

# Mobile Network Terms & Conditions

The following additional terms (these "Terms") apply to the purchase of Mobile Network Services by the Client from the Supplier.

## 1. Interpretation and Definitions

- 1.1 These Terms are supplementary to the Master Services Agreement located at [Cobweb Terms & Conditions](#). All capitalised terms used shall have the meanings ascribed to them in the Master Services Agreement in force, unless expressly defined otherwise herein.

### Definitions

- 1.2 In these Terms the following terms and expressions shall have the following meanings:

**Artificially Inflated Traffic** means the flow of calls and/or data to any particular revenue share service which is, as a result or consequence of any activity by or on behalf of any Connection or the Client, disproportionate to the flow of calls and/or data which would be expected from good faith commercial practice and usage of the cellular electronic communications network operated by the relevant network operator.

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

**Connection** means a connection to the Mobile Network Services identified by its own unique mobile telephone number provided under the Agreement in respect of which a Client is liable to pay the Supplier for such connection.

**Force Majeure Event** means an event beyond the reasonable control of a party including Acts of God, fire, tempest, civil commotion, war (whether declared or not), riot, explosion, actions or omissions of OFCOM, of government (whether local or national) or of BT or of any other public communication services provider.

**Gateway** means any equipment containing a SIM which enables the routing of calls or data (including without limitation, text or picture messages) from fixed apparatus to mobile equipment by establishing a mobile to mobile call or transmission.

**Giacom (or Third Party Supplier)** means Giacom (Communications) Limited, a company incorporated in England and Wales registered under number 04211657 whose registered office is at Milton Gate, 60 Chiswell Street, London, United Kingdom, United Kingdom, EC1Y 4AG, the Third Party Supplier provisioning the Mobile Network Services to Supplier hereunder.

**Mobile Network Services** means the post-pay telecommunications services provided by the Supplier to the Client under the Agreement, via a Third Party, as a Third Party Service.

**Network Operator** means the relevant network operator supplying the relevant services for the provision of Mobile Network Services.

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

**SIM** means a Subscriber Identity Module which contains Connection information and which when used with a device enables access to Services provided by means of the Systems.

**Systems** means the mobile telecommunication infrastructure which Mobile Network Services rely on to run.

**Year** means a 12 month period commencing on the Services Commencement Date or an anniversary thereof.

## Order of Precedence

1.3 In the event of any conflict or inconsistency between these Terms and the Master Services Agreement in relation to the provision of Mobile Network Services only, these Terms shall take precedence to the extent of such conflict or inconsistency.

## 2. Provision of Mobile Network Services

2.1 The Client acknowledges that the Supplier is the Third Party Supplier's non-exclusive reseller for the provision of Mobile Network Services acting on its own behalf and not as an agent or representative of the Third Party Supplier. The Agreement for the supply of Mobile Network Services is between the Client and the Supplier, and no contractual relationship exists between the Client and the Third Party Supplier except where otherwise expressly stated.

2.2 The Client acknowledges that the continued provision of Mobile Network Services is dependent on:

2.2.1 the ongoing rights of the relevant Network Operator to supply mobile telecommunications services under their respective licences; and

2.2.2 the Third Party Supplier's ongoing right to provide such Mobile Network Services using the applicable systems and infrastructure.

If, at any time, such licences or rights are withdrawn or terminated and are not simultaneously replaced or renewed (except where the Third Party Supplier or the Network Operator is

entitled to temporarily continue provision), the Supplier may terminate the affected Mobile Network Services immediately, without liability to the Client, except in respect of any breaches by the Supplier that occurred prior to such termination.

- 2.3 For the avoidance of doubt, the Client further acknowledges that the Supplier shall not be liable to the Client to any extent for any failure by the Third Party Supplier or any Network Operator to provide, maintain or otherwise make available any Mobile Network Services, Systems, SIMs and Post Pay Administration Systems.
- 2.4 The Client may terminate these Terms by giving to the Supplier written notice not less than three months before the end of the Initial Term or the relevant Subsequent Term, to terminate this Agreement.
- 2.5 The Supplier may, by giving the Client reasonable prior written notice, make amendments or variations to these Terms where such changes are required to comply with applicable law, regulation, or any terms imposed upon the Third Party Supplier.

### **3. Emergency Call Access**

- 3.1 The Supplier shall ensure that, to the extent required under the Authority, the Client and users of any Connection are provided with a public emergency call service. This service shall enable any user, at any time and without incurring any charge, to contact the appropriate emergency organisations (including police, fire, ambulance, and coastguard services) by means of telecommunications equipment containing a SIM connected to the System, for the purpose of notifying such organisations of an emergency.

### **4. Directory Information Services**

- 4.1 The Supplier shall ensure that the Client, and any users of a Connection who are visually impaired or otherwise disabled such that they are unable to use printed directories, are provided, upon request, with access to appropriate directory information and directory enquiry services. The Supplier shall provide such information in an accessible format or through alternative communication methods appropriate to the user's needs, in accordance with General Condition C5 of the General Conditions of Entitlement (as amended from time to time by Ofcom).
- 4.2 The Client acknowledges that access to such services may require the submission of relevant information confirming the user's eligibility. The Supplier shall handle all such personal information in accordance with applicable data protection legislation and its privacy policy.

### **5. Internet Usage and Data Records**

- 5.1 The Client acknowledges that neither the Supplier, the Third Party Supplier, nor the relevant Network Operator captures or retains information regarding the specific internet activity or websites accessed by any Connection, other than general data relating to the timing and

volume of data usage. Accordingly, such detailed internet usage information will not be made available to the Client.

- 5.2 The Client further acknowledges that, except in the case of a demonstrable error, the call data records shall be deemed conclusive evidence of data usage and shall not include further details of any specific activity conducted using the data connection.
- 5.3 The Client hereby authorises Giacom to disclose to the Supplier such billing information, account information, and other relevant information held by Giacom as may be reasonably required for the purpose of administering, supporting, and delivering Mobile Network Services.

## 6. Client Responsibilities and Acceptable Use

### 6.1 Legal and Regulatory Compliance

- 6.1.1 The Client shall observe and comply with the Authority and, where relevant, the Wireless Telegraphy Acts 1949–2006 (as amended), the Communications Act 2003 (as amended), General Condition C8 of the General Conditions of Entitlement as set out in [www.giacom.com](http://www.giacom.com), and any other applicable legislation, directives, regulations, statutory instruments, or requirements imposed by the Office of Communications (Ofcom), under the Authority and/or the Secretary of State, or any authorised representatives thereof.
- 6.1.2 The Client shall not do, or omit to do, anything that would or might result in any relevant party being in breach of any provisions of the Authority and any other law, licence, authorisation, directive, or regulatory obligation. The Client shall provide all cooperation reasonably requested by the Supplier to enable compliance with such requirements.

### 6.2 Prohibited Conduct and Fair Use

- 6.2.1 With respect to the use of the Mobile Network Services, the Client shall not act or omit to act in a way which will or may:
  - (a) cause injury or damage to any persons or property of any persons;
  - (b) damage the System, and/or the Post Pay Administration Systems; or
  - (c) howsoever cause the quality of the Mobile Network Services to be materially impaired.
- 6.2.2 The Client shall not, and shall ensure that each Connection shall not:
  - (a) use the Systems, the Mobile Network Services and/or any equipment supplied by the Supplier and/or any Network Operator for any purpose that is abusive, a nuisance, immoral, improper, illegal or fraudulent;

- (b) do anything that causes the Systems and/or Mobile Network Services to be impaired;
- (c) use automated means to make calls or texts, or generate excessively high volumes of data (including via a Gateway);
- (d) use the Systems and/or Mobile Network Services to send unsolicited bulk SMS or email messages;
- (e) use the Systems and/or Mobile Network Services in a way which results in Artificially Inflated Traffic and shall use best endeavours to detect, identify, and prevent incidents of Artificially Inflated Traffic;
- (f) use the Systems and/or Mobile Network Services in a way which breaches the [Fair Usage Policy](#); or
- (g) use the System and/or Mobile Network Services in a way which is inconsistent with good faith commercial practice and/or to the Supplier, the Third Party Supplier and/or any Network Operator's detriment.

6.2.3 The Client shall not resell or otherwise distribute the Mobile Network Services or any equipment supplied by pursuant to these Terms, except as otherwise expressly permitted by these Terms.

## 7. Payment

7.1 The Client shall make payment by Direct Debit of all invoices issued by the Supplier hereunder no later than 3 days after the date of invoice. The Client shall complete the Direct Debit form set out in the Statement of Work or order form on or before the Services Commencement Date.

## 8. Assignment to Giacom

8.1 The Client acknowledges and agrees that, in the following circumstances, at Giacom's discretion, the Supplier's rights, benefits and entitlements whatsoever under these Terms may be assigned to Giacom without requiring the Client's consent:

8.1.1 the Supplier ceases trading; or

8.1.2 the Supplier enters into any arrangement with its creditors.

## 9. Suspension, Investigation and Remedial Action

9.1 The Client acknowledges and agrees that, without prejudice to any other rights of the Supplier or the Third Party Supplier, access to the Mobile Network Services (or any part thereof) may be suspended, restricted, or permanently ceased without notice if there is reasonable belief that the Client or any Connection is engaging in, or has engaged in, any activity described in clause 6.2 of these Terms.

- 9.2 In such circumstances, the Client shall fully cooperate with the Supplier in any resulting investigation or remedial action and acknowledges that the Supplier may:
- 9.2.1 immediately disconnect the Client and/or any relevant Connection;
  - 9.2.2 bill and recover any outstanding payments from the Client; and
  - 9.2.3 comply with any other reasonable instructions issued by Giacom.
- 9.3 The Client acknowledges and agrees that it shall be liable for, and shall indemnify the Supplier, the Third Party Supplier, and the relevant Network Operator against any losses suffered as a result of any activity undertaken by the Client or any Connection that breaches the provisions of clause 6 of these Terms.
- 9.4 The Client acknowledges and agrees that, without prejudice to any other rights or remedies, the Third Party Supplier and/or the Network Operator shall be entitled to recover directly from the Client any and all losses, liabilities, costs, damages, or expenses incurred or suffered by such party as a result of any act or omission by the Client or any Connection in breach of clauses 6.2.2 and 6.2.3 of these Terms.
- 10. Gateways and Unauthorised Usage**
- 10.1 The Client shall not connect, continue to connect, or knowingly allow any Connection to connect or continue connection of any Gateway to the Systems for any unauthorised purpose, including but not limited to the unlawful provision of telecommunications services to third parties.
- 10.2 Unless explicitly authorised in writing by the Supplier, the Client shall not use any automated means to transmit SMS or voice traffic or to generate data usage.
- 10.3 The Client shall inform the Supplier promptly if they become aware of any unauthorised Gateway usage or installation.
- 10.4 The Client shall provide any technical information reasonably requested and shall assist as requested in disconnecting any Gateway found to be in breach of these terms.
- 11. Limitation of Liability**
- 11.1 The Supplier's total aggregate liability in any Year howsoever arising under or in connection with the supply of Mobile Network Services whether in contract, tort (including negligence), for breach of statutory duty, misrepresentation, by way of indemnity or otherwise shall not exceed an amount equal to the lower of £50,000 or 100% of the charges paid to the Supplier in the Year by the Client for the Mobile Network Services.
- 11.2 The Client agrees that any cause of action it may have against the Supplier in respect of the Mobile Network Services must commence within 2 years after the cause of action arose, otherwise, the Client's cause of action is permanently barred.

- 11.3 For the avoidance of doubt, the terms in this clause 11 are without prejudice to any limitation or exclusion of liability in clause 13 of the Master Services Agreement, and shall apply in addition to and not in substitution for the relevant terms in the Master Services Agreement unless in the event of conflict or inconsistency, and any prevalence is only to the extent of such conflict or inconsistency.
- 12. Force Majeure**
- 12.1 Neither the Client or the Supplier shall be deemed to be in breach or default (and neither party shall be liable) under these Terms by reason of any failure to perform any obligations under or observe any provisions of the Agreement if and to the extent that such failure occurs as a result of a Force Majeure Event.
- 12.2 In the event that either party becomes aware of any such delays or failures it shall immediately notify the other party of the Force Majeure Event and its anticipated duration and shall use all reasonable endeavours to minimise the impact of such Force Majeure Event on the performance by it of its obligations under these Terms.
- 12.3 If such delay or failure continues for more than 60 days from the date of initial notification of the occurrence of the Force Majeure Event, the party unaffected by the relevant Force Majeure Event shall be entitled to terminate this Agreement or the relevant part of it so affected forthwith.
- 13. Third Party Rights**
- 13.1 Subject to the other terms of this Agreement and for the purposes of the Contracts (Rights of Third Parties) Act 1999, Giacom and the Network Operator shall be entitled to enforce the provisions of clause 9.4 (Recovery of losses by Giacom and Network Operator) as if they were parties to this Agreement. Save as expressly provided in this clause, a person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms. The parties may vary or terminate this Agreement without the consent of any third party, including the Supplier or the Network Operator.