

Vodafone General Terms



- 8.1 Subject to the terms of the Agreement and any Software Licence provided with the Equipment or Services, Vodafone shall grant or will ensure that the licensor will grant to Customer, a non-transferable, non-licensable, and non-exclusive licence to use the Software during the Minimum Term for the applicable Service in object code form for the Customer's internal use.
- 8.2 Where Vodafone provides Customer with Equipment or Services which contain Software subject to a Software Licence and Customer does not accept the terms of the Software Licence, Customer will not be able to use the relevant feature of the Service or Equipment to which the Software Licence relates and Vodafone shall not be liable for any failure to provide the Services which rely on acceptance of the Software Licence.
- 8.3 Where Software is subject to a Software Licence, the terms of the Software Licence shall comprise the Customer's sole rights and remedies in respect of the Software to which it applies.
- 8.4 The Customer shall not copy, modify, reverse engineer, adapt, translate, decompile, disassemble, make error corrections, license, sub-license, or resell any Software in whole or part, unless expressly permitted to do so by Vodafone or by relevant law.
- 9. Ordering**
- 9.1 Customer shall order Services and Equipment by submitting an order through Vodafone's online ordering system, by email, or by such other means as Vodafone may permit.
- 9.2 Orders are binding on both Parties from the date of acceptance by Vodafone. If acceptance is not express, it shall be deemed to have occurred on dispatch of Equipment or activation of Service by Vodafone.
- 10. Termination**
- 10.1 The Agreement shall commence on the Commencement Date and shall continue until the relevant Services are terminated in accordance with the Agreement.
- 10.2 Each Party shall have the right to terminate the Agreement in whole or in part by giving the other Party 30 days' written notice of termination. Customer may stop using content services at any time, but Customer shall still pay the Charges for the Services. Customer must check with the content service provider on how it can end its agreement with them.
- 10.3 The Parties shall each have the right to terminate this Agreement in whole or part with immediate effect (by serving written notice of termination to the other Party): (a) if the other Party becomes subject to an Insolvency Event; or (b) if the other Party is in material breach of this Agreement (provided that where such breach is capable of remedy, the breaching Party is given 30 days to rectify such breach from the date that notice of any breach is deemed received from the non-infringing Party).
- 10.4 Vodafone may terminate this Agreement in whole or part with immediate effect, by giving written notice to Customer where Vodafone has suspended the Services under clause 4.1(c) or clause 6.5.
- 10.5 Unless Vodafone notifies Customer otherwise, any content services included in Customer's price plan shall start at the same time as the Commencement Date, regardless of when Customer starts to use the Content Service Pass, and shall end after the Minimum Term set out in the Commercial Terms. If a content service included in Customer's particular price plan is provided for less than the Minimum Term, the content service may become a monthly paid subscription from the date the content service ends unless Customer cancels it.
- 11. Consequences of Termination**
- 11.1 Subject to clause 19.2 below, on termination of the Agreement (in whole or part), the following shall apply to all or part of the Agreement terminated: (a) Customer shall cease use of the Service(s) and Software (except Software which is embedded in Equipment to which Customer has title); (b) Vodafone shall cease to provide the Service(s); (c) the Parties shall promptly upon request return or destroy all Confidential Information (except one copy which is necessary to keep in order to ensure compliance with this Agreement), and provide written confirmation of this upon request; and (d) Customer shall pay Vodafone all sums due, including any applicable Recovery Charge. Customer shall not be entitled to unused Subsidy after termination or expiry of the Minimum Term.
- 11.2 Except where Customer validly terminates the Agreement, a price plan or Connection in accordance with clause 10.3, clause 13.3, or clause 19.11, or where Vodafone terminates the Agreement, a price plan or a Connection in accordance with clause 10.2, if this Agreement, a Connection or a price plan is terminated prior to the expiry of a Minimum Term, Customer shall pay Vodafone a Recovery Charge.
- 11.3 If Customer validly terminates the Agreement, a price plan or Connection in accordance with clause 10.3, clause 13.3 or clause 19.11, Customer will not have to pay the Recovery Charge but may have to make a payment towards the Equipment Subsidy. If this applies, Vodafone will let Customer know in its Commercial Terms and inform Customer of the original value of the Equipment. The payment will be calculated as 1/24 of the Equipment Subsidy multiplied by the number of months left in until the end of the Minimum Term.
- 12. Intellectual Property**
- 12.1 The Intellectual Property Rights that exist in, or which are created by Vodafone during the provision of the Services, Software and Equipment are owned by Vodafone or its licensors. Other than as is necessary for use permitted under this Agreement, no other right, licence or transfer is granted or implied under such Intellectual Property Rights. Customer shall not do anything to jeopardise Vodafone's or its licensors' Intellectual Property Rights.
- 12.2 The Intellectual Property Rights that relate to Customer's documentation, processes, procedures, know-how and anything else to which the Customer has title are owned by Customer or its licensors, and other than as is necessary for use permitted under this Agreement, no other right, licence or transfer is granted or implied under such Intellectual Property Rights. Vodafone shall not do anything to jeopardise Customer's or Customer's licensor's Intellectual Property Rights.
- 12.3 Subject to the rest of this clause, Vodafone shall indemnify Customer for all losses (including reasonable professional costs) payable to a third party arising out of any proven infringement of third party Intellectual Property Rights as a direct result of the use by Customer of the Equipment or Services under this Agreement (a "Relevant Claim"). Customer shall: (a) promptly, taking into account any set deadlines, notify (giving details) of any Relevant Claim to Vodafone; (b) not admit liability, take any action which may prejudice the defence of any Relevant Claim or make any agreement or settlement in relation to the claim (unless required by law) without Vodafone's prior written consent; (c) give Vodafone all reasonable assistance to enable Vodafone to defend the claim; (d) mitigate its losses following a Relevant Claim; and (e) give Vodafone sole conduct of the Relevant Claim. Vodafone shall have no liability under this clause if the Relevant Claim results from or relates to: (a) the use of equipment, services or software not provided by Vodafone; (b) Vodafone's compliance with the Customer's requirements, designs or instructions; (c) the combination of the Services or Equipment with products or services not provided by Vodafone; (d) the use of the Services or Equipment which is not in accordance with Vodafone's instructions or this Agreement; (e) modifications by Customer or any third party to the Services or Equipment; (f) a breach by Customer, Customer Affiliate or User of the provisions of this Agreement; or (g) the use of any original Equipment or Services after a later release is made available to the Customer and communicated by Vodafone to avoid a Relevant Claim. This indemnity shall be Customer's sole remedy for any Relevant Claim.
- 13. Changing this Agreement**
- 13.1 Vodafone may change this Agreement (including changing or introducing new Charges or changing or withdrawing the Services or Third Party Services): (a) where required to comply with applicable law or regulation; (b) because of a change imposed by a third party supplier; or (c) due to a change in Vodafone's operations or services, where such change affects at least 90% of its relevant customer base or (d) in April of each year, by introducing an increase to all or any Charges by an amount up to or equal to the UK Retail Price Index (RPI) "All Items" rate published by the Office for National Statistics (or by any other body to which the functions of that office may be transferred) in January of that year. If the RPI rate is a decrease, Charges will not be reduced and if that index is not published for the given month, Vodafone may use a substituted index or index figures published by that office for that month.
- 13.2 Subject to the rest of this clause, Vodafone shall provide Customer as much written notice as is reasonably practicable of a change made under clause 13.1(a), and at least 30 days' written notice for a change made under clauses 13.1(b) or 13.1(c). Vodafone may not notify Customer of a change under clause 13.1(d). Vodafone shall not notify Customer of a change if it relates to a Third Party Service which Customer does not regularly use, but shall (where applicable) update the relevant Price Plan Guide on www.vodafone.co.uk/business/terms at least 30 days before the change takes effect. Vodafone may update or withdraw its Services without notice only where such change (in Vodafone's reasonable opinion) does not cause Customer any detriment or where Customer does not regularly use that Service.
- 13.3 The Customer may terminate the affected part of the Agreement where a change under clause 13.1(b) or clause 13.1(c) causes the Customer a material detriment which cannot be offset by Vodafone to the Customer's reasonable satisfaction on 30 days' written notice to Vodafone. This right to terminate ends 30 days after the effective date of the change. The following shall be a material detriment for the purposes of this clause: (a) an aggregate increase in Customer's UK Charges of more than 10% in a 12 month period; or (b) a withdrawal of the core Services; or (c) an adverse change to the core Services. However, this clause does not apply if the change or withdrawal relates to a Third Party Service which Customer may stop using or cancel without ending this Agreement.
- 13.4 Save as set out in clauses 13.1 and 13.2, changes to this Agreement must be made by written agreement of both Parties.
- 14. Confidentiality**
- 14.1 Neither Party shall disclose the Confidential Information of the other Party to any other party for the duration of this Agreement and for 3 years after termination except as permitted below. A Party may disclose the Confidential Information to any director, officer, employee, contractor, or adviser, of the receiving Party where necessary to fulfil the purpose of this Agreement provided that the receiving Party ensures those recipients comply with this clause 14.
- 14.2 Confidential Information shall not include information that: (a) is publicly available other than through breach of this Agreement; (b) is lawfully in the possession of the receiving Party before disclosure under this Agreement; (c) has been obtained from a third party who is free to disclose it; (d) is independently developed without access to the Confidential Information; or (e) a Party is required to disclose by law or regulatory authority.
- 14.3 Upon written request, as soon as reasonably practicable, a Party shall return all Confidential Information (as far as technically reasonably possible) to the Disclosing Party. The Receiving Party may retain Confidential Information as required by law or as required for archive purposes. This Agreement will continue to apply to any retained Confidential Information.
- 15. Liability**
- 15.1 Nothing in this Agreement restricts either Party's liability for: death or personal injury resulting from negligence; claims for non-payment; the non-excludable statutory rights of consumers (for example, under laws providing for strict product liability); liability for fraud or fraudulent misrepresentation; breach of confidence; and anything which cannot be restricted by law.
- 15.2 Except for clause 15.1, each Party's liability under this Agreement, whether in contract, tort (including negligence), misrepresentation, breach of statutory duty, indemnity or otherwise: (a) is excluded for: (i) any loss (whether direct or indirect) of profit, revenue, business, data, anticipated savings or goodwill; and (ii) any indirect or consequential losses, regardless of whether such losses were contemplated; and (b) for all other losses is limited in total to 100% of the value of the Charges paid or payable by Customer in the first 12 months of the Agreement, or if this Agreement has not been in place for 12 months, the average monthly Charges payable for the months from the Commencement Date of the Agreement to the date of the first claim, multiplied by 12.
- 15.3 Unless expressly set out in this Agreement, all other warranties, terms, conditions, statements and representations (whether expressed or implied by statute, common law, custom, usage or otherwise) are excluded to the fullest extent permitted by law.
- 16. Transferring this Agreement**
- 16.1 Either Party may transfer, novate, or assign (in whole or in part) this Agreement with the other Party's prior written consent, such consent not to be unreasonably withheld or delayed.
- 16.2 Despite clause 16.1, Vodafone may transfer, novate, or assign this Agreement (in whole or part) without consent to: (a) a company within Vodafone's Group; or (b) a debt collection agency where Vodafone has terminated this Agreement for Customer's non-payment.
- 16.3 Vodafone may use sub-contractors to perform any of its obligations under this Agreement but remains responsible for their performance.
- 16.4 Unless expressly provided in this Agreement, no term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.
- 17. Data Protection**
- 17.1 Vodafone and the Customer shall respectively comply with all Applicable Privacy Laws.
- 17.2 Vodafone (and their subcontractors) may Process User Personal Data for the following purposes: (i) account relationship management; (ii) sending bills; (iii) order fulfilment / delivery; or (iv) customer service.
- 17.3 When providing Services as an electronic communications services provider Vodafone may also Process Traffic Data as Data Controller for the following purposes: (i) delivering User communications; (ii) calculating Charges pertaining to the User; (iii) identifying threats to the Network/Services and protecting against the same; (iv) understanding communication flow through the network/services in order to inform network and service development and roll-out plans; or (v) internal use for development and improvement of Network/Services. Such Processing will not include providing Traffic Data to third parties or making it publicly available.
- 17.4 Vodafone may disclose User Personal Data and/or Traffic Data: (i) if required by Applicable Law, court order, Privacy Authority or any other statutory or supervisory authority, body or agency; or (ii) to Vodafone Group Companies or third parties lawfully sub-processing for Vodafone to deliver the Services.
- 17.5 The Parties acknowledge and agree that the Parties will need to share Operational Data between themselves. Operational Data will be shared on the basis of a transfer from one Party to the other, and each Party will assume responsibility for its own compliance with Applicable Privacy Law.
- 17.6 Where Vodafone is acting as Data Processor, applicable terms shall be set out in the relevant Service Terms.
- 17.7 The personal information collected from Customer and/or Users may be shared with fraud prevention agencies who will use it to prevent fraud and money-laundering and to verify Customer's and/or User's identity. If fraud is detected, Customer and/or Users could be refused certain Services, finance, or employment.
- 17.8 Interpretation and Definitions: in this clause 17, any reference to "Vodafone may" is deemed to constitute: (a) a specific acknowledgement and authorisation on the part of Customer as required by Applicable Privacy Law; and (b) permission for Vodafone's lawfully appointed sub-processors to do likewise (for whose acts and omissions Vodafone remains responsible).
- 18. Notices**
- All notices to Vodafone under this Agreement shall be in writing and sent to the Lead Counsel: Enterprise at Vodafone's registered office. All notices to Customer under this Agreement shall be in writing and sent to the Customer's address, main contact mobile telephone number (via text), or email address set out in the Commercial Terms. Notices will be deemed given 2 working days after dispatch, unless time of delivery can be proved.
- 19. General Terms**
- 19.1 Neither Party shall lose any right under this Agreement if it fails to use that right, or delays in using it. For a waiver of a right to be valid, it must be written and will not give rise to an on-going waiver of that right unless it is expressly stated to do so.
- 19.2 Termination of this Agreement (in whole or part), shall not affect the accrued rights and liabilities of either Party. Any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement (in whole or part) shall continue in force.
- 19.3 This Agreement is governed by the laws of England and Wales. The Parties submit to the exclusive jurisdiction of the courts of England.
- 19.4 Subject to clause 15.1, this Agreement represents the entire agreement between the Parties relating to the subject matter and supersedes any previous agreement related to the subject matter. The Parties have not relied on any statement, representation, warranty or understanding, other than expressly set out in this Agreement.
- 19.5 Customer shall ensure its systems, equipment and processes are compatible for use with the Services. Vodafone shall not be liable to support the Services if Customer's systems, equipment, or processes are incompatible with the Services. Vodafone shall use reasonable endeavours to advise Customer of relevant requirements on request.
- 19.6 If a provision or part-provision is illegal, invalid or unenforceable, that provision or part-provision shall be treated as having been modified to the minimum extent necessary to make it valid, legal or enforceable and to ensure it achieves the intended commercial result of the original provision. If modification is not possible, the relevant provision or part-provision shall be deleted. Any modification to or deletion shall not affect the validity of the rest of this Agreement.
- 19.7 Equipment and Services used by Customer but not stated in the Commercial Terms shall be governed by this Agreement unless the Parties agree otherwise.
- 19.8 Both Parties shall use reasonable endeavours to resolve any dispute under this Agreement. If there is a dispute under this Agreement, and Customer's account manager has been unable to resolve the issue to Customer's satisfaction, Customer may escalate the issue to a more senior representative within Vodafone according to the following levels: (1) Head of Channel, Enterprise Sales; (2) Sales Director - Small & Medium Enterprise, Enterprise Sales; and (3) Director of Enterprise, Vodafone Limited. Nothing in this Agreement prevents a Party from seeking a remedy through the courts. Alternatively, eligible business customers may take a dispute to adjudication, please see the complaints code (via 'contact us') on www.vodafone.co.uk for details. Further, if small business Customers have an issue with goods or Services bought online, Customer can refer a dispute to the EC Online Dispute Resolution website at <http://ec.europa.eu/odr>.



- 19.9 A Customer Affiliate is entitled to purchase Services or Equipment from Vodafone under this Agreement, provided Customer: (a) gives Vodafone prior written notice of the identity of the Customer Affiliate; (b) gives any other information reasonably required by Vodafone; (c) ensures that the Customer Affiliate complies with this Agreement; (d) remains liable to Vodafone for all obligations, acts and omissions of the Customer Affiliate (including payment for any Services or Equipment provided to the Customer Affiliate); and (e) obtains Vodafone's acceptance (not to be unreasonably withheld) of the inclusion of the Customer Affiliate under this Agreement.
- 19.10 Vodafone shall comply with all applicable laws, regulations and sanctions relating to anti-bribery and anti-corruption and shall not give or receive any bribes, including in relation to any foreign public official.
- 19.11 Neither Party will be responsible or liable for the failure or delay in the performance of its obligations due to a cause beyond its reasonable control. If the cause ends, the Party shall perform its obligations and the time for performance will be extended by the duration of the cause. If delay in performance persists for a period of more than 30 days, the unaffected Party will be entitled to terminate this Agreement on written notice.
- 19.12 Customer may use the Equipment and/or Services to access the internet and services not provided under this Agreement. Vodafone accepts no responsibility for these services. Customer shall take appropriate measures to back up data and otherwise protect against loss of data under this Agreement and keep secret any passwords.