

MOBILE EQUIPMENT TERMS

The following additional terms and conditions apply to the provision by O2 of Mobile Equipment.

1 DEFINITIONS

In these Mobile Equipment Terms, in addition to those terms set out in the General Conditions, the following terms and expressions apply:

TERM / EXPRESSION	MEANING
“Accessory”	means an item of equipment sold separately for use with Mobile Equipment but which is not on its own Mobile Equipment and which cannot be used without Mobile Equipment in connection with Mobile Services;
“Mobile Equipment”	means any phones and related items (including, but not limited to USB modems and phone chargers packaged along with a phone) or other equipment provided by O2 to the Customer under this Agreement for use in connection with the Mobile Services and which, for the avoidance of doubt, is included in the definition of Equipment in this Agreement;
“Mobile Equipment Account”	means a notional account set up by O2 to accrue credits owing to the Customer (calculated as described in the Commercial Schedule) from which additional Mobile Equipment can be taken from O2 by the Customer; and
“Mobile Equipment Terms”	means this document entitled “Mobile Equipment Terms”.

2 USE OF MOBILE EQUIPMENT

The following additional terms and conditions shall apply to the provision by O2 to the Customer of Mobile Equipment specified in the Commercial Schedule as well as any Mobile Equipment ordered pursuant to an order placed pursuant to this Agreement.

3 ORDERS

- 3.1 The Customer shall be entitled to place with O2 an order for any Mobile Equipment identified by O2 from time to time.
- 3.2 O2’s acceptance of an order is subject to availability and O2 may reject any order without any liability to the Customer. In the event that O2 accepts an order, that order will be processed accordingly. Any order, once accepted by O2, may not be revoked by the Customer.
- 3.3 O2 reserves the right to add to, substitute, or to discontinue any item of Mobile Equipment at any time. O2 does not guarantee the continuing availability of any particular item of Mobile Equipment.

4 DELIVERY, ACCEPTANCE AND RISK

- 4.1 O2 will deliver the Mobile Equipment to the address specified on the completed order provided that address is within the United Kingdom.
- 4.2 The Customer shall be deemed to have accepted an item of Mobile Equipment:
 - a) when that item of Mobile Equipment has been delivered, if O2 is to deliver the item of Mobile Equipment; or
 - b) when the Customer takes possession of that item of Mobile Equipment, if the item of Mobile Equipment is to be collected by the Customer.
- 4.3 Risk in an item of Mobile Equipment will pass to the Customer when the item of Mobile Equipment is accepted by the Customer. The Customer shall not be liable for any loss or damage to the item of Mobile Equipment to the extent that such loss or damage is caused by the negligence of O2 or its suppliers.

5 TITLE IN THE MOBILE EQUIPMENT

- 5.1 Title in the Mobile Equipment does not pass to the Customer and remains at all times with O2 or O2's suppliers. Title in Accessories may pass to the Customer upon payment in full for such accessories.
- 5.2 The Customer will:
- a) only use Mobile Equipment for the purposes of receiving or using the Services in accordance with this Agreement;
 - b) comply with any instructions provided by O2 or an O2 Representative from time to time in respect of the Mobile Equipment (including in relation to the return of any Mobile Equipment);
 - c) not have the Mobile Equipment repaired or serviced except as authorised by O2; and
 - d) not create or allow any charges, liens, pledges or other encumbrances to be created over the Mobile Equipment;
- 5.3 For the avoidance of doubt, clause 14 of the General Conditions applies to Mobile Equipment supplied by O2 to the Customer pursuant to this Agreement..
- 5.4 Following any upgrade or replacement of Mobile Equipment or disconnection of Mobile Equipment from the Mobile Services, O2 reserves the right to request the safe return of any such Mobile Equipment in which O2 retains title from the Customer at the Customer's expense.
- 5.5 O2 reserves the right to charge the Customer the price set out in the Replacement section of the O2 Website from time to time for any Mobile Equipment that is not returned to O2 in accordance with the provisions of clause 5.4 of these Mobile Equipment Terms or where the Customer fails to fulfil its obligations under clause 5 of these Mobile Equipment Terms or clause 14 of the General Conditions.
- 5.6 Without prejudice to clause 5.5 of these Mobile Equipment Terms, in the event that the Customer sells any Mobile Equipment in breach of clause 5 of these Mobile Equipment Terms, the Customer agrees that liquidated damages equal to the price set out in the Replacement section of the O2 Website for such Mobile Equipment on the date on which O2 invokes its right to recover liquidated damages, shall immediately be due and payable from the Customer to O2.

6 OBLIGATIONS OF THE CUSTOMER

- 6.1 The Customer will, and shall take all reasonable steps to ensure that its employees will pay the standard charges levied by O2 from time to time applicable to repair work on Mobile Equipment which is outside (in scope or time) the warranty provided under this Agreement.
- 6.2 O2 reserves the right to bar service to any Mobile Equipment supplied under this Agreement to which O2 retains title where in O2's reasonable opinion that Mobile Equipment is not being used in a manner which O2 would expect including but not limited to where the Mobile Equipment is:
- a) used in conjunction with a SIM Card connected to a tariff other than one which the Customer has ordered under this Agreement;
 - b) used in conjunction with a SIM Card allocated to any other O2 customer's account;
 - c) used solely or predominantly on a roaming basis; or
 - d) (or the SIM Card supplied in conjunction with such Mobile Equipment is) not used on the Network within 45 days from the date of despatch by O2, or during any other period of 30 consecutive days; unless O2 and the Customer have agreed otherwise.
- 6.3 At the Customer's expense, the Customer shall return to O2 any Mobile Equipment that has been barred pursuant to clause 6.2 of these Mobile Equipment Terms and to which O2 retains title. In the event that the Customer fails to return any such Mobile Equipment within two (2) weeks of written notice from O2 to do so, then the Customer agrees to pay O2 the price set out in the Replacement section of the O2 Website from time to time for such Mobile Equipment.
- 6.4 The Customer shall ensure that their Mobile Equipment is up to date with the latest available version of the manufacturer's Software. Any failure by the Customer to ensure their Mobile Equipment

Software is maintained on the latest version may result in performance issues which O2 shall not be liable for.

7 WARRANTIES

- 7.1 O2 warrants that each item of Mobile Equipment will conform in all material respects to the manufacturer's specification for a period of 12 months from the date on which such item of Mobile Equipment is despatched to the Customer by O2 (a "**Warranty Period**") unless special conditions associated with certain Mobile Equipment apply.
- 7.2 O2 warrants that any Software will conform in all material respects to the manufacturer's specification for a period of three months from the date on which such Software is despatched to the Customer by O2 (a "**Warranty Period**") unless special conditions associated with certain Software apply.
- 7.3 Following the expiry of the Warranty Period for Mobile Equipment provided under this Agreement in which O2 retains title, O2 will extend the Warranty Period in respect of such Mobile Equipment until the end of the Minimum Term ("**Extended Warranty Period**"). Upon expiry of the Minimum Term, or termination of this Agreement, the Extended Warranty Period shall cease.
- 7.4 If, within the relevant Warranty Period or Extended Warranty Period, the Customer notifies O2 of any defect or fault in the Mobile Equipment or Software arising under normal use in consequence of which it fails to conform in any material respect with the manufacturer's specification O2 shall, at O2's option either: repair the faulty Mobile Equipment or Software; or, replace the faulty Mobile Equipment or Software with the same or an equivalent item of Mobile Equipment or Software which may be a new or refurbished item. In the event that Mobile Equipment or Software is provided to replace Mobile Equipment or Software which has failed during its Warranty Period, the replacement Mobile Equipment or Software will be provided with its own Warranty Period which shall last for the greater of: a) three months from the date on which the replacement Mobile Equipment or Software is despatched to the Customer; or b) the outstanding period of the original Warranty Period.
- 7.5 The warranty obligations set out in clause 7.4 of these Mobile Equipment Terms shall not apply in the event that a person has amended or damaged the Mobile Equipment or Software, or used it for a purpose or in a context, other than in accordance with O2's or the manufacturer's instructions and advice.
- 7.6 If the Customer reports a defect or fault in the Mobile Equipment or Software to O2, and is provided with a replacement item pursuant to clause 7.4 above, O2 reserves the right to charge the Customer for the replacement item in the following circumstances:
- a) where the faulty or defective Mobile Equipment is not returned to O2 within 14 days of provision to the Customer of a replacement for the faulty Mobile Equipment or Software;
 - b) where O2 considers that the defect or fault in the Mobile Equipment or Software is caused by use, amendment or damage described in clause 7.5, above; or
 - c) where no fault or defect is detected in the Mobile Equipment or Software.

8 CREDITS

- 8.1 Any credits accrued in the Mobile Equipment Account may be used solely for the purposes of offsetting Charges for the use of Mobile Equipment. Credits do not have any monetary value and the Customer is not entitled to:
- a) use any credits accrued in the Mobile Equipment Account to offset Charges for Mobile Services or vice versa;
 - b) offset any credits accrued in the Mobile Equipment Account against any outstanding debt;
 - c) any payments from any credits accrued in the Mobile Equipment Account; or
 - d) any future use of credits accrued in the Mobile Equipment Account upon termination of this Agreement.
- 8.2 Any credits to which the Customer is entitled will be applied to the Customer's nominated Mobile Equipment Account within 30 days of the end of the Minimum Holding Period, unless otherwise stated.

- 8.3 Credits accrued in the Customer's Mobile Equipment Account may be used to take additional items of Mobile Equipment at O2's Replacement List Price. Where a SIM Card is subsequently disconnected from the Network or where there is nil usage on the SIM Card for a period of three consecutive months then O2 reserves the right to immediately decrement the Customer's Mobile Equipment Account by the amount of any credit paid in respect that SIM Card.
- 8.4 For the avoidance of doubt, no credit shall be payable in respect of a Re-sign Connection without Device where the Device used in conjunction with a SIM Card received a subsidy or was provided using a Mobile Equipment Account under a previous agreement with O2 in the 6 months prior to the Commencement Date of this Agreement. Only SIM Cards connected to the Network pursuant to this Agreement shall be eligible for credits.

9 INSURANCE

- 9.1 If the Customer has purchased the O2 Insure Premier, Standard or any other applicable O2 Insure product and makes a claim under the policy for theft of the Mobile Equipment, which is approved by the insurer or an agent of the insurer, ("the Insurer") O2 will reimburse the Customer against the cost of unauthorised calls made on the Mobile Equipment up to the following limits:
- a) Premier policy - up to £3,000 per item of Mobile Equipment;
 - b) Standard policy - up to £1,000 per item of Mobile Equipment;
 - c) other applicable O2 Insure policy - up to the amount O2 notifies the Customer in connection with that product. In each case these figures include any taxes and network or service provider charges.
- 9.2 In return:
- a) the Customer agrees to provide the Insurer with an itemised account from its network or service provider clearly showing the unauthorised calls made and their value within 2 months of the Customer's discovery of the theft of the Mobile Equipment;
 - b) the Customer agrees to notify the Insurer of the theft of the Mobile Equipment as required by the terms of the Premier, Standard or any other applicable O2 Insure policy (as the case may be) in force at the time of the theft and the Customer agrees to notify O2 of the theft of the Mobile Equipment when it notifies the Insurer under the Premier, Standard or other applicable O2 Insure policy; and
 - c) the Customer agrees that the same exclusions set out in the Premier, Standard or any other applicable O2 Insure policy (as the case may be) in force at the time of the theft apply, and where they do O2 will not reimburse the Customer for the cost of the unauthorised calls.