

MOBILE EQUIPMENT TERMS

The following additional terms and conditions apply to the provision by O2 of Mobile Equipment specified in the Commercial Schedule or as otherwise agreed by the parties in writing from time to time.

1 DEFINITIONS

In these Mobile Equipment Terms, in addition to those terms set out in the General Conditions and the Mobile Terms, 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 (such as phone cases or phone chargers which are supplied in addition to those packaged along with a phone) 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, , constitute O2 Supplied Equipment other than in relation to clauses 6.1(c), 6.1(g) – (m) and 6.3 of the General Conditions; and
"Mobile Equipment Terms"	means this document entitled "Mobile Equipment Terms".
"SIM Card"	means subscriber identity module being a physical item of Mobile Equipment which allows access to the Network when used with Mobile Equipment.

2 AVAILABILITY OF MOBILE EQUIPMENT

- 2.1 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.

3 DELIVERY, ACCEPTANCE AND RISK

- 3.1 O2 will deliver the Mobile Equipment to the address specified in the Commercial Schedule or as otherwise agreed by the parties in writing from time to time provided that address is within the United Kingdom.
- 3.2 The Customer shall be deemed to have accepted an item of Mobile Equipment:
- when that item of Mobile Equipment has been delivered, if O2 is to deliver the item of Mobile Equipment; or
 - when the Customer takes possession of that item of Mobile Equipment, if the item of Mobile Equipment is to be collected by the Customer.
- 3.3 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.

4 TITLE IN THE MOBILE EQUIPMENT

- 4.1 Title in any Mobile Equipment and/or any Accessories provided by O2 to the Customer under the Agreement shall pass to the Customer upon receipt of payment in full and cleared funds by O2 in respect of such Mobile Equipment and/or Accessories in accordance with clause 5.3 of the General Conditions.

5 OBLIGATIONS OF THE CUSTOMER

- 5.1 The Customer will, in addition to its obligations under clause 6 of the General Conditions:
- only use Mobile Equipment for the purposes of receiving or using the Mobile Services in accordance with the Call-off Contract; and

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- 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).
- 5.2 The Customer will, and shall take all reasonable steps to ensure that its Users 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.
- 5.3 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) not or the SIM Card supplied in conjunction with such Mobile Equipment is) not used on the Network within forty-five (45) days from the date of despatch by O2, or during any other period of 30 consecutive days;
 - e) not used in accordance with the Customer's obligations in clause 5.1 of these Mobile Equipment Terms,
- unless O2 and the Customer have agreed otherwise.
- 5.4 At the Customer's expense, the Customer shall return to O2 any Mobile Equipment to which O2 retains title where such Mobile Equipment has been:
- a) Barred pursuant to clause 5.3 of these Mobile Equipment Terms and to which O2 retains title; or
 - b) Upgraded, replaced or disconnected from the Mobile Services.
- 5.5 O2 reserves the right by giving written notice to the Customer to charge the Customer liquidated damages equal to the Device price list as provided by O2 from time to time or the prevailing list rate on the date such notice is given for any Mobile Equipment:
- a) that is not returned to O2 within fourteen (14) days of O2's request pursuant to clause 5.2 of these Mobile Equipment Terms;
 - b) in respect of which the Customer has failed to fulfil its obligations under clause 5 of these Mobile Equipment Terms or clause 6 of the General Conditions; or
 - c) which the Customer sells in breach of clause 5 of these Mobile Equipment Terms,
- and such liquidated damages shall immediately be due and payable from the Customer to O2.
- 5.6 The parties acknowledge and agree that O2 has a legitimate interest in ensuring the Customer complies with its obligations under this clause 5 of these Mobile Equipment Terms and clause 15 of the General Conditions and the liquidated damages referred to in clause 5.5 are a reasonable reflection of the loss that O2 will suffer if the Customer fails to comply with such obligations.
- 5.7 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.

6 WARRANTIES

- 6.1 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.
- 6.2 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 (also a "**Warranty Period**") unless special conditions associated with certain Software apply.

- 6.3 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.
- 6.4 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.
- 6.5 The warranty obligations set out in clause 6.4 of these Mobile Equipment Terms shall not apply in the event that a person has (a) altered or damaged the Mobile Equipment or Software; (b) serviced or repaired it without O2's authorisation; (c) not complied with its obligations under clause 5.7; or (d) used the Mobile Equipment or Software for a purpose or in a context, other than in accordance with O2's or the manufacturer's instructions and advice .
- 6.6 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 6.4 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 fourteen (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 6.5, above; or
 - c) where no fault or defect is detected in the Mobile Equipment or Software.