

GPRS SIM Terms

GPRS SIM Terms	2
1. Definitions	2
2. The Services	3
3. Service Period	4
4. Changes	4
5. Recipient Conditions of Use	4
6. Title, Warranty, and Help Desk Support for Equipment	6
7. Suspension and Termination	6
8. Assignments and Transfer of Rights and Obligations	7
9. Notices	7
10. Third Parties	7

GPRS SIM Terms

Our Privacy Policy, Cookies Policy & Relevant Terms of Service are regularly reviewed to ensure that we continue to serve your interests. We reserve the right to update these from time to time, with any updates published on the Site. We therefore encourage you to review our policies and terms of service periodically for the most up to date information on our privacy practices. We will not, however, substantially change the way we use personal information you have already provided to us without your prior agreement.

1. Definitions

'Agreement' means the document pertaining to the provision of SIM Cards and Services signed by the Customer and Recipient;

'Equipment' is defined as the SIM card

'SIM Card' means the GPRS SIM Card supplied to the Recipient;

'GPRS' means General Packet Relay Service;

'Location' means the point of delivery of the GPRS SIM Card Service;

'Minimum Cancellation Notice Period' means the minimum period of notice that a Recipient must give Clear Business to terminate a specific Service or this Agreement, as set out in these GPRS SIM Card Service Terms and Conditions;

'Minimum Period' means the minimum duration of the Agreement being one year from the date this Agreement is signed by both parties thereto.

'Minimum Term' means the minimum duration for each connection to the Service, beginning on the period with a GPRS machine and irrespective of the date of expiry of the Minimum Period;

'Network' means the mobile telecommunications system over which the Service is provided;

'Service' means the mobile, wireless communications service and includes any SIM Cards provided by Verifone or its supplier;

'Service Period' means the period of an individual Service provided in accordance with this Agreement;

'SIM Card' means the Subscriber Identity Module Card provided by Verifone as part of the Service;

'SIM Card Service Terms and Conditions' means the terms and conditions set forth below, and referred to herein as '**this Exhibit**'; and

'Site' means premises owned, operated or controlled by the Recipient.

2. The Services

2.1 Verifone shall provide the Recipient with the Services and/or the Equipment subject to the terms of this Exhibit and the Agreement.

2.1.1) For any Equipment supplied under this Agreement:

- a) risk passes and acceptance takes place at the time of dispatch;
- b) the Recipient undertakes not to sell, lease, charge, assign by way of security or otherwise deal in or encumber the Equipment in any way;
- c) Verifone does not guarantee the continuing availability of a particular SIM Card or item of Equipment. Verifone reserves the right to add to, substitute or to discontinue particular SIM Cards or other items of Equipment;
- d) Verifone prohibits the use of Internet usage on such SIMs where SIMs are provided by Verifone to the Customer

2.2 The Customer can place orders for Equipment and/or Services through Verifone

2.3 Verifone will endeavour to ensure that the Services are of a high quality. In order to maintain the quality and safety of the Services, and any other services which Verifone provides to the Recipient, Verifone may from time to time:

- a) suspend, close down or restrict the whole or any part of the Services in order to carry out emergency or other repairs, maintenance and/or improvements or to prevent overload of the network or to preserve the safety, security or integrity of the Services and any Internet traffic conveyed; and/or
- b) give the Recipient instructions on how to use the Services. The Recipient agrees to comply with any instructions provided in accordance with this clause.
- c) in the event of an action or event arising under clause 2.3a) or 2.3b), Verifone will give the Recipient as much notice as is reasonably practicable before doing so and will endeavour to carry out such works during the relevant scheduled maintenance periods as published .

2.4 Verifone will notify the Recipient as soon as possible if either Verifone or its supplier, contractors, agents, employees, representatives or anyone else involved in providing the Services and/or the Equipment, require access to the Recipient's premises, to install the Services and/or the Equipment or to carry out repairs, maintenance or upgrades. Where such notice is received by the Recipient, the Recipient agrees to grant Verifone, and/or such other persons acting on behalf of or in the name of Verifone, access to the Recipient's premises. Verifone will meet the reasonable requirements of the Recipient, and the end user agrees to meet our reasonable requirements, concerning the safety of people on the Recipient's premises.

2.5 The Recipient is responsible for Verifone's or its Supplier's Equipment and must not add to, modify or in any way interfere with, nor allow anyone else (other than someone authorized by Verifone or the Supplier) to do so. The Recipient will be liable to Verifone for any loss of or damage to the Verifone or Supplier's Equipment whilst it is in the Recipient's possession, custody or control, except where such loss or damage is due to fair wear and tear or is caused by Verifone or anyone acting on Verifone's behalf.

a) The Customer and Recipient must ensure that any Equipment:

- a) connected to or used with the Service is approved for use on the Network by Verifone or its Supplier and used in accordance with any applicable instructions, safety and security procedures; and
- b) as attached (directly or indirectly) to the Service, the connected Equipment and the connection is compliant with any relevant legislation.

2.6 Verifone may make software or applications available to the Recipient to enable the use of the Services. This software must not be copied or modified by the Recipient or anyone else unless allowed by law. The Recipient undertakes and agrees that it will access the Services only via use of this software, or in an alternative way permitted by Verifone, and the Recipient will not attempt to circumvent any security measures inherent in the Services. Where

such software is owned by or licenced to Verifone, Verifone will grant the Recipient a revocable, non-transferable, non-assignable, non-exclusive licence to use it for the duration of the Agreement (or, if shorter the duration of any licence of the software to Verifone). Where the use of such software by the Recipient requires it to enter a separate licence the Recipient agrees to do so.

3. Service Period

- 3.1 Unless otherwise specified in this Exhibit or specified in the Agreement, and except where terminated or suspended in accordance with this Exhibit and the Agreement, the Services will be provided for a Minimum Service Period of one year from the date of activation.
- 3.2 On expiry of the period referred to in clause 3.1 above, the services will, unless terminated on or before the date of such expiry by thirty (30) days written notice by the Recipient to Verifone or vice versa, continue to be provided by us until terminated pursuant to this Exhibit and Agreement.

4. Changes

- 4.1 Verifone intends to provide the Service for the relevant Service Period. However, Verifone may have to modify, suspend, vary or discontinue the whole or any part of the Service (including, without limitation, any codes or access details or technical specifications associated with the Service) and will endeavour to give the Recipient as much notice as is reasonably practicable if there is a need to do so.
- 4.2 Verifone will endeavour to notify the Recipient of any change referred to in clause 4.1 to this Exhibit D at least thirty (30) days before it happens. However, if Verifone or its supplier needs to make changes, as soon as possible, for regulatory or legal reasons, Verifone may be unable to meet that timescale. In those circumstances, Verifone will advise the Recipient about any changes as soon as practicable.

5. Recipient Conditions of Use

- 5.1 The Recipient agrees to promptly provide Verifone with all information that Verifone may reasonably require in order to provide the Service and perform all of its other obligations under this Exhibit D and Agreement.
- 5.2 The Recipient agrees to be responsible for complying with all terms and conditions (including, without limitation, terms of payment) relating to any telecommunications service which is required for access of the Service.
- 5.3 The Recipient is responsible for ensuring that the Service and/or Equipment are used in accordance with the Agreement. If the Recipient breaches the Agreement, Verifone may, at its sole discretion, either:

- a) make an additional charge; or
- b) block access to any part of the Services.

Upon a material breach of this Agreement, Verifone may also suspend or terminate this Agreement in accordance with clause 7 below.

- 5.4 If, while using the Service, the Recipient discovers that another person is using the Services, and failing to do so in accordance with the Agreement, the Recipient will inform Verifone immediately.
- 5.5 The Recipient agrees that it will, at all times and for whatever purpose, use the Services and/or the unit in compliance with all laws.
- 5.6 In addition to the covenant in clause 5.5 hereof, the Recipient will take all reasonable precautions to ensure that the Service and/or Devices are not used:
- a) fraudulently or in connection with a criminal offence;
 - b) to send, knowingly receive, upload, download, or use any material which is offensive, abusive, indecent, defamatory, obscene or menacing, or in breach of copyright, confidence, privacy or any other rights;

- c) to cause annoyance, inconvenience or needless anxiety;
 - d) to spam or to send or provide unsolicited advertising or promotional material or, knowingly to receive responses to any spam, unsolicited advertising or promotional material sent or provided by any third party;
 - e) in any way which in, Verifone's opinion, is likely to be detrimental to the provision of the Service to the Customer; or
 - f) in an unlawful manner, in contravention of any legislation, laws, licence or third party rights; and
 - g) the Recipient is also responsible for using commercially reasonable efforts to comply with the security, registration, access, and use requirements imposed by Verifone or the underlying carrier.
- 5.7 The Recipient must not connect, continue connection or knowingly allow any third party to connect or continue the connection of any GPRS Gateway to the Network:(a) where it is illegal or where the Recipient is or should be aware that such connection is for illegal purposes; or (b) allow the Recipient, its contractors, directors, officers, employees, agents or anyone else to perform any unauthorized IP or Port multicasting, spoofing, broadcasting, vectoring, filtering translation or routing.
- 5.8 The Recipient must indemnify Verifone against any claims or legal proceedings which are brought or threatened against Verifone by a third party because the Service is used in breach of clauses 5.5 to 5.7. Verifone will notify the Recipient of any such claims or proceedings and keep the Recipient informed as to the progress of such claims or proceedings and have due regard to the Recipient's representations.
- 5.9 Verifone cannot support any alterations to the configuration of the SIM Card and Equipment and any such alterations will invalidate the support obligation (if any) relating to such Equipment.
- 5.10 The Recipient agrees that Verifone or its supplier, contractors, and agents may, at any time, scan any IP addresses allocated to the Recipient for anything which may affect the security of the Services (including open relays and/or open proxies or equivalent).
- 5.11 The Recipient acknowledges that the Internet is separate from the Services and that use of the Internet is at the Recipient's risk and subject to any applicable laws. Verifone prohibits the use of Internet usage on the SIMs in connection with any of the Services provided to the Customer and/or the Recipient. Verifone and its Supplier have no responsibility for any goods, services, information, software, or other materials which the Recipient may obtain from a third party when using the Internet.
- 5.12 The Recipient acknowledges that Verifone and its supplier may exercise editorial control over the content of their servers, but that neither Verifone nor its supplier has the resources to ensure, nor are they capable of checking, the full content of their respective servers at all times. Neither Verifone, nor any of its agents, suppliers, contractors, licensees, employees and information providers, involved in providing the Services, are able to control the content of the Internet. The Recipient, therefore, agrees that Verifone shall not be held responsible for the publication, transmission or reception of any defamatory material or information of any kind, other than information which is inserted by Verifone. The Recipient specifically acknowledges that Verifone has given no warranties as to the quality, content or accuracy of information received through, or as a result of the use of, the Services.
- 5.13 The Recipient agrees and acknowledges:
- a) that the Recipient is in a better position than Verifone to foresee and evaluate any potential damage or loss which the Recipient may suffer in connection with the Equipment and/or the Service and/or any other service provided to the Recipient under the Agreement;
 - b) that Verifone cannot adequately insure its potential liability to the Recipient; and
 - c) that the sums payable by the Recipient under the Agreement have been calculated on the basis that Verifone shall exclude liability in accordance with the Agreement.
- 5.14 In no circumstances whatsoever will Verifone be liable to the Recipient (whether in contract, or for breach of duty, or negligence or otherwise) for any indirect, incidental or special loss or damage or any loss of business or of contracts, profit, opportunity, goodwill, reputation, or anticipated savings, or for any loss or corruption of data which arises out of or in connection with any use of, or inability to use, the Services and/or the Equipment.
- 5.15 In any event Verifone's liability to the Recipient for any failure of the Services or other event in any Minimum Cancellation Notice Period shall not exceed the Charges payable in respect of such Minimum Cancellation Notice Period. (b) Verifone's aggregate liability to the Recipient of any sort

(including for breach of contract and negligence) in connection with this Agreement shall not exceed the amount of Charges paid by the Recipient to Verifone twelve (12) months prior to the in accordance with this Agreement.

6. Title, Warranty, and Help Desk Support for Equipment

- 6.1 The Recipient agrees not to tamper with the Equipment so as to invalidate any warranty and to pay Verifone's standard charges for repairs outside the warranty.
- 6.2 The Recipient agrees to notify Verifone immediately in the event that any SIM Card or Equipment is lost or stolen or if the Service has or may be misused, used fraudulently or otherwise used unlawfully.
- 6.3 Any fault with the Services and/or the Equipment must be reported to Verifone as soon as possible by telephoning the Help Desk.

7. Suspension and Termination

- 7.1 The Recipient agrees that Verifone may suspend or terminate the Service and/or the Recipient account and/or terminate the Agreement at any time, without prior notice or refund to the Recipient, and without affecting any of Verifone's accrued rights or claims, either:
 - a) where Verifone reasonably believes that the Services are being used in breach of clauses 5.5, 5.6, or 5.7 of this Exhibit D;
 - b) for non-payment (when due) of the Charges or any other sum due from the Recipient under the Agreement or any other agreement with Verifone;
 - c) for any other material breach of the Agreement by the Recipient;
 - d) where the Recipient has breached the Agreement in any other way on three or more occasions; or
 - e) where the Recipient is or becomes insolvent or suffers any distress or execution or other legal process to be levied or enforced or sued upon or against any part of its property, assets or revenue and which is not discharged or stayed within seven (7) days, or the Recipient ceases or threatens to cease to carry on business. The Recipient also agrees that where this Agreement or the Recipient account is terminated for any reason the Services will automatically terminate.
- 7.2 The Recipient agrees that Verifone's resources, used in providing the Services, are limited and that any reckless or wasteful use of the Services by the Recipient may affect those resources and the services provided to other the Customers. The Recipient agrees that Verifone may suspend or terminate the Recipient's access to the Services where Verifone decides, acting reasonably, that the Recipient is using the Services in a reckless or wasteful manner.
- 7.3 The Recipient agrees that, notwithstanding the provisions of clauses 3 and 7.1 of this Exhibit D (but without affecting Verifone's other rights to terminate under this Agreement), Verifone may terminate all or any of the Services at any time, on thirty (30) days' notice, and on repayment to the Recipient of a proportion of the Charges which reflects the period agreed for provision of the Services which has yet to expire at the point of termination. Any refund that is due to the Recipient, will be made by Verifone following the cancellation of the Services, and will be made direct to the Recipient's credit card or bank account (notified to Verifone for this purpose) by BACS transfer. Should the Recipient fail to provide suitable bank or credit card details to allow a refund to be made, the Recipient will lose the right to such refund.
- 7.4 Any suspension of the Services by Verifone under the provisions of clause 7.1 of this Exhibit D will not constitute a termination of the Agreement and Verifone may require the Recipient to pay a reconnection fee to recommence the Services together with the relevant Charges.
- 7.5 The Recipient may terminate all or any of the Services, at any time after the Minimum Term, subject to the Minimum Cancellation Notice Period. Should the Recipient wish to terminate a Service in accordance with this clause, it must give written notice to Verifone. Where the Recipient terminates within the Minimum Term it will be liable to pay the Charges due in respect of that Minimum Term.
- 7.6 Verifone may terminate all or any of the Services by notice equal to the Minimum Cancellation Notice Period (to expire at any time on or after the Minimum Period) without Verifone incurring any liability.

- 7.7 Unless otherwise stated in the Terms and Conditions specified in this Exhibit and the Recipient Agreement, the Minimum Cancellation Notice Period is thirty (30) days (to expire at any time on or after the Minimum Period or Minimum Term, as the case may be).
- 7.8 The Recipient agrees to compensate Verifone for any costs incurred by it due to the cessation of any Service (either when cancelling the service or as a result of a premises move where a cessation and new provision of service is required) or cessation of the telephone line over which the Service is provided.

8. Assignments and Transfer of Rights and Obligations

Neither party may transfer any of its rights or obligations under this Agreement, without the written consent of the other, except that Verifone may transfer its rights or obligations (or both) to a parent, subsidiary, or affiliated company, without consent.

9. Notices

- 9.1 Notices given under this Agreement must, except for notices given under this Agreement be in writing and may be delivered by hand or by courier, or sent by first class post fax or e-mail to the following addresses:
- a) to Clear Business: No. 1 Dovecote, Old Hall Road, Sale, M33 2GS
 - b) to the Recipient at the address to which the Recipient requests we to send invoices, the address of the Site or, if the Recipient is a limited company, its registered office.
 - c) Notices sent by hand or e-mail shall be deemed to have been received the same day and those sent by courier or first-class post shall be deemed to have been received on the second day following dispatch or posting.

10. Third Parties

A person who is not party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.