance and co-operation as the Partner may reasonably request in order to perform the Services; and
- 9.1.3 use reasonable endeavours to process Customer Orders in accordance with its standard processing procedures.

- 9.2 The Partner shall have no authority to commit CPW and CPW shall be under no obligation to accept any Customer Order and the credit checking policy used by CPW or a Mobile Network Operator from time to time shall be that party's sole discretion.
- 9.3 For the avoidance of doubt, CPW shall be under no obligation to make further Products available to the Partner to market, promote or sell on the terms of this Agreement and CPW shall be entitled to withdraw any of the Products at any time. CPW shall use its reasonable endeavours to provide thirty (30) days' notice or, where not practicable, as much notice as possible to the Partner of any withdrawal.
- 9.4 Where the Partner is acting as an Affiliate CPW will promote the Products directly to Potential Customers introduced to CPW by the Affiliate and CPW will conclude all orders for Products directly with the Potential Customer.
- 9.5 CPW may cancel outstanding Orders for Goods and/or suspend any Order or this Agreement immediately (without liability to the Partner) if any of the following events happen:
- 9.5.1 the Partner fails to make any payment due to CPW by the time it is due;
 - 9.5.2 the Partner have given any false or misleading information to CPW or is (or CPW has have any reasonable suspicion that the Partner or any of its directors, officers or group companies) is infringing any applicable law;
 - 9.5.3 The Partner is insolvent or subject to any insolvency process or action by or arrangements with creditors;
 - 9.5.4 The Partner's use of the Products is likely to cause the whole or part of the Products to be interrupted, damaged, rendered less efficient or in any way impaired;
 - 9.5.5 The Partner is in material breach of this Agreement;
 - 9.5.6 In the event where the site, equipment or software used for the purpose of quotation is changed; or,
 - 9.5.7 In the case of a Business Purchaser, in the event where the cancellation provisions under any leasing arrangement entered into by the Business Purchaser are invoked by the relevant leasing company.

10 WARRANTY

- 10.1 CPW sells the Goods with the benefit of the manufacturer's warranty (if any) subject to the terms and conditions of such warranty and CPW shall have no further liability to the Partner.
- 10.2 Any manufacturer's warranty shall not apply:
- 10.2.1 in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Partner;
 - 10.2.2 in respect of any defect arising from fair wear and tear, wilful damage, negligence (including improper storage), improper installation or maintenance, abnormal working conditions, failure to follow CPW's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without CPW's approval; and

- 10.2.3 in respect of any matter regarded as a fault due to a modification, alteration, or replacement required by a change in the requirements of any governmental or regulatory society, institute, authority or other body.
- 10.3 If the fault arises within 28 days of the date of delivery of the faulty Goods (the "**Warranty Period**") CPW shall replace or repair free of charge the Goods (or the part in question), subject to the manufacturer's warranty.
- 10.4 CPW shall refund to the Partner the price of the Goods (or a proportionate part of the price) where CPW receives a refund from the manufacturer of the price but otherwise CPW shall have no further liability to refund the Partner.
- 10.5 For any Goods for which the fault arises after expiry of the Warranty Period the Partner shall be responsible for the cost of carriage and insurance in respect of all Goods returned by the Partner to CPW for repair or replacement. In the case of valid warranty claims CPW shall refund any such reasonable costs.
- 10.6 CPW reserves the right to levy a surcharge in the event of returned Goods being found not to be defective.
- 10.7 Except as otherwise set out in this Agreement, on delivery the Goods shall conform in all material respects with any description CPW have specifically provided to the Partner; however the Partner agrees that CPW shall not provide any warranties themselves in respect of the Goods, and that all other warranties and representations, whether express or implied, by statute, common law or of any other kind are hereby excluded to the maximum extent permitted by law. CPW does warrant that the Goods are suitable for sale in any country other than the UK. If the Partner wishes to sell the Goods outside the UK, it is for the Partner to ensure that the Products comply with the laws of, do not infringe any third party rights, and are otherwise suitable to be sold in any country other than the UK.

11 PRICES

- 11.1 CPW shall offer the Products at such prices and/or Commission and on such conditions as are stated in this Agreement (including in accordance with any specific manufacturer's requirement as may be set out in the schedules to this Agreement from time to time) and/or the Price Book and/or CPW Website and/or as otherwise notified to the Partner from time to time.
- 11.2 CPW reserves the right to amend and reissue the Price Book at any time. Any notification of amendments to the Price Book by a Mobile Network Operator to the Partner via that Mobile Network Operator's standard medium of notification shall be effective as if notified to the Partner by CPW.
- 11.3 Catalogues, price lists, and other advertising literature or material as used by CPW are intended only as an indication as to price and the range of Products offered and no prices, descriptions or other particulars shall be binding on CPW and any typographical, clerical or other error or omission shall be subject to correction at any time without liability on the part of CPW.
- 11.4 'Recommended Retail Price' (or similar statement) for any Goods as recommended by any Mobile Network Operator stated in a price book or any other document is shown for guidance only. The Partner is entitled in its sole discretion to determine the price at which it offers Goods for sale to Customers and Prospective Customers. For the avoidance of doubt contracts for Airtime shall be sold at the prices stated by the Mobile Network Operator.

- 11.5 For all online orders by the Partner CPW shall pay for the cost of delivery to the Premises. For all Purchase Orders all prices are given by CPW at the time of the Purchase Order on an ex-works basis and, unless otherwise agreed, the Partner is liable to pay for the cost of delivery.
- 11.6 CPW may by giving notice to the Partner at any time before delivery increase the price of the Products to reflect any increase in the cost to CPW, which without limitation, shall include any of the following circumstances:
- 11.6.1 where the Partner has requested any variation whatsoever to the quantity, capacity, form, content, style or description of the Products, or has requested an earlier or a later delivery date; or
 - 11.6.2 where steps are required to be taken by CPW to comply with any statutory provisions from time to time in force; or
 - 11.6.3 where increases are made in the price charged to the Partner of any Products bought in from outside suppliers (including any Mobile Network Operator) so as to enable CPW to fulfill the Agreement; or
 - 11.6.4 where the supply of the Products is suspended, varied or otherwise delayed by the Partner, including without limitation, any delay caused by any failure to provide CPW with sufficient information to enable CPW to satisfy its obligations under the Agreement.
- 11.7 All prices are exclusive of Value Added Tax and any similar taxes which are payable in addition.
- 11.8 Where device and SIM card packs are supplied to be connected as a pair the Partner shall not split packs for sale and/or connection in any way or manner.
- 11.9 Where the Partner separates SIM cards from devices paired to be connected together CPW reserves the right to Clawback and/or apply additional charges by CPW and/or the relevant Mobile Network Operator in accordance its terms and conditions, or terminate this Agreement pursuant to clause 24.1.
- 11.10 Having regard to the current statutory or other United Kingdom government regulations in force from time to time and, in the case of Goods manufactured in the United States of America to the current export rules and regulations of the United States Department of Commerce in force from time to time and regardless of any disclosure made by the Partner to CPW of an ultimate destination for any Goods, the Partner will not export or re-export directly or indirectly any Products without first obtaining all such written consents or authorisations as may be required by any applicable regulations.

12 PAYMENT

- 12.1 All invoices for Products will processed and applied against a Partner's account in accordance with CPW's Standard Terms of Account set out below and as amended from time to time by CPW.
- 12.2 For the purposes of this clause 12, Standard Terms of Account are as follows:

Invoice Prefix	Transaction Type	Payment Terms
201	Automated Hardware Invoice	28 days from invoice date provided

		a credit limit is agreed
202	Automated Hardware Credit	Applied to account immediately
203	Automated Self Billing Credit	Applied to account immediately
204	Automated Self Billing Invoice	Applied to account immediately*
205	Manual Invoice	Applied to account immediately
206	Manual Credit	Applied to account immediately

207	Manual Self Billing Credit	Applied to account immediately
208	Manual Self Billing Invoice	Applied to account immediately

* Automated Self Billing Invoices are raised 14 days after the date of connection provided that CPW is in receipt of commission funds from the relevant Mobile Network Operator. Commissions shall not be due until CPW is in receipt of funds from the relevant Mobile Network Operator.

- 12.3 All items due for payment to or by the Partner will be amalgamated each week through CPW's weekly payment system to the Partner's account.
- 12.4 Payment will be made to Partner each week there is a credit balance on the Partner's account.
- 12.5 Payment will be due to CPW each week there is a debit balance on the Partner's account.
- 12.6 CPW shall be entitled at any time and without notice to the Partner to set off any liability of the Partner to CPW against any liability of CPW to the Partner (but only if such liability of CPW is due and payable). Any exercise by CPW of its rights under this clause shall be without prejudice to any other rights or remedies available to CPW under this Agreement or otherwise.
- 12.7 Where CPW, in its reasonable opinion, considers the Partner to be a credit risk it may require the Partner to provide personal guarantees, a cash bond or CPW may impose a credit limit or other payment terms (including but not limited to bringing forward the due date for any invoices in respect of Goods or requiring prepayment for such Goods).

13 OUTBOUND / INBOUND SERVICES

- 13.1 Where the Partner provides Outbound/Inbound Services:
- 13.1.1 the Partner undertakes that it (and will procure that its employees, agents, contractors and/or other partners or similar parties) will provide such Services in accordance with any instructions received from CPW;
- 13.1.2 the Partner shall not use any auto-diallers in providing the Services unless CPW has authorised this in writing;
- 13.1.3 the Partner shall ensure that all Telephone Advisors are suitably qualified to perform the Outbound/Inbound Services and the Customer Services as required under this Agreement and the Partner shall ensure that each Telephone Advisor satisfies the Qualifying Criteria;
- 13.2 the Partner shall train Telephone Advisors using its own trainers and at its cost, as may be required from time to time to perform the Outbound/Inbound Services and the Customer Services as envisaged by this Agreement, in accordance with any training programme and other instructions provided by CPW, and so that they are well informed about the Products and familiar with any Call Scripts. The Partner shall ensure that it does not allow any

Telephone Advisors to sell Products unless they have achieved a pass rate in their training. The Partner shall on request report to CPW about any Telephone Advisor who has undergone training and their respective pass rate. In addition and for the avoidance of doubt, all on-going training and also all replacement agent costs will be borne by the Partner;

- 13.2.1 make it clear after the customer has indicated that they are interested in purchasing a Product but before the application for the Product is completed that the customer would be purchasing any Airtime from the Mobile Network Operator;
- 13.2.2 the Partner shall ensure that no document or scripts (including Call Scripts) used by the Partner in the performance of the Outbound/Inbound Services or the Customer Services be distributed to or used with Prospective Customers or Customers or otherwise used without the prior written consent of CPW;
- 13.2.3 the Partner shall solely use data of Prospective Customers received from CPW (or the supplier designated by CPW) using specified standard processes (including the File Transfer Protocol site) and adhering to all specified data security processes by CPW from time to time;
- 13.2.4 the Partner shall return to CPW any data of Prospective Customers provided by CPW by the third working day of each month following the month in which such data has been used for telemarketing. The Partner shall ensure that any copies of the data of Prospective Customers are destroyed and not used again for telemarketing;
- 13.2.5 the Partner shall respond promptly to any requests from CPW or from the supplier designated by CPW for the verification of any data of Prospective Customers or call records;
- 13.2.6 the Partner shall only make calls between the hours of 09.00 and 20.00 Monday to Friday, 10.00 and 18.00 on Saturday and at no time on Sundays or bank holidays;
- 13.2.7 the Partner shall record all Outbound/Inbound Services calls and Customer Services calls, retain for six months and thereafter destroy the recordings and provide CPW with full access to such recordings whilst retained upon request;
- 13.2.8 the Partner shall provide CPW with regular feedback on any findings of sales that may amount to Slamming and on the remedial actions the Partner has taken as a result. In addition, the Partner will ensure CPW can audit all such findings every six (6) months; and
- 13.2.9 the Partner shall supply any call recordings that CPW may request that may involve Slamming or Customer complaints or any complaint by a Mobile Network Operator.

14 SALES AND MARKETING

- 14.1 Unless agreed otherwise, the Partner shall not undertake any activity regulated by the Financial Conduct Authority in connection with any services provided by CPW or any member of the CPW Group, including but not limited to promoting, administering and advising on contracts of insurance and shall only act as an introducer in relation to insurance forming part of the Products, as specifically agreed and instructed by CWS.

- 14.2 The Partner will not intentionally or negligently act in any way or make any omission that would, in the opinion of CPW (in its absolute discretion) bring CPW Group or the business of CPW Group or any Mobile Network Operator into disrepute in any manner or otherwise damage the brand or reputation of CPW Group or any Mobile Network Operator.
- 14.3 The Partner will conduct a service review and support call ("**Support Call**") with each Customer on a quarterly basis (or at such other intervals as may be agreed). The Partner shall provide CPW on a quarterly basis with a report detailing the outcome of the Support Calls, any Customer feedback and any remedial plans agreed with the Customer in relation to the feedback.
- 14.4 The Partner acknowledges and agrees that the contract for the sale to the Customer of the Goods is between Partner and each Customer (save where the Partner is an Affiliate in which case is between CPW and the Customer) and Partner must not in any way suggest otherwise.
- 14.5 The Partner warrants that:
- 14.5.1 the Services will be performed with reasonable skill and care;
 - 14.5.2 it has all requisite corporate power and authority to enter into this Agreement and all related agreements and the entering into and performance of its obligations under this Agreement has been duly authorised by all necessary corporate action on its part;
 - 14.5.3 it has obtained all consents, permits, permissions and licences necessary to enable it to perform its obligations under this Agreement;
 - 14.5.4 it currently complies with and in the performance of this Agreement it shall comply with all Applicable Laws, including but not limited by not supplying any products into any country which is subject to trade restrictions affecting either of CPW or the Partner;
 - 14.5.5 it shall comply with CPW's Anti-Bribery policy as updated from time to time;
 - 14.5.6 it is not a party to any contracts or other arrangements, where the performance or non-performance of its obligations could reasonably be expected to hinder or prevent the performance of its obligations under this Agreement;
 - 14.5.7 there are no actions, suits proceedings or regulatory investigations pending or threatened against it or any member of its Group that might be reasonably expected to have an adverse effect on the performance of its obligations under this Agreement;
 - 14.5.8 the Partner has not been subject to any claim by HMRC or any equivalent authority in any jurisdiction in respect of Missing Trader Intra-Community fraud ("MTIC") or any similar matters in any other jurisdiction and none of the Partner's customers have been subject to any claim by HMRC or any similar authority in any jurisdiction in respect of MTIC or any similar matters in any other jurisdiction;
 - 14.5.9 all Personal Data used by the Partner in the provision of the Services has been obtained legally and where data has been obtained from a third party, the Prospective Customer or a Customer has given consent to that third party for their data to be passed on to third parties for marketing purposes; and

14.5.10 it will provide CPW with a copy of its VAT certificate (if any) or letter headed paper on request and will notify CPW of any change to any VAT registration.

15 COMMISSION

- 15.1 In consideration for the provision of the Services by the Partner but subject to the terms of this Agreement, CPW shall pay the Commission. The Commission payable shall be the amounts and on the conditions as are notified to Partner by CPW and/or a Mobile Network Operator from time to time, and in accordance with clause 11.1.
- 15.2 The Commission is exclusive of VAT which shall be paid by CPW upon submission by the Partner of a valid VAT invoice.
- 15.3 CPW shall, on a weekly basis, raise a self-billing invoice ("**SBI**") for the Commission due from CPW to the Partner for all connections in a week less any amounts which CPW is entitled to deduct or set off pursuant to (a) clause 16 (or elsewhere in this Agreement or at law) and/or (b) due invoices in respect of Goods.
- 15.4 The balance of the SBI shall be payable by CPW by BACS transfer within seven (7) days or as otherwise agreed between the parties in writing, subject to the other terms of this Agreement.
- 15.5 Each party shall be liable to pay interest calculated at the rate of 2% above the base rate of the National Westminster Bank Plc from time to time prevailing from the date for payment is due from such party until paid.
- 15.6 CPW reserves the right to monitor the Commissions and the Goods ordered and Products sold and to withhold payments of Commission until invoices for Products are due and payable.
- 15.7 CPW reserves the right further to withhold payments and/or suspend trading and/or impose additional or different payment terms if the account balance due exceeds the Commissions awaiting payment by a material amount upon notice by the CPW Credit Control team.
- 15.8 Following any such suspension of trading CPW reserves the right to withhold payment of Commissions for up to six months following account suspension to off-set Clawbacks and any other debt. Any remaining balance will be repaid in full after this period.
- 15.9 CPW shall be entitled to withhold or withdraw payment of Commissions and/or other payments (including Advance Payments) which are due (or paid) to Partner in a number of circumstances which shall include but not be limited to where:
- 15.9.1 a Mobile Network Operator has notified CPW that a 'Do Not Deal' or other restrictive notice or action has been issued by a Mobile Network Operator or exists in relation to the Partner;
 - 15.9.2 the Partner has notified CPW that it intends to terminate or has terminated this Agreement and the amount withheld by CPW is a reasonable pre-estimate of any Clawbacks (and/or other amounts) that may be imposed on or demanded from the Partner after termination of this Agreement;
 - 15.9.3 the Partner sold Airtime with Goods nor sourced from CPW;
 - 15.9.4 CPW has a reasonable belief that the Partner cannot or will not or may in the future be unwilling or unable to pay for any Clawbacks and/or other charges,

amounts, fees or penalties that may become payable by Partner to CPW and/or a Mobile Network Operator;

15.9.5 The Partner has applied to swap their Connector Code;

15.10 In addition, where the Partner fails to achieve less than 10 Connections per Quarter, or where Churn Rate exceeds 15% in any given Quarter, CPW shall be entitled to withhold the payment of Commission for that Quarter, provided that where the Partner fails to achieve 10 Connections per Quarter or where the Churn Rate continues to exceed 15% for [two] consecutive Quarters CPW shall be entitled to terminate this Agreement on [three] months' notice.

15.11 Where CPW has reasonable grounds to believe that the Partner is taking steps to move its Customer base away from CPW (or plans to do so), CPW reserves the right to terminate the Partner's account, to terminate the Partner's entitlement to Commission and to Clawback any payments made to the Partner.

15.12 All queries relating to Commission and advance payments from the Partner must be submitted to the CPW commissions team in accordance with the relevant Mobile Network Operator's requirements as set out below:

O2 Upfront, BCAD and Commission payment request must be submitted within 6 months from Connection; and,

EE Upfront, DA and Commission payment request must be submitted within 6 months from Connection.

15.13 CPW manual credits for both O2 and EE connections shall be submitted within 3 months from Connection.

15.14 Where a Partner fails to renew or upgrade a Connection within 30 days of the end of any minimum term in relation to such Connection CPW shall be entitled (either directly or via one or more partners of CPW) to seek to renew or upgrade such Connection (or provide the customer with a replacement Connection). Commission shall cease to be payable to the Partner in respect of such Connection and no Commission shall be payable in respect to any such renewal, upgrade or replacement Connection.

16 CLAWBACKS

16.1 CPW reserves the right to reclaim on demand in full or in part the Commission and/or demand payment in full from the Partner for any Clawbacks, refunds, costs, losses or expenses of any nature incurred by or payable by CPW to a Mobile Network Operator or to any third party in the following circumstances:

16.1.1 where a Product is subsequently disconnected as a result of:

a. being returned under any money back guarantee or legal right to cancel or by agreement between the Partner and the Customer; or

b. non-payment of deposit; or

c. failure to supply proofs of identification and/or address;

d. where a Product is subsequently disconnected by the Mobile Network Operator for any reason;

- 16.1.2 where the connection of the Product has been identified by CPW or a Mobile Network Operator as fraudulent, including but not limited to, where connected through a Slam;
 - 16.1.3 where any payment due has not been received by a Mobile Network Operator pursuant to an agreement between a Customer and a Mobile Network Operator;
 - 16.1.4 where the Mobile Network Operator applies a clawback in relation to the Product;
 - 16.1.5 where value added services are sold to a Customer and subsequently disconnected;
 - 16.1.6 where a Customer downgrades to a lower tariff plan or tariff structure during any minimum term of a contract;
 - 16.1.7 where CPW is entitled to any Clawback under any of the Schedules;
 - 16.1.8 where disconnection takes place within the minimum term of any Airtime contract; or
 - 16.1.9 where the connection or connections are being used for any "Premicell", "Fixed Cellular Terminal" or "GSM Gateway" activity (as those terms as commonly understood in the mobile industry) by a Customer will result in full Clawback.
- 16.2 If any Commission has already been paid in respect of any Confirmed Purchase where one of the circumstances in clause 16.1 applies, an amount equal to such Commission shall be deducted from the next invoice issued by CPW or where there is no such invoice to be raised or the amount of such invoice is less than the amount to be deducted, the Partner shall pay CPW such amount to the extent that it has not been so deducted within seven (7) days of the circumstance arising or the invoice as applicable.
- 16.3 Any right of CPW to seek full payment of any Clawback or other amount payable by the Partner shall survive the termination of this Agreement.

17 AUDIT

- 17.1 The Partner shall keep such books of account, all copies of Customer contracts and records as are required to document the calculation of the charges payable under this Agreement ("**Records**").
- 17.2 The Partner shall also procure that its customers (other than end users) will keep accurate client account books relating to their customers, which shall include details of all shipping records in relation to the Goods, including the destination of batch numbers and specific IMEI numbers.
- 17.3 The Partner shall at the request (and cost) of CPW shall permit representatives of CPW (including any of its advisors or auditors) at any reasonable time during normal business hours on fourteen (14) days prior notice to enter their premises, to carry out a stock audit and to inspect and take copies of any of the Records for the purpose of verifying the accuracy of any amount due under this Agreement at any time during the Term and for six (6) years thereafter.
- 17.4 In addition the Partner shall permit CPW (including any of its advisors or auditors) to enter their premises and access their systems and personnel at any time in order for CPW to

fulfil any legally enforceable request by any regulatory body or to verify that the terms of this Agreement are complied with.

- 17.5 The Partner will cooperate and procure cooperation by its personnel with such audit. CPW will ensure that any third party acting on its behalf does so under obligations of confidentiality, and that any audit is conducted in a manner intended to cause as little disruption to the Partner's business activities as is reasonably possible whilst not prejudicing the ability of the audit to fulfil its purpose in a timely way (taking into account the seriousness and urgency of the concerns relevant to such audit).

18 INTELLECTUAL PROPERTY

- 18.1 All rights, including Intellectual Property Rights and database rights, in and used in connection with the Products, the Personal Data and all other material and data supplied to the Partner by CPW pursuant to this Agreement or supplied by Prospective Customers or Customers to the Partner ("**Rights**"), are and shall remain vested in CPW absolutely who may use the same as it so wishes and grant licences in respect thereof as it so wishes.
- 18.2 The Partner hereby assigns to CPW, with full title guarantee free from all encumbrances all present and future right, title and interest it may acquire in any such Rights. The Partner shall at CPW's request from time to time (and notwithstanding termination) sign and execute such documents and do all such acts and things and provide such information and assistance as CPW may reasonably require for the purposes of obtaining or confirming to CPW all rights and title to the Rights and for the purpose of asserting protections in or defending any interest in the Rights.
- 18.3 Partner acknowledges that its right to use the CPW Intellectual Property Rights is only as expressly set out in this Agreement. Partner acknowledges and agrees that its use of the CPW Intellectual Property Rights pursuant to this Agreement does not give Partner any rights, title or interest in the CPW Intellectual Property Rights except the right to use the CPW Intellectual Property Rights as expressly permitted by this Agreement, and that all goodwill in or associated with the CPW Intellectual Property Rights, including any goodwill generated by or arising through Partner's activities under this Agreement accrue for the benefit of, and belong exclusively to, CPW or any other party nominated by CPW.
- 18.4 From time to time, Partner may be permitted to use CPW Intellectual Property Rights. In using CPW Intellectual Property Rights, Partner must:
- 18.4.1 comply with the CPW Brand Guidelines;
 - 18.4.2 ensure that each reference to and use of CPW Intellectual Property Rights is in accordance with any written instructions from CPW or CPW;
 - 18.4.3 observe any marketing guidelines and directions regarding the use of CPW Intellectual Property Rights notified by CPW particularly in respect of all advertising materials, websites and signage;
 - 18.4.4 submit details of any use of CPW Intellectual Property Rights to CPW at the address notified to Partner for prior approval at least ten (10) Business Day's before use by Partner. CPW may refuse any use in its absolute discretion.
- 18.5 Partner must not:

- 18.5.1 Alter, destroy, cover or remove any of CPW Intellectual Property Rights ; or
 - 18.5.2 Affix its own trade mark (or that of a third party), either in addition to or in place of any existing CPW Intellectual Property Rights affixed to any Products or packaging supplied by or on behalf of CPW or CPW under this Agreement; or, .
 - 18.5.3 licence, permit or otherwise authorise any third party to use CPW Intellectual Property Rights.
- 18.6 Partner must immediately inform CPW if Partner becomes aware of any improper or wrongful use by any person of CPW Intellectual Property Rights.
- 18.7 Partner must not do, cause or authorise to be done, anything which may impair, damage or be detrimental to the reputation or goodwill associated with CPW, Products, or the CPW Intellectual Property Rights, which may adversely affect the value or validity of CPW Intellectual Property Rights or which may bring CPW Intellectual Property Rights into disrepute or which may jeopardise or invalidate any registration or application of registration of the CPW Intellectual Property Rights or CPW's title to the CPW Intellectual Property Rights.
- 18.8 Partner must not use, register, attempt to use or attempt to register any name or any combination of names the same as or similar to "Carphone Warehouse Business", or any other trade name of the CPW Group or any confusingly similar name or mark in its business, including any website domain name, trade name or company name without first having obtained the prior written permission of CPW which may be refused in CPW's absolute discretion. Partner agrees to comply with all reasonable conditions and instructions (if any) that CPW may attach to the granting of such permission.
- 18.9 Partner must not register, anywhere in the world, CPW Intellectual Property Rights or any other trade mark which, in CPW's opinion, is identical or confusingly similar to the CPW Intellectual Property Rights.
- 18.10 If, for the purposes of Partner performing any of its obligations under this Agreement, it is necessary for Partner to use any software provided by CPW ("Software"), then CPW shall grant to Partner a non-exclusive, non-transferable licence to use the Software in accordance with CPW's direction and licence terms and solely for the purpose of fulfilling Partner's obligations under this Agreement. Partner acknowledges and agrees that, to the maximum extent permitted by applicable law, CPW disclaims all warranties, conditions or terms, whether express or implied, including implied warranties, conditions or terms of satisfactory quality or fitness for a particular purpose with respect to the Software, any installation of the Software and any accompanying documentation. Partner acknowledges and agrees that CPW will not have any liability for any loss of, damage to, or corruption of, data caused by the installation and/or use of the Software by Partner. Such licence will automatically terminate at the same time that the Partner's appointment under this Agreement is terminated for any reason.
- 18.11 During the term of this Agreement, CPW may approve and agree from time to time for the Partner and CPW to produce Jointly Branded Advertising Materials. Where CPW obtain such agreement and approval from CPW to produce Jointly Branded Advertising Material the following will apply:
- 18.11.1 the responsibility for costs of production and distribution of such Jointly Branded Advertising Materials will be agreed at the time;

18.11.2 either CPW or Partner (the "**Creator**") must submit all elements of the Jointly Branded Advertising Materials to the other (the "**Recipient**") for its approval;

18.11.3 if the Recipient rejects any element of the Jointly Branded Advertising Materials submitted by the Creator for approval, the Creator will work with the Recipient to resolve any outstanding issues and continue to resubmit such Jointly Branded Advertising Materials until:

a- the Recipient gives its approval; or

b- the Recipient notifies the Creator that the re-submitted Jointly Branded Advertising Materials do not comply with the Recipient's reasonable requirements in which case the parties will not proceed with the Jointly Branded Advertising Materials.

c- each of CPW and Partner must approve the use of its intellectual property and each will have absolute discretion to refuse the use of its intellectual property in the Jointly Branded Advertising Materials; and

d- each of Partner and CPW shall grant the other party a non-exclusive licence to use the other party's intellectual property for the purposes of producing Jointly Branded Advertising Materials subject to each party's compliance with the approval process set out above and any other conditions imposed by a party. Such licence will automatically terminate at the same time the Partner's appointment under this Agreement is terminated for any reason.

18.12 If at any time during the term of this Agreement the Partner becomes aware that any of the material and data supplied to the Partner by CPW pursuant to the Agreement is in breach of any applicable law or regulation or infringes the Intellectual Property Rights of any third party or that the Intellectual Property Rights in any material or data supplied by CPW to the Partner pursuant to this Agreement are being infringed by any third party then the Partner agrees to immediately notify CPW in writing and the Partner shall make no comment or admission to any third party in respect of such matter.

18.13 The Partner warrants that the Partner's Branding is not in breach of any third party's intellectual property rights and, without prejudice to any other right or remedy available to CPW, the Partner will indemnify CPW and the CPW Group against all claims, actions, damages, proceedings and related costs and expenses incurred by CPW as a consequence of such a breach.

19 INDEMNITIES AND LIMITS OF LIABILITY

19.1 Subject as expressly provided in this Agreement all warranties, conditions, representations or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

19.2 Save as otherwise expressly provided in this Agreement, the following provisions set out CPW's entire liability for any act or omission whether in contract, misrepresentation, pre-contractual misrepresentation, fraudulent misrepresentation, tort (including negligence) or otherwise howsoever arising.

19.3 CPW's liability to the Partner for fraud, fraudulent misrepresentation or for death or personal injury caused by CPW's negligence shall not be limited.

- 19.4 Without prejudice to clause 19.3 above, CPW shall not be liable to the Partner for any increased costs, expenses, loss or corruption of data, use, profits, loss or damage to goodwill, business, reputation, contracts, revenues or failure to achieve anticipated savings, or any type of special (in each case whether such loss is deemed direct or indirect and howsoever arising including breach of contract of negligence), indirect or consequential loss of any kind (including loss or damage suffered by the Partner as a result of a claim alleged or an action brought by a third party) even if such loss were reasonably foreseeable or CPW had been advised of the possibility of the Partner incurring the same.
- 19.5 Without prejudice to clause 19.3 above and subject to clause 19.4, CPW's aggregate liability for all claims relating to or in connection with this Agreement shall be limited to the amount paid by the Partner for the Products.
- 19.6 The Partner acknowledges it is under a duty to pass on to its customers (where appropriate) all instructions, information and warnings supplied to it by CPW.
- 19.7 The Partner agrees to indemnify and keep indemnified, CPW and all other members of the CPW Group, from and against all liabilities, penalties, damages, claims, actions, proceedings, costs and expenses (including legal costs on a full indemnity basis) suffered or incurred by CPW or any other member of the CPW Group arising out of or in connection with any breach of this Agreement, any infringement of any legal obligation (or by CPW where the liability arose in relation to any act or omission by the Partner), by the Partner, any claim by any customer or end user relating to the Products and any claim against CPW relating to the misappropriation by the Partner or any third party of any Value Added Tax (or any equivalent tax in any other country) relation to the Products (including, without limitation, any clawbacks, charges, deductions or otherwise made by a Mobile Network Operator from CPW or as set out in clause 16 or elsewhere in this Agreement), whether incurred during the Term of this Agreement or thereafter.

20 INSURANCE

- 20.1 The Partner shall effect and maintain in force with a reputable insurance company during the Term, insurance as is customary (as to type and levels) for a skilled and experienced provider of services similar to the Services.
- 20.2 The Partner shall, on the written request of CPW from time to time, provide a certificate signed by the Partner's insurer or such insurer's appointed agents confirming that the Partner is insured in accordance with this clause 20.
- 20.3 The Partner shall during the term of this Agreement and for a period of six (6) years thereafter:
- 20.3.1 administer the insurance policies and the Partner's relationship with its insurers in accordance with Good Industry Practice; and
 - 20.3.2 do nothing to invalidate any insurance policies or to prejudice the Partner's entitlement under the insurance policies.
- 20.4 The Partner shall ensure that its contractors, subcontractors and agents are insured in the same manner as set out in this clause 20.
- 20.5 The Partner shall notify CPW immediately if any of the insurance policies set out in clause 20.1 become invalid or are cancelled.

21 CONFIDENTIALITY

- 21.1 Neither party shall disclose Confidential Information to any third party and shall only release the Confidential Information to those of its directors, officers or employees who need to know it strictly for the purpose of exercising or performing that party's rights and obligations under this Agreement (the "**Purpose**"). Each party shall treat the other party's Confidential Information with the same degree of care and apply no lesser security measures than it affords to its own confidential information. The receiving party warrants that these measures provide adequate protection against unauthorised disclosure, copying or use.
- 21.2 The receiving party shall make no commercial use of the Confidential Information or use it otherwise than for the Purpose.
- 21.3 Confidential Information may be disclosed if and to the extent:
- 21.3.1 it is required by law, by any securities exchange, court order or other authority of competent jurisdiction or any regulatory or government authority to which the receiving party is subject;
 - 21.3.2 the receiving party considers it necessary to disclose the information to its professional advisers, auditors or bankers provided that it does so on terms protecting the information;
 - 21.3.3 the information has entered the public domain through no fault of the receiving party;
 - 21.3.4 the information was previously disclosed to the receiving party without any obligation of non-disclosure; or
 - 21.3.5 the disclosing party has given its consent in writing
- provided that in any of the circumstances specified in clause 21.3.1 and clause 21.3.2 the receiving party shall give the disclosing party, if possible, not less than 10 Business Days' notice of such disclosure.
- 21.4 The receiving party shall not make copies or reproductions of Confidential Information except to the extent reasonably necessary, and all copies made shall be dated and shall be the property of the disclosing party. The receiving party shall keep accurate and up to date records of any copies or reproductions and a list of any of the parties set out in clause 21.3.2 above. All Confidential Information and copies shall be returned to the disclosing party within 30 days of receipt of a request from the disclosing party.

22 DATA PROTECTION

- 22.1 The provisions of this clause 22 shall apply whenever Personal Data shall be processed as part of this Agreement. For the purpose of this Agreement, and if applicable, the Partner shall be a Data Controller and CPW shall be the Data Processor in relation to the Personal Data. As a result, the Partner shall comply with the obligations placed on it as a data controller by the GDPR and nothing in the Agreement shall relieve the Partner of such obligations.
- 22.2 All Personal Data which relates to the Partner, its employees, its customers or any other person in respect of which the Partner is a data controller shall at all times be and remain the property of the Partner. The terms Data Controller, Data Processor, Process, Personal Data, and other defined terms in this clause shall be as defined in the GDPR.

- 22.3 Where applicable, CPW shall Process the Personal Data which is set out in and for the purposes set out in Schedule 2.
- 22.4 CPW shall assist the Partner in providing subject access and with allowing data subjects to exercise their rights under the GDPR.
- 22.5 CPW shall provide reasonable assistance, at the Partner's cost (such costs to be agreed with the Partner in advance) and on reasonable notice, with any data protection impact assessments.
- 22.6 Where the Partner is required to collect 'consent' from a data subject under this Agreement it shall ensure such consent is freely given, specific, informed and contains an unambiguous indication of the data subject's wishes by a statement or by a clear affirmative action which signifies agreement to the processing of personal data relating to him or her.
- 22.7 The Partner agrees to only use the Personal Data for the legitimate purposes of performing its obligations under, and carrying out the services specified in this Agreement.
- 22.8 In relation to the Personal Data , CPW will act only on written instructions from the Partner given from time to time. For the avoidance of doubt, if CPW is ever unsure as to the parameters of the instructions issued by the Partner it will as soon as reasonably practicable revert to the Partner for the purpose of seeking clarification or further instructions.
- 22.9 CPW shall ensure that the Processing of Personal Data is subject to appropriate measures (including organisational and technical measures) to ensure the security of the Personal Data is appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR. In assessing the appropriate level of security, CPW shall take into account the risks from processing, in particular from a Personal Data Breach. When looking at what is appropriate CPW shall take into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons.
- 22.10 CPW shall not subcontract or outsource the processing of any of the Personal Data to any third party without the prior written consent of the Partner and without having put in place a written contract with the sub-processor which complies with the requirements of GDPR.
- 22.11 CPW will also take reasonable steps to ensure the reliability of any of its employees, sub-contractors and agents who have access to the Personal Data and ensure that they process data in compliance with the GDPR. ensuring in each case that access is limited to those individuals who need to know / access the relevant Personal Data, as necessary for the purposes of this Agreement. In any event, CPW shall ensure that all persons acting on its behalf to Process Personal Data are subject to appropriate obligations of confidentiality.
- 22.12 CPW shall within a reasonable time of written request from the Partner submit such information as is necessary to demonstrate compliance with its obligations relating to Personal Data under this Agreement. Such compliance shall include the requirement for CPW to cooperate with any audit and inspections carried out by the Partner or by an independent, suitably qualified representative of the Partner acting subject to obligations of confidence. If it prefers, CPW may nominate an appropriate independent, suitably qualified auditor, and the Partner shall accept such auditor unless it can show it has good reason not to accept the nomination. Such audits shall be carried out on reasonable notice and at the Partner's request, and shall be on the basis that the audit shall be conducted so as to

respect the confidentiality of the other clients of CPW and so as to not unnecessarily disrupt CPW's business. CPW shall provide any other information that is needed to ensure that the parties are complying with the GDPR.

- 22.13 CPW shall promptly notify the Partner without undue delay and upon CPW or any sub-processor becoming aware of a Personal Data Breach affecting the Personal Data, providing the Partner with sufficient information to allow the Partner to meet any obligations to report or inform Data Subjects of the Personal Data Breach under the GDPR. The timing of CPW's report must in any case be prompt enough so as to allow the Partner a reasonable time to assess the report and act on it within the 72 hours which the Partner has in which to submit its own report.
- 22.14 CPW shall not transmit any data to any country or place outside the European Economic Area without the express prior written consent of the Partner. If requested to do so by the Partner, CPW agrees to promptly execute and procure that any sub-contractor used by it promptly executes an approved form set of data transfer model clauses to ensure that all overseas data transfers comply with the provisions of applicable law.
- 22.15 CPW shall promptly delete (and confirm deletion in writing) or return securely all copies of personal data processed by it pursuant to this Agreement at the point of termination or expiry of this Agreement provided that CPW may retain Personal Data where it is legally required to do so and then only to the extent and for such period as required by law.
- 22.16

23 FORCE MAJEURE

- 23.1 A party, provided that it has complied with the provisions of clause 23.3, shall not be in breach of this Agreement, nor liable for any failure or delay in performance of any obligations under this Agreement arising from or attributable to acts, events, omissions or accidents beyond its reasonable control which shall not include any labour disputes or industrial action of the party seeking to rely on this clause or companies in the same group of companies as such party or the non-performance by suppliers or subcontractors in the same group of companies as the party seeking to rely on this clause ("**Force Majeure Event**").
- 23.2 The corresponding obligations of the other party will be suspended to the same extent as those of the party first affected by the Force Majeure Event.
- 23.3 Any party that is subject to a Force Majeure Event shall not be in breach of this Agreement provided that:
- 23.3.1 it promptly notifies the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance; and
- 23.3.2 it could not have avoided the effect of the Force Majeure Event by taking precautions which, having regard to all the matters known to it before the Force Majeure Event, it ought reasonably to have taken, but did not; and
- 23.3.3 it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.
- 23.4 If the Force Majeure Event prevails for a continuous period of more than 30 days, the party not affected by the Force Majeure Event may terminate this Agreement by giving 14 days'

written notice to the other party. On the expiry of this notice period, this Agreement will terminate. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination.

24 TERMINATION

24.1 Without prejudice to any rights that have accrued under this Agreement or any of its rights or remedies, either party may terminate this Agreement with immediate effect by giving written notice to the other party at any time after the happening of any of the following events:

24.1.1 the other party commits a material breach of any of the terms set out in this Agreement provided that where such breach is capable of remedy the other party has been advised in writing of the breach and has not rectified it within thirty (30) days of receipt of such advice; or

24.1.2 the other party summons a meeting of its creditors, makes a proposal for a voluntary arrangement, becomes subject to any voluntary arrangement, is unable to pay its debts, has a receiver, manager or administrative receiver appointed over any of its assets, undertaking(s) or income, has passed a resolution for its winding-up (save for the purpose of a voluntary reconstruction or amalgamation), is subject to a petition presented to any court for its winding-up (save for the purpose of a voluntary reconstruction or amalgamation), has a provisional liquidator appointed, has a proposal made for a scheme of arrangement, has an administrator appointed in respect of it or is the subject of an application for administration filed at any court or a notice of appointment of an administrator filed at any court or a notice of intention to appoint an administrator given by any person or is subject to an event analogous to any of the foregoing; or

24.1.3 the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.

24.2 CPW may terminate this Agreement with immediate effect by giving written notice to the Partner at any time:

24.2.1 following a change of control of the Partner (within the meaning of section 1124 of the Corporation Tax Act 2010); or

24.2.2 in the event that any licence, permission or authorisation necessary for the provision of the Products by CPW is revoked.

24.3 Without prejudice to any rights that have accrued under this Agreement or any of its rights or remedies, CPW may terminate this Agreement for convenience on giving the Partner not less than 30 days' written notice.

24.4 CPW may terminate any of the Schedules to this Agreement on giving not less than 10 days' prior written notice to the Partner save in circumstances where any agreement between CPW and the Mobile Network Operator has been terminated on shorter notice, in which case such shorter notice shall apply to the termination of the Schedule.

24.5 In the event that CPW exercises the right specified in clause 24.4 all rights and obligations of the parties as set out in this Agreement shall also terminate, save as provided otherwise.

25 CONSEQUENCES OF TERMINATION

- 25.1 All rights and obligations of the parties shall cease to have effect immediately on termination of this Agreement except that termination shall not affect:
- 25.1.1 the accrued rights and obligations of the parties at the date of termination;
 - 25.1.2 the right to claim damages for losses whenever they occur provided they arise out of an event occurring on or before termination of this Agreement; and
 - 25.1.3 the continued existence and the validity of the rights and obligations of the parties under any provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
- 25.2 On termination of this Agreement the Partner must:
- 25.2.1 within seven days send to CPW, or otherwise dispose of in accordance with CPW's directions, all marketing guidelines, advertising materials and Customer Order's in the Partner's possession;
 - 25.2.2 immediately cease to promote, market or advertise the Products; and
 - 25.2.3 immediately cease using the CPW Intellectual Property Rights;
 - 25.2.4 return all Product's in its possession or control at that time; and
 - 25.2.5 return Products provided to Partner for demonstration purposes.

26 NON-SOLICITATION

- 26.1 The Partner shall not during the Term of this Agreement or for a period of two years thereafter intentionally attempt to solicit or entice away from CPW or assist any person in soliciting or enticing away from CPW any Customer who has been acquired pursuant to this Agreement.
- 26.2 Unless agreed otherwise CPW shall not at any time:
- 26.2.1 enter into a direct agreement with any Customer who has been acquired pursuant to this Agreement for the provision of Goods; or
 - 26.2.2 intentionally churn the Customer to another Mobile Network Operator; or
 - 26.2.3 contact any Customer save where required by the Mobile Network Operator for customer retention purposes or otherwise,
- save that the provisions of this clause 26.2 shall not apply to any Customer procured by an Affiliate.

27 DISPUTE RESOLUTION

- 27.1 Subject to either party's rights and remedies under and in accordance with this Agreement including under clause 24, prior to initiating any proceedings in the English courts, the parties may agree to follow the procedure set out in this clause 27 to settle all disputes in relation to this Agreement ("Disputes"). If so, the Partner shall not contact any person other than those referred to below either within CPW or the CPW Group in relation to

Disputes and either party may trigger the application of this clause 27 by serving notice in writing of any such Dispute ("Dispute Notice").

- 27.2 If a Dispute remains unresolved after a period of thirty (30) days after the service of a Dispute Notice, either party shall be free to pursue whatever remedies are available to them at law, provided that nothing in this clause 27 shall prevent either party at any time, in cases where injunctive, declaratory or other equitable relief is required, from commencing proceedings and pursuing its claims before the courts of England and Wales in accordance with clause 40.
- 27.3 All rights of the parties in respect of the Dispute shall be and remain fully reserved, and shall be strictly confidential and shall be conducted "without prejudice" to any subsequent proceedings.
- 27.4 If a Dispute is resolved pursuant to this clause 27, CPW and the Partner shall create a written memorandum of their agreement in relation to the Dispute which shall be signed by both CPW and the Partner and following which the parties shall, as soon as reasonably practicable, execute such documents and do such things to give effect to such agreement.
- 27.5 For the avoidance of doubt, nothing in this clause 27 precludes either party from exercising its rights at law, or otherwise pursuant to this Agreement, at any time.

28 COMPLIANCE

- 28.1 The Partner undertakes to comply in all respects and at all times with all relevant legislation including any directions resulting from directions made by Ofcom or the Secretary of State for Trade and Industry.
- 28.2 All Mobile Network Operators in the UK in relation to the sale and marketing of mobile telephony services issued in accordance with section 48(1) of the Communications Act 2003 (as amended from time to time) ("**GC23**"). To the extent required by GC23, the Partner shall ensure that it is aware and that all staff engaged in the promotion of Airtime and procurement of Airtime connections are aware of GC23.
- 28.3 To the extent required by GC23, in relation to the marketing and promotion of Airtime and procurement of Airtime connections, the Partner shall ensure that it and any of its staff engaged in the marketing or promotion of Airtime and procurement of Airtime connections do not:
 - 28.3.1 engage in dishonest, misleading or deceptive conduct in relation to customers;
 - 28.3.2 engage in aggressive conduct in relation to customers; or
 - 28.3.3 contact customers in an inappropriate manner.
- 28.4 To the extent required by GC23, before procuring any Potential Customer to enter into a Customer Order, the Partner shall use reasonable endeavours to ensure that such Potential Customer:
 - 28.4.1 is authorised to do so;
 - 28.4.2 intends to enter into the Customer Order;
 - 28.4.3 is provided with the following information in a clear, comprehensible and accurate manner in paper or another medium (including pdf, email, SMS) which is

available to and accessible to the Customer in which they can store and receive unaltered information for a period of time adequate for the purpose of the information ("**Durable Medium**") or, where the Customer enters into a Customer Order during a sales call, by telephone, provided that the Partner shall ensure that such information is sent to the Customer in paper or another Durable Medium in good time following the call:

- 28.4.4 the identity of the Mobile Network Operator, the legal entity the Customer is entering into the Customer Order with, including its address and telephone, fax and/or email contact details;
- 28.4.5 a description of the applicable services and tariff, including:
 - the key charges (including without limitation minimum contract charges and any early termination charges);
 - payment terms;
 - the existence of any termination right, including termination procedures;
 - the date the services will commence if not immediate; and
 - any minimum term.
- 28.5 To the extent required by GC23 the Partner shall create and keep written records (which may include an electronic scan of an original) relating to the sale of Goods and entry by a customer into a Customer Order for a period of not less than six months following such connection.
- 28.6 To the extent required by GC23, the Partner shall ensure that all staff engaged in the promotion of Airtime and procurement of Airtime connections shall have suitable training, skill and expertise for the sale of Airtime and procurement of Airtime connections in compliance with GC23.
- 28.7 To the extent required by GC23, in the event that the Partner offers any Customer any cashback, gift or other sales Incentive as an inducement to such Customer agreeing to enter into a Customer Order which will be provided following the entry into such Customer Order ("**Offer**"), the Partner shall:
 - 28.7.1 ensure that any terms and conditions of the Offer are not unduly restrictive;
 - 28.7.2 provide the following information to the Customer in a clear, comprehensible and accurate manner in paper or another Durable Medium, or, where the Customer enters into a Customer Order during a sales call, by telephone provided that the Partner shall ensure that such information is sent to the Customer in paper or another Durable Medium in good time following the call:
 - 28.7.3 the identity of the Partner, the legal entity making the Offer and responsible for its redemption, including its address and telephone or email contact details;
 - 28.7.4 a description of the Offer; and
 - 28.7.5 the terms and conditions of the Offer, including a detailed and clear explanation of the process the customer has to follow to redeem the Offer; and

- 28.7.6 retain records demonstrating its compliance with clause 28.7 for the longer of:
- six months from the date of the Offer; or
 - ninety days after the date on which the Offer has to be fully redeemed by the Customer.
- 28.8 To the extent required by GC23, within 10 Working Days of a written request from CPW the Partner shall supply CPW with such information as reasonably required by CPW in order to demonstrate that the Partner has complied with its obligations in this clause 28.
- 28.9 The Partner shall not do or cause to be done anything which it knows or has reasonable cause to believe would cause CPW to be in breach of any of its obligations to a Mobile Network Operator.
- 28.10 The Partner 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 CPW immediately upon becoming aware of any Fraud and the Partner will implement without delay and comply with such procedures and rules advised by CPW or the Mobile Network Operator from time to time concerned with Fraud. Failure to comply with such procedures and rules shall be regarded as a material breach of this Agreement. "Fraud" shall include (without limitation) (i) theft, fraud and /or deception (whether actual or attempted) in relation to any Products sold by the Partner and/or the promotion and marketing of the Products and/or (ii) unauthorised and/or unlawful use (whether actual or attempted) of the Products.

29 PREVENTION OF CORRUPTION

With respect to any transaction or business effected in connection with this Agreement, the Partner hereby confirms that it will comply with Anti-Corruption Laws and neither the Partner or any of its direct or indirect owners, directors, officers, employees, or agents has or will pay, offer, promise to pay or authorise the payment of, directly or indirectly, any bribe, gift, monies, financial or other advantage or anything else of value in violation of Anti-Corruption Laws. Without prejudice to any rights that have accrued under this Agreement or any of its rights or remedies, CPW may terminate this Agreement effective immediately if it makes a good faith determination that the other party or any person acting on its behalf with respect to this Agreement has breached the covenant contained in this clause and/or otherwise has committed a violation of the Anti-Corruption Laws or caused the other, its officers, directors, employees and/or affiliates to be in violation of the Anti-Corruption Laws.

30 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

This Agreement is not intended to be for the benefit of, and shall not be enforceable by, any person other than one of the parties hereto under the Contracts (Rights of Third Parties) Act 1999 and no party can declare itself a trustee of its rights under this Agreement for the benefit of any third party.

31 ENTIRE AGREEMENT

- 31.1 This Agreement and any documents referred to in it sets out the entire agreement and understanding between the parties and supersedes all prior agreements, understandings or arrangements (whether oral or written) in respect of the subject matter of this Agreement and the parties agree that the terms of this Agreement shall prevail over any purchase order, order acceptance, or terms and conditions .

- 31.2 Each party acknowledges that it has entered into this Agreement in reliance only on the representations, warranties promises and terms contained or expressly referred to in this Agreement and, save as expressly set out in this Agreement, neither party shall have any liability in respect of any other representation, warranty or promise made prior to the date of this Agreement unless it was made fraudulently.

32 ASSIGNMENT

- 32.1 Except as set out in clause 32.2, no party may assign, transfer, charge or otherwise encumber, declare a trust over or deal in any other manner with this Agreement or any right, benefit or interest under it, or sub-contract any of its obligations under it, without the prior written consent of the other party.
- 32.2 CPW may on prior notice to the Partner assign its rights and obligations pursuant to this Agreement to a third party.

33 CHANGES TO TERMS

- 33.1 CPW shall be entitled to vary any of the terms of this Agreement for any reason at any time. Any variations will be posted on CPW's Website.
- 33.2 Partners should be aware and hereby agree that Mobile Network Operators change their terms of trading and payment and commissions regularly, including in relation to clawbacks, refunds, returns and other matters that may affect the Commission and the way that Partners may operate. Any changes to the Mobile Network Operator's terms will apply immediately.
- 33.3 Partners should consult CPW's Website regularly for the latest version of this Agreement and the latest Price Book.
- 33.4 Any Order placed on the Currys PC World Business website shall constitute the acceptance of the latest version of the terms of this Agreement.

34 SUSPENSION

- 34.1 CPW shall be entitled to suspend this Agreement at any time, for any period of time and without any prior notice to the Partner in the event of any actual, pending or threatened regulatory intervention or Mobile Network Operator intervention which prevents CPW from offering the Products through the Partner without being in breach of any law or regulation or agreement with a Mobile Network Operator and without any liability to the Partner therefore.
- 34.2 CPW shall be entitled to suspend this Agreement at any time, for any period of time upon written notice to the Partner in the event the volume of Customer Orders which subsequently churn exceeds any limit imposed by CPW or any Mobile Network Operator until such time as the Partner can demonstrate of any actual, pending or threatened regulatory intervention or Mobile Network Operator intervention which prevents CPW from offering the Products through the Partner without being in breach of any law or regulation or agreement with a Mobile Network Operator and without any liability to the Partner therefore.
- 34.3 CPW shall have the right at any time to suspend payment of the Commission and provision of the Products if CPW has reasonable cause to believe that the Partner is in material breach of any of its obligations under this Agreement.

- 34.4 Following such suspension, CPW may request copies of any documents used by the Partner in the performance of the Services.

35 SEVERANCE

To the extent that any provision of this Agreement is found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, that provision shall be deemed not to be a part of this Agreement, it shall not affect the enforceability of the remainder of this Agreement nor shall it affect the validity, lawfulness or enforceability of that provision in any other jurisdiction.

36 WAIVER

- 36.1 Any right, power or remedy of a party under or pursuant to this Agreement or by law shall not be capable of being waived otherwise than by an express waiver in writing signed by an authorised representative of the relevant party.
- 36.2 No single or partial exercise, or failure or delay in exercising any right, power or remedy by any party shall constitute a waiver by that party of, or impair or preclude any further exercise of, that or any right, power or remedy arising under this Agreement or otherwise.

37 NO PARTNERSHIP OR COMMERCIAL AGENCY

- 37.1 The parties confirm that they have considered the Commercial Agents (Council Directive) Regulations 1993, including the Schedule thereto (the "Regulations") and agree that the Regulations do not apply to this Agreement. Accordingly, CPW shall have no liability to the Partner and/ or the Agents. The Partner and / or the Agents shall therefore have no claim against CPW for any payment in respect of minimum notice, compensation, or indemnity under or pursuant to the Regulations, whether for loss of income, loss of agent rights, loss of goodwill or any analogous loss, upon the termination of this Agreement howsoever caused.
- 37.2 Without prejudice to clause 37.1 above, if and to the extent that the Regulations may nevertheless be found to apply, it is agreed that, upon termination of this Agreement otherwise than by reason of the Partner's breach, the Partner shall be entitled to be indemnified rather than compensated, if and to the extent that the Partner is otherwise able to prove such entitlement under the Regulations. For the avoidance of doubt, in no circumstances shall the Partner have any right to compensation under the Regulations.
- 37.3 For the avoidance of doubt, the terms "Affiliate" is a defined term for the purposes of this Agreement and, shall in no way be taken to constitute a partnership between the parties.

38 COSTS

Each party will pay their own costs and expenses incurred in connection with the entering into of this Agreement.

39 NOTICES

Any notice to a party under this Agreement shall be in writing in the English language, signed by or on behalf of the party giving it and shall be delivered personally, by pre-paid first class post, (or airmail, if abroad), prepaid recorded delivery (or international equivalent) to the address of the party appearing at the beginning of this Agreement (in the case of CPW to its trading address), or as otherwise notified in writing from time to time. A notice shall be deemed to have been served at the time of delivery, if delivered personally, or 48 hours after posting for an address in the United Kingdom and 5 Business Days after posting for any other address.

40 GOVERNING LAW AND JURISDICTION

- 40.1 Any right, power or remedy of a party under or pursuant to this Agreement or by law shall not be capable of being waived otherwise than by an express waiver in writing signed by an authorised representative of the relevant party.
- 40.2 This Agreement and any dispute, claim or obligation (whether contractual or non-contractual) arising out of or in connection with it, its subject matter or formation shall be governed by English law.
- 40.3 The parties irrevocably agree that the English courts shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with this Agreement, its subject matter or formation.

SCHEDULE 1

CPW Brand Guidelines

Where Partner is entitled to use CPW Intellectual Property Rights in accordance with the Agreement, Partner must:

1. strictly abide by and observe CPW's instructions, requirements, directions and specifications regarding colour references and style guides for reproduction of any of CPW Intellectual Property Rights , and in particular Partners must abide by and observe any extranet through which Partners will have access to any applicable guidelines and branded material as notified to Partners from time to time);
2. only apply CPW Intellectual Property Rights to materials that comply with CPW's written approval;
3. ensure any trade mark/copyright notice specified by CPW (or such other notice as CPW may in writing require) is affixed adjacent to the CPW Intellectual Property Rights or in any other position as CPW directs on all material using or incorporating all or any part of the CPW Intellectual Property Rights ;
4. not use CPW Intellectual Property Rights in juxtaposition or in conjunction with any other symbol, logo, mark or other means of identification or merchandising, except with the prior written approval of CPW;
5. not use CPW Intellectual Property Rights in a partial or fragmentary form but always in its complete form as depicted in accordance with CPW's written instructions (unless otherwise agreed in writing by CPW);
6. if cropping CPW Intellectual Property Rights , only do so in accordance with the cropping guide (as notified to Partners from time to time);
7. if using the CPW logo, ensure that the Partner Branding remains dominant, with the CPW logo being no more than 60% in size of the Partner logo;
8. not use CPW Intellectual Property Rights on any product or other material (including stationery, business cards or correspondence or any other form of written communication) unless prior written approval is obtained from CPW;
8. not use the CPW Intellectual Property Rights otherwise than as permitted by the Agreement or in any manner that would be in contravention of any law, regulation or applicable standard except in accordance with CPW's written instructions;
9. not cause or permit anything which may challenge, damage or endanger the CPW Intellectual Property Rights or CPW's title to the CPW Intellectual Property Rights or assist or allow any other person to do so except in accordance with CPW's written instructions;
10. not register or attempt to register any part of the names or words forming part of the CPW Intellectual Property Rights or any work substantially identical or deceptively similar to as or as part of a business name or corporate name;
11. not register or attempt to register any part of CPW Intellectual Property Rights or any name, word, mark, design, emblem, visual representation or slogan substantially identical with or deceptively similar to as or as part of a trade mark or design;

12. not represent that it has any right, title or interest in CPW Intellectual Property Rights or in any application for registration of it or in any fraudulent, obvious or colour imitation of it other than pursuant to the rights expressly granted by this Agreement; and
13. not use any name, word, mark, design, emblem, visual representation or slogan similar or capable of being confused with any part of CPW Intellectual Property Rights .

Any material produced by the Partner containing CPW Intellectual Property Rights which does not meet the CPW Brand Guidelines set out in this Schedule 1 will not be approved by CPW and any unauthorised use will be considered to be a breach of the terms of this Agreement.

SCHEDULE 2 - Description of and Instructions for the Processing of Personal Data

Description of the Processing Activities

The processing of Personal Data is as follows:

Obtaining the following customer information for credit checking, activation and support purposes. This information is stored in our Oracle database and passed to Mobile Network Operators.

Business name
Business type
Registration number (if applicable)
Telephone number
Address history
Time trading
Number of employees
Directors details - name, gender, marital status, Date of Birth, e-mail address, Time in employment, Residential status
Direct debit details
Marketing preferences
Mobile numbers
SIM card numbers
IMEI's
Tariff information
Previous billing history

We also capture business and personal proofs as part of the Mobile Network Operators compliance. List of accepted proofs below –

For **Limited** we will need 2 business proofs
(however, we cannot have 2 of the same type of proof)

Business Proof List

- UK Bank or Building Society Business Credit or Debit card
- UK Bank or Building Society Business account statement
- Business utility bill
- Existing mobile phone bill or fixed line bill in the Business name
- Business VAT Registration certificate
- Certificate of Incorporation or change of company's name
- Inland Revenue ID card (registration card)
- Leasing / Rental agreement

For **Sole Traders**, we will need 2 personal and 1 business proof:

Proof of ID

- Full or Provisional UK or NI driving licence
- Passport
- UK Bank or Building society credit / debit card

Proof of Address

- Full or Provisional UK or NI driving licence
- UK Bank or Building society account statement
- Fixed phone bill
- Existing mobile bill (excluding T-Mobile/EE bill)
- Council tax statement or payment book

- Utility bill (in the name of the customer)
- Business Proof
- UK Bank or Building Society Business Credit or Debit card
- UK Bank or Building Society Business account statement
- Business utility bill
- Existing mobile phone bill or fixed line bill in the Business name
- Business VAT Registration certificate
- Certificate of Incorporation or change of company's name
- Inland Revenue ID card (registration card)
- Leasing / Rental agreement

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Data subjects

The Personal Data concern the following categories of Data Subjects:
The Partners – we will hold the information included in the attached application form and also hold some of their employees data – names and e-mail addresses for portal logins.
Their Customers - information held as per original response.

Purposes of the Processing

The Processing is necessary for the following purposes:

- Obtaining additional funding/discounts from Mobile Network Operators
- Credit checking customers with Mobile Network Operators
- Activating SIM cards with Mobile Network Operators
- Resolving service/support issues
- Paying Commissions

