

MOBILE LEASING TERMS

1. THE AGREEMENT

- 1.1 By signing this Agreement, the Customer irrevocably offers to lease the Equipment on the terms and conditions set out in this Agreement. Fidelity may accept the Customer's offer by signing this Agreement and/or purchasing the Equipment.
- 1.2 This Agreement starts on the Commencement Date. The leasing will commence on the date of delivery of the Equipment and will continue, unless terminated earlier in accordance with the terms of this Agreement, for the Minimum Term and any Extended Term.
- 1.3 The description of the Equipment set out overleaf may not specify the serial number(s), registration number(s) or model because Fidelity may not know these details at the time the Customer signs this Agreement or they change before the Agreement starts. In such case the Customer authorises the Owner to insert those details or where the details change, keep any record of those details when issued by the Owner to the Customer with the Customer's copy of the Agreement as they shall be used to support the description of the Equipment for the purpose of this Agreement.

2. OWNERSHIP OF THE EQUIPMENT

- 2.1 The Equipment shall remain the property of the Owner at all times and the Customer shall be a mere bailee of the Equipment and the Customer only has a right to use the Equipment.
- 2.2 The Customer must protect the interests of the Owner in the Equipment and this Agreement, and must not do anything inconsistent with those interests, including attempting to sell or dispose of, grant any interest or Encumbrance over, part possession with, or place any plates, stickers or marks on, the Equipment or this Agreement.
- 2.3 Fidelity and the Owner (if different) shall be entitled to assign or transfer this Agreement and/or its title to the Equipment and its rights under or in relation to the same without the Customer's consent. The Customer's rights under this Agreement are personal and cannot be assigned or transferred without the Owner's prior written consent.

3. DELIVERY AND ACCEPTANCE

- 3.1 The Customer must, and it is its responsibility to, obtain the Equipment, arrange for it to be delivered, tested and commissioned and inspect the Equipment to ensure that it is in good working order and condition and fit for all purposes for which it is required and in every way satisfactory to the Customer.
- 3.2 The Customer will accept delivery when the Equipment has been properly tested and commissioned.
- 3.3 If the Owner requests a Certificate of Acceptance the Customer must provide such Certificate of Acceptance as evidence that it is satisfied with the Equipment.
- 3.4 If the Owner does not request a Certificate of Acceptance then, unless the Customer notifies Fidelity within 48 hours of the date of delivery of the Equipment to the Customer of any defect in the Equipment, it shall be conclusively presumed that the Equipment is complete and in good working order and condition, and fit for all purposes for which it is required and in every way satisfactory to the Customer and that the Customer has unconditionally and irrevocably accepted the Equipment.

4. PAYMENTS

- 4.1 The advance payment shall be due and payable on the date shown overleaf. The Customer must pay to the Owner the Lease Payments and other sums due under this Agreement in full on the due dates for payment, as set out overleaf for the duration of the Minimum Term and any Extended Term, by direct debit (unless agreed otherwise). If the Customer begins paying by direct debit but subsequently changes from this payment method the Customer shall pay to the Owner on demand such sums as the Owner shall notify the Customer of in writing to reflect the Owner's associated administration costs.
- 4.2 All Lease Payments and any other sums due under this Agreement which attract VAT shall be subject to VAT at the rate prevailing when the amount is due for payment. The Customer must also pay, if the Owner requests, any current, new or increased statutory duties (including stamp duty), fees, taxes or charges payable in connection with this Agreement or the Equipment.
- 4.3 The Customer shall pay interest on all outstanding sums under this Agreement calculated on a daily basis and compounded at the same frequency as the Lease Payments from the due date until payment (both before and after judgement) at the Default Rate. On each occasion that the payment by the Customer is refused or otherwise returned, the Customer shall pay the Owner on demand such sums as the Owner shall notify the Customer of in writing to reflect the Owner's associated administration costs.
- 4.4 All sums payable by the Customer under this Agreement shall be paid in full, free and clear of all deductions or withholdings whatsoever, save those required by law in which event the Customer shall increase the payment due by an amount which, after making the required deduction leaves the Owner in the position we would have been in, had the deduction not been required.
- 4.5 The Customer's obligation to make the payments referred to in this clause 4 is absolute and unconditional from the date the Customer signs this Agreement and is not affected or reduced by:-
- 4.5.1 the Customer being unable to use the Equipment;
- 4.5.2 the Equipment being damaged, lost, stolen, not in the Customer's possession or not working at any time;
- 4.5.3 Fidelity's failure to supply the Services and/or a Customer's inability to access telecommunication services;
- 4.5.4 any set-off, counterclaim or other right the Customer has or claim to have against Fidelity, the Owner or another person.
- 4.6 The Lease Payments and all other amounts due under this Agreement are independent obligations of the Customer, unrelated to any payments due for

Services. The Customer's obligation to pay any Lease Payments, and any Termination Sums, Non-Return Charges or Damage Charges for Equipment, shall be a separate standalone debt obligation of the Customer.

5. SOFTWARE AND OTHER RIGHTS

- 5.1 All Software comprising, provided with or forming part of the Equipment is provided subject to the licensing conditions and restrictions of the Licensor. The Customer agrees that it will observe and comply with those licensing conditions including any restrictions on the use, copying and transfer of the Software.
- 5.2 Notwithstanding the terms of this Agreement, the Licensor's licence of the Software ("**Software Licence**") may be terminated by the Licensor in accordance with its licence terms and, in addition, the Software Licence will terminate without notice on the expiry or early termination of the leasing of the Equipment.
- 5.3 Notwithstanding anything to the contrary in this Agreement, in relation to the Software the Customer expressly agrees that:-
- 5.3.1 the Owner may not own or have any right to the Software, the Customer is not licensed by the Owner to use the Software and nor does the Owner give the Customer any other rights to deal with the Software;
- 5.3.2 at the time of entering into this Agreement the Customer has all licences and rights the Customer requires in respect of the Software from the Licensor;
- 5.3.3 the Owner gives no warranties or representations express or implied in respect of the Software and/or the Software Licence or other rights the Customer may have to use the Software and the Owner shall have no liability whatsoever to the Customer in relation to the Software including, without limitation, its quality, performance, functionality or suitability for any particular purpose; and
- 5.3.4 the Customer's obligations to pay the Lease Payments and any other amount due to the Owner shall be unaffected by any claim the Customer has against the Licensor or any other third party or by the termination of any Software Licence by any Licensor and the Customer's sole recourse in such circumstances shall be against the Licensor.

6. USE AND CARE OF THE EQUIPMENT

- 6.1 The Customer must:
- 6.1.1 keep the Equipment in Good Working Order;
- 6.1.2 ensure that the Equipment is used and serviced and maintained at its own cost, in accordance with the Supplier's or manufacturer's instructions, recommendations and specifications, any warranties in respect of the Equipment, and any requirements specified by the Owner or an insurer of the Equipment;
- 6.1.3 comply at its own cost with any laws relating to the use, operation, maintenance and possession of the Equipment, including obtaining and maintaining any necessary licences, permits or registration; and
- 6.1.4 avail itself of all applicable warranties in respect of the Equipment so that any damage is repaired or Damaged Equipment is replaced to the fullest extent possible.
- 6.2 If the Equipment is damaged and can be repaired (the "**Damaged Equipment**"), the Customer must immediately restore the Equipment to Good Working Order. Any part of the Damaged Equipment that is replaced during the course of repairing the Equipment will be deemed to become part of the Equipment and the property of the Owner.
- 6.3 The Customer acknowledges and agrees that:
- 6.3.1 it has made separate arrangements with Fidelity for the provision of Services;
- 6.3.2 if Fidelity or any third party breaches any of its obligations under any agreement for Services, then the Customer is not entitled to terminate this Agreement, the Customer merely has the right to seek redress from Fidelity under the relevant agreement for the Services. For the avoidance of doubt, the Customer must continue to pay the Lease Payments and all other sums due to the Owner under this Agreement in accordance with clause 4 even if Fidelity breaches any of its obligations under any agreement for the Services;
- 6.3.3 this is a separate and independent legal obligation from the provision of Services under the relevant agreement for Services to which the Owner is not a party.
- 6.4 The Customer acknowledges that it may be liable to pay Damage Charges to the Owner for any Equipment which is not in Good Working Order when returned to the Owner in accordance with clause 12.

7. INSURANCE AND TOTAL LOSS

- 7.1 Risk in the Equipment shall be borne by the Customer from the date on which the Equipment is delivered to the Customer in accordance with clause 3.
- 7.2 At all times whilst the Equipment is or should be in the Customer's possession or control, the Customer shall insure the Equipment and keep the Equipment insured for its full Replacement Value with a reputable insurer in the United Kingdom that is approved by the Owner against all risks (including third party and public liability claims) for which similar equipment would usually be insured without restriction or excess. The Customer must punctually pay the premiums in respect of the policy of insurance and do all things necessary to keep the policy in full force and effect. The Customer must produce such evidence of insurance as the Owner may require from time to time.
- 7.3 If the Customer fails to provide evidence of adequate insurance on the Equipment then the Owner shall have the right but not an obligation to take out its own insurance to protect the Equipment and charge the Customer a protection fee by increasing the Lease Payments payable under this Agreement. The Owner will give the Customer notice before charging the Customer any protection fee. The Customer must notify the Owner as soon as possible of any damage to or loss of the Equipment and provide the Owner's insurer with a true, complete and accurate statement of loss and any other

- information that the Owner's insurer reasonably requires in support of the Owner's claim. In the event that the Owner makes a claim, the Customer must make every reasonable effort to protect the Equipment from further loss.
- 7.4 If the Customer makes an insurance claim, then the Customer will notify the Owner immediately and the Customer shall hold any insurance monies that the Customer receives in respect of the Equipment on trust for the Owner.
- 7.5 The Owner may apply any insurance monies (at its option) towards the cost of repair or reinstatement of the Equipment or towards payment of any sum or sums due to the Owner under this Agreement.
- 8. ACCESS TO THE EQUIPMENT**
- The Customer must allow the Owner or its representative to enter any place where any Equipment is located to inspect the condition of the Equipment, ensure that the terms of this Agreement are being complied with, or exercise any of the Owner's rights under this Agreement.
- 9. TOTAL LOSS OF THE EQUIPMENT**
- 9.1 The Customer must notify the Owner as soon as possible if any Equipment is lost, stolen, destroyed, confiscated or damaged to such an extent that repair of the Equipment would be impractical or uneconomic (the "Affected Equipment").
- 9.2 If any of the things in clause 9.1 occur, the Customer must either, at the Owner's option:
- 9.2.1 replace the Affected Equipment with like equipment approved by the Owner which has at least the same relative specifications which will then be the subject of this Agreement. Any equipment which replaces the Affected Equipment will be deemed to become part of the Equipment and the property of the Owner; or
- 9.2.2 pay to the Owner a sum equal to the Termination Sum in respect of the Affected Equipment and any other sums due under this Agreement (less any insurance proceeds received by the Owner), upon receipt of which the Owner in cleared funds the leasing of the Affected Equipment will terminate.
- 9.3 Where the Customer has not complied with clauses 9.2:
- 9.3.1 the Owner is entitled to receive all amounts which are payable by an insurer or other person as a result of an event in clauses 9.1 occurring. If the Customer receives those amounts, it holds them on trust for the Owner; and
- 9.3.2 where the cost incurred by the Owner for the replacement of the Affected Equipment, or where the amount of the Termination Sum then due to the Owner exceeds any amounts received by or held on trust for the Owner pursuant to clause 9.3.1, the Customer must pay the amount of that excess to the Owner upon demand by the Owner.
- 10. TAXATION**
- 10.1 The Lease Payments and the Termination Sum are calculated assuming that:
- 10.1.1 the rate of corporation tax in the United Kingdom for companies shall remain at the rate applicable as at the Commencement Date throughout the Minimum Term;
- 10.1.2 the law and practice in the United Kingdom relating to taxation of companies and groups of companies as it affects the transaction recorded in this Agreement remains throughout the Minimum Term the same as at the Commencement Date; and
- 10.1.3 subject to section 220 of the Capital Allowances Act 2001, the Owner shall qualify for writing-down allowances at the rate applicable as at the Commencement Date on the whole of its expenditure incurred in the provision of the Equipment in the Owner's accounting period in which the expenditure is incurred and at the same rate on the Owner's qualifying expenditure in each of the Owner's subsequent accounting periods.
- 10.2 If at any time or times any of the assumptions set out in clause 10.1 shall not be realised and as a result the aggregate of the Lease Payments paid and to be paid during the Minimum Term would (disregarding this clause 10) result in the Owner's Return being different from that which the Owner would have received had the assumptions been realised then the Owner may by notice to the Customer adjust the Lease Payments or require a lump sum payment where the leasing has ended and when appropriate calculate or recalculate (if previously notified to the Customer) the amounts payable by way of Termination Sum by the amount which the Owner determines to be necessary to maintain the Owner's Return as if the assumptions had been realised in full.
- 11. END OF THE MINIMUM TERM**
- 11.1 The leasing under this Agreement will continue until the Owner or the Customer gives 3 months written notice of termination to the other, such notice not to expire before the end of the Minimum Term. If no such notice is given, the leasing will be extended automatically after the Minimum Term for an Extended Term during which time the Customer must continue to pay the Lease Payments on the due dates for payment specified overleaf. An Extended Term shall continue until either party terminates this Agreement in accordance with this clause 11.1.
- 11.2 If the Customer wants to exercise its right to terminate pursuant to clause 11.1 it must do so in respect of all (and not just some) of the Equipment. Any notice once given cannot be withdrawn by the Customer.
- 12. RETURN OF THE EQUIPMENT**
- 12.1 On termination of this Agreement (either at the end of the Minimum Term, or following an Extended Term, or on any earlier termination of this Agreement), the Customer must:
- 12.1.1 at its own expense deliver all of the Equipment to the Owner or any person nominated by the Owner in Good Working Order to a place nominated by the Owner; and
- 12.1.2 delete all information including personal data contained or recorded in the Equipment in a manner that is safe and secure and accords with the relevant guidance issued by the Information Commissioners office.
- 12.2 If the Equipment is not returned on the termination date of this Agreement, the Customer must pay the Owner an amount equal to two days' Lease Payment for each day during which the Equipment is not returned unless the Owner otherwise agrees. If the Equipment is not returned within twenty (20) days of the termination date then the Customer shall pay a Non-Return Charge to the Owner.
- 12.3 If the Equipment is returned to the Owner but not in accordance with clause 12.1, then the Customer must pay to the Owner the relevant Damages Charge.
- 13. TERMINATION OF THE AGREEMENT FOR CAUSE**
- 13.1 It is a fundamental condition of this Agreement that none of the following events shall occur:
- 13.1.1 the Customer fails to pay any Lease Payment or any other sum due under this Agreement within three (3) Business Days of its due date for payment;
- 13.1.2 the Customer breaches, or does not observe or perform, any other term of this Agreement and (if the breach is capable of being remedied) the breach in question continues unremedied for ten (10) Business Days after written notice of it has been given to the Customer; or
- 13.1.3 the Customer fails to pay any sum due under or breaches the terms of any other agreement in force between the Customer or any member of its Group and the Owner or any member of its Group or any loan, lease, debt or security agreement in force between the Customer and any other party; or
- 13.1.4 any representation or warranty given by the Customer in this Agreement becomes incorrect or misleading in a material respect and if any such event shall occur this will show that the Customer no longer has any intention to be bound by this Agreement and the Owner shall be entitled to treat the event as a repudiation by the Customer of its obligations under this Agreement and clause 14 shall apply.
- 13.2 If any of the following events shall occur then clause 14 shall apply:
- 13.2.1 any distress, execution, diligence or other legal process relating to the Equipment is done or levied against the Equipment or any of the Customer's other assets and not discharged within seven (7) days;
- 13.2.2 the Customer dies or becomes apparently insolvent or is sequestrated or grants a trust deed for or enters into a composition or voluntary arrangement with creditors, or suffers an interim order to be made against it or is subject to the making of a statutory demand or the presentation of a petition for a bankruptcy order or, if it is a partnership, any of the foregoing events happens to any of its partners or the partnership or the partnership is dissolved or terminated;
- 13.2.3 the Customer calls a meeting of its creditors or makes or enters any arrangement, scheme, moratorium or composition with its creditors or has a voluntary arrangement proposed in respect of it under section 1 of the Insolvency Act 1986;
- 13.2.4 the Customer is the subject of winding up or dissolution proceedings (compulsory or voluntary) or has an administrator, a receiver or a receiver and manager appointed to the whole or any part of its assets (including any receiver appointed under the Law of Property Acts or under any chattels or other mortgage);
- 13.2.5 any step is taken to appoint an administrator;
- 13.2.6 the Customer allows any judgment or decree against it to remain unsatisfied or is unable to pay or admits its inability to pay its debts as they fall due;
- 13.2.7 the Customer is dissolved or, where it is a local authority or similar body, (i) it is deconstituted or reconstituted or (ii) possession or control of all or any of the Equipment or any of the Customer's rights and obligations are transferred to any other person;
- 13.2.8 any of the Customer's directors or senior members of its management team are convicted of an indictable offence;
- 13.2.9 the Customer disposes of all or a material part of its business;
- 13.2.10 there is, in the opinion of the Owner, a material adverse change in the Customer's financial position or business;
- 13.2.11 the Customer ceases or threatens to cease to carry on all or a substantial part of its business or to dispose of all or a substantial part of its undertaking or assets;
- 13.2.12 the Customer suffers a change of control (whether direct or indirect);
- 13.2.13 any insurance office cancels the insurance of the Equipment or refuses to renew such insurance for any reason connected with the Customer;
- 13.2.14 the Customer does or causes to be done or permits or suffers anything to happen as a result of which the Owner's rights in the Equipment may be prejudiced or jeopardised, or if the Customer in any way advises Fidelity that the Customer intends to default in any of its obligations under this Agreement, or
- 13.2.15 any event set out in clauses 13.1.1 – 13.1.4 or 13.2.1 – 13.2.12 occurs in relation to any guarantor or indemnifier of the Customer's obligations to the Owner under the Agreement.
- 14. CUSTOMER'S LIABILITY ON TERMINATION**
- 14.1 If a Termination Event occurs, then, whether or not the Customer has notified the Owner of the same and even if the Owner accepts any Lease Payments or other sums thereafter, the Owner may by notice in writing to the Customer forthwith and for all purposes terminate this Agreement and/or the leasing of the Equipment. On such termination of this Agreement and/or the leasing of the Equipment, the Customer shall no longer be in possession of the Equipment with the consent of the Owner and the Customer must immediately and on demand:
- 14.1.1 return the Equipment to the Owner in accordance with (and subject to clause 12); and

14.1.2 pay to the Owner the Termination Sum plus any applicable Damage Charges.

15. INDEMNITIES

- 15.1 Without prejudice to any other right the Owner has under this Agreement, the Customer indemnifies the Owner and must compensate the Owner upon demand (and without any set-off, deduction or withholding) for any loss Fidelity, Assignee, or any other funder suffers and all costs and expenses (including (i) without limitation, the amount of any commission paid by the Owner in relation to this Agreement which has not been amortised in the Owner's books at the end of leasing however caused and (ii) the costs of any legal advisers, repossession or other agents including VAT and on a full indemnity basis), charges, taxes, penalties, levies, claims, liabilities and out of pocket expenses (including on account of funds borrowed, contracted for or used to fund any amount payable by the Owner or funder in connection with the purchase of any Equipment under this Agreement) the Owner incurs as a direct or indirect result of:
- 15.1.1 this Agreement (or any part of it) being void, voidable or unenforceable for any reason;
- 15.1.2 the Owner exercising a right under this Agreement or doing something the Customer should have done under this Agreement;
- 15.1.3 the Equipment being located in any country other than the UK;
- 15.1.4 a person being injured or killed or property being damaged directly or indirectly by the Equipment or their use, design, or operation;
- 15.1.5 a claim by any person that the Equipment or their use by any person infringes another person's trademark, copyright, patent or other intellectual property right;
- 15.1.6 the Owner or its agent taking any enforcement, recovery or preservation action against the Customer or any Guarantor, repossessing, or attempting to repossess, the Equipment, or deleting any data or Software stored in the Equipment;
- 15.1.7 this Agreement terminating in relation to some or all of the Equipment before the end of the Minimum Term of this Agreement;
- 15.1.8 an Increased Cost Event occurring;
- 15.1.9 the Customer's act or omission, or any failure by the Customer to comply with any obligation under this Agreement; or
- 15.1.10 the ownership of or the Customer's leasing, possession, operation or use of the Equipment.
- 15.2 Each indemnity is a continuing obligation, separate and independent from the Customer's other obligations. Each indemnity continues after this Agreement ends or is terminated and it is not necessary for the Owner to incur an expense or cost or make a payment before it enforces a right of indemnity.

16. EXCLUSION OF LIABILITY

The Customer agrees that it selected the Equipment itself and did not rely on the Owner's skill, knowledge or judgement in deciding to acquire the use of the Equipment. The Customer acknowledges that the Owner is not an expert in the Equipment and gives no assurances about the Equipment and/or its quality and suitability. The Customer acknowledges that (i) its decision to acquire the use of the Equipment and to obtain the Equipment from Fidelity was made independently of the Owner; (ii) the Customer has taken its own advice as to the taxation, accounting and financial consequences of entering into this Agreement and has not relied on the Owner in relation to any of these matters; and (iii) the Owner's involvement to provide finance for the acquisition of the Equipment arose after that decision was made. Accordingly:-

- 16.1 the Customer recognises there is a risk that the Equipment may not perform as expected (or at all) and may not be satisfactory;
- 16.2 there is a risk that the Equipment may not work satisfactorily or according to any representations made by the manufacturer, dealer, agent, broker or any other person through whom this transaction may have been introduced, negotiated or conducted. The Customer appreciates that the allocation of risk is a matter of agreement and the parties have together decided that the Customer shall bear that risk but the Owner shall assign to the Customer, on receiving an undertaking from the Customer to be responsible for any costs, any right of recourse which the Owner has against the manufacturer or any intermediary, the benefit of which is assignable; the Customer is responsible for satisfying itself as to the validity of any such warranties and guarantees and entitlement to patents and other intellectual property rights;
- 16.3 the Customer agrees that there is no term in this Agreement by which the Owner is responsible for the performance of the Equipment, whether generally or in relation to any particular purpose. The Owner does not know of any representation made to the Customer about the Equipment, but if it were made, the Customer acknowledges that it was not made on behalf of the Owner and that the Customer has not entered into this Agreement in reliance on it;
- 16.4 for the avoidance of doubt, the parties agree that no terms are to be implied into this Agreement in relation to the state, condition, quality, specification or performance of the Equipment;
- 16.5 if contrary to clause 16.4 the law requires terms to be implied into this Agreement, the Customer agrees that the Owner is not liable for any breach because if the risk of breach of any such term had been allocated differently the Owner would have charged higher Lease Payments. The Owner is not in a position to evaluate and therefore insure against the risk of a breach, whilst the Customer is in a better position to do so;
- 16.6 notwithstanding clauses 16.2 – 16.4, nothing in this Agreement will relieve the Owner or limit its liability in relation to any death or personal injury arising from its own negligence or that of its employees;
- 16.7 The Owner is not liable for any damage or loss that may result directly or indirectly from any delay in the delivery of the Equipment or any failure to deliver the Equipment, or any breach by the manufacturer of any supply contract;
- 16.8 the Customer will not be entitled to any rebate of Lease Payments during or in respect of any period when the Equipment or any part of them are unserviceable or out of order or unusable nor shall the Customer be entitled to

any replacement Equipment during any period when the Equipment or any part of them are unserviceable or out of order or unusable;

16.9 the Owner shall have no liability for Excluded Loss; and

16.10 the Owner shall have no liability for any loss suffered by the Customer as a result of the Equipment being unserviceable, out of order or unusable, or being in any way inadequate for any purpose and such exclusion of liability includes any loss of business or of profit or of any gain.

17. MISCELLANEOUS

- 17.1 The Customer shall provide the Owner with management accounts within 45 days of the month or quarter end to which they relate, audited accounts within 20 months of the year end to which they relate and any other information in relation to its business and financial position, the use of the Equipment and the location of the Equipment as the Owner may reasonably require from time to time as well as any information the Owner may require in order to continue to satisfy its "know your customer" requirement.
- 17.2 Any consent given by the Owner will be conditional on no breach of this Agreement occurring while the consent is in force. If a breach occurs the Owner may withdraw the consent.
- 17.3 Any written communication under this Agreement from the Owner to the Customer shall be validly served if sent by prepaid post or delivered by hand to the Customer's address set out overleaf, or if sent by email to the Customer's email address set out overleaf (or such other email address as the Customer notifies the Owner in writing from time to time). Such written communication shall be deemed to be received by the Customer 48 hours after the time of posting if sent by post, at the date of delivery if delivered by hand, and on the working day following the day on which the email was sent if delivered by email. Any notice from the Customer to Fidelity under this Agreement must be in writing and delivered either to Fidelity's trading address as identified overleaf or by email to Fidelity's email address set out overleaf (or such other email address as Fidelity notifies to the Customer in writing from time to time). Such notice shall be deemed to be delivered only when Fidelity actually receives it.
- 17.4 The Owner shall be entitled to consolidate its liabilities under this Agreement, and any other agreement between the Owner and the Customer. When calculating any amount due to the Owner under this Agreement, or any other agreement between the Owner and the Customer, the Owner may at any time without prior notice:
- 17.4.1 set-off or apply any debit balances against any credit balances on or under any agreement between the Owner and the Customer; or
- 17.4.2 set-off or apply:
- 17.4.2.1 any sums paid to the Owner under this Agreement, or any other agreement between the Owner and the Customer;
- 17.4.2.2 any sums realised on the disposal of the Equipment;
- 17.4.2.3 any sums realised on disposal of any other Equipment pursuant to any other agreement between the Owner and the Customer; or
- 17.4.2.4 any damages and/or sums awarded to the Owner following judgment of an issue arising from this Agreement, or any other agreement between the Owner and the Customer against any losses realised pursuant to any other agreement between the Owner and the Customer.

18. REPRESENTATIONS AND WARRANTIES

- 18.1 The Customer makes the following representations and warranties on the date of this Agreement, throughout the Minimum Term and any Extended Term and on the due date for payment of a Lease Payment:-
- 18.1.1 the Customer's obligations under this Agreement are valid and binding on it;
- 18.1.2 the Customer has the power to enter into this Agreement and has taken all required action and obtained all required permissions to authorise entry into and performance of this Agreement;
- 18.1.3 no Termination Event or other event that would become or give rise to a Termination Event has occurred;
- 18.1.4 by entering into this Agreement the Customer does not breach any other agreement it may have with any other person; and
- 18.1.5 where this Agreement has been entered into or signed electronically the Customer has complied with any requirements and/or procedures advised to the Customer by Fidelity covering the use of electronic signatures.

19. COMMISSIONS

If the Customer has used a Third Party to arrange this Agreement then the Owner may have paid such Third Party a commission, introduction or finders fee, a brokerage fee or other sums by way of remuneration. If the Customer wishes to know how much has been paid to such Third Party, the Customer should in the first instance contact the Third Party and request such information from them. If the Third Party refuses to disclose the relevant information then the Customer should contact Fidelity for further information.

20. WAIVER AND EXERCISE OF RIGHTS

- 20.1 The Owner's failure to insist on performance by the Customer of any obligation under this Agreement is not a waiver of the Owner's right to insist on performance of, or to claim damages for breach of, that obligation at any time unless the Owner expressly acknowledges in writing that it has waived its rights in relation to that failure by the Customer.
- 20.2 The Owner is not liable for any loss caused by the exercise or attempted exercise of, or failure to exercise or delay in exercising a right or remedy.

21. BUSINESS DAYS

- 21.1 If a date for payment of money under this Agreement or the return of the Equipment in accordance with clause 12 is not a Business Day, then the money

must be paid or the Equipment must be returned (as the case may be) on the preceding Business Day.

22. COUNTERPARTS AND ELECTRONIC SIGNATURE

22.1 This Agreement may be executed in any number of counterparts.

22.2 The Customer agrees that this Agreement may be entered into and signed by way of electronic signature or advanced electronic signature, as defined in the Electronic Communications Act 2000 or Articles 3(10) or 3(11) of Regulation (EU) No 910/2014. Any signature made by the Customer or on the Customer's behalf in a way which complies with the Electronic Communications Act 2000 will be effective and binding on the Customer.

23. PARTIAL INVALIDITY

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

24. GOVERNING LAW

24.1 This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of England and Wales, and the parties submit to the exclusive jurisdiction of the courts of England. This clause 24 is for the benefit of the Owner.

24.2 The Customer's submission to the jurisdiction of the English courts shall not prevent the Owner taking proceedings arising out of this Agreement in any other place where we think appropriate.

25. INTERPRETATION

25.1 In this Agreement, unless a contrary intention appears:

"**Airtime**" means mobile airtime and network capacity.

"**this Agreement**" means these terms and conditions and the front sheet overleaf which together set out the terms on which the Owner hires the Equipment to the Customer.

"**Agreement for Services**" means an agreement for Services entered into between Fidelity Group Ltd and the Customer.

"**Business Day**" means any day (other than a Saturday or a Sunday) the Owner is open for business.

"**Certificate of Acceptance**" means a certificate of acceptance in such form and substance as the Owner may require confirming that the Equipment have been delivered to, and accepted by, the Customer in accordance with the terms of this Agreement and the certificate of acceptance.

"**Commencement Date**" means the date Fidelity signs this Agreement or, if earlier, the date the Owner purchases the Equipment.

"**Customer**" means the person or persons named on the first page as the Customer, and if there is more than one, means each of them separately and every two or more of them jointly.

"**Damage Charges**" means, in respect of Equipment, the amount (if any) payable by the Customer for failing to return the Equipment in Good Working Order calculated in the manner set out in Schedule 1.

"**Data Services**" means the Mobile Services under which the Supplier supplies the Customer with Airtime enabling the Customer to transfer data on the Network.

"**Default Rate**" means 4% per annum over the base lending rate of Barclays Bank Plc from time to time.

"**Encumbrance**" means any interest in, right or any form of security over property, including, but not limited to: (a) any mortgage, pledge, lien or charge; or (b) any other security or preferential interest or arrangement of any kind with any creditor to have its claim satisfied in priority to other creditors.

"**Excluded Loss**" means any loss or damage suffered by the Customer which is indirect; or which results from some special circumstance or supervening event; or which is by way of loss of revenue, loss of profits, loss of production, loss of goodwill or credit, loss of business reputation or future reputation or adverse publicity, loss of use, loss of interest, damage to credit rating, loss or denial of opportunity, loss of anticipated savings, or increased or wasted overhead costs; or which relates to expenses caused by the breach or rendered futile by the breach; or which is not a natural and immediate consequence of the breach; or which is suffered by the Customer as a result of a claim upon it by a third party; or which consists of a claim for personal injury or damage to property.

"**Extended Term**" means the period of leasing beyond the end of Minimum Term until this Agreement is terminated in accordance with clause 11.

"**Equipment**" means, for this Agreement, the mobile device(s)(if any) and associated equipment listed overleaf or more particularly described by Fidelity

to the Customer pursuant to clause 1.3, including all spare parts and accessories and includes any replacement Equipment under clause 9.2.

"**Good Working Order**" means, in respect of any Equipment, the required condition set out in Schedule 1 as reasonably determined by the Owner.

"**Group**" means together a person, its Parent Undertakings, its Subsidiary Undertakings and the Subsidiary Undertakings of any of its Parent Undertakings from time to time;

"**Increased Cost Event**" means, if, as a result of any legal or regulatory requirement (whether having the force of law or not) affecting the Owner or any member of its Group or any change in the interpretation of any existing or future such requirement the cost to the Owner of maintaining its investment in the Equipment is increased;

"**Licensor**" means the party providing the Customer with a licence to use the Software.

"**Lease Payment**" means for the duration of the Minimum Term and any Extended Term, the amount of the rental plus VAT payable in relation to that amount, as set out overleaf.

"**Minimum Term**" means the minimum term of the leasing under this Agreement, as specified overleaf.

"**Mobile Services**" means any mobile services performed and/or offered by the Supplier under the terms of the relevant Agreement for Services.

"**Network**" means Fidelity Group Ltd and/or O2 or the network of any other third party used by Fidelity Group Ltd or O2 to supply the Mobile Services, from time to time;

"**Non-Return Charge**" means, in respect of Equipment not returned in accordance with clause 12, the amount payable by the Customer calculated in the manner set-out in Schedule 1.

"**Owner**" means Fidelity or any person to whom the Equipment is sold, and/or the rights under this Agreement are assigned, in accordance with clause 2.3.

"**Owner's Return**" means the effective after tax return under this Agreement to take account of the Owner's early receipt of any amount;

"**Parent Undertaking**" has the meaning given to it in section 1162 of the Companies Act 2006.

"**Present Value**" of any amount on a day is calculated by discounting that amount by such rate from time to time determined by the Owner (in accordance with its usual business practices) and deemed by the Owner to be reasonable to take account of the Owner's early receipt of any amount.

"**Replacement Value**" of the Equipment means the cost of replacing the Equipment with new equipment having specifications as nearly as possibly the same as, but at least equal in all material respects to, those of the Equipment being (or needing to be) replaced.

"**Services**" means Data Services, Mobile Services, Airtime, Network access and/or any other telecommunication services.

"**Software**" means any computer software which comprises the entirety of the Equipment or is provided with or forms part of the Equipment.

"**Software Licence**"

"**Subsidiary Undertaking**" has the meaning given to it in section 1162 of the Companies Act 2006.

"**Termination Event**" means the occurrence of any of the events listed in clause 13.1 and/or clause 13.2.

"**Termination Sum**" shall mean a sum equal to the aggregate of (i) all Lease Payments and any other sums already due and payable under this Agreement but unpaid, and accrued interest on them; (ii) as liquidated damages the sum of the Present Values on that day of all Lease Payments which are still to fall due or which would but for termination have been payable by the Customer during the remainder of the Minimum Term; (iii) all the Owner's costs incurred in repossessing, insuring, selling, storing and remarketing the Equipment and any amount determined by reference to clause 12.3 or, if the Equipment are not returned, the relevant Non-Return Charge; and (iv) any costs incurred by the Owner (or its funder) in terminating or redeploying any funding arrangements entered into by the Owner (or its funder) in connection with the purchase of any Equipment under this Agreement.

"**VAT**" means the Equipment and services tax imposed by the Value Added Tax Act 1994 and all related and auxiliary legislation as amended from time to time.

25.2 In this Agreement: (a) words denoting the singular include the plural and vice versa; (b) a reference to this Agreement, any other document or legislation include any auxiliary part, annexure or schedule to it and any variation or replacement of it; (c) a reference to any party to this Agreement includes its executors, administrators, successors and permitted assigns; (d) in the event of any conflict between this Agreement and any Agreement for Services, the terms of this Agreement shall prevail.

SCHEDULE 1

ASSET CONDITION & DAMAGE CHARGES		
Good Working Order- Compensation Payment: N/A	Non-Working Damage Charges: 50% of Fair Market Value	Beyond Economic Repair Damage Charges: 100% of Fair Market Value
<p>Device is fully functional with no visible damage to the device at approximately 30cm.</p> <p>This includes;</p> <ul style="list-style-type: none"> Minor scratching to housing, buttons and screen is ok No chips, deep scratches or cracks No missing or alternative parts No signs of liquid damage No security, network, iCloud or other user account locks on the device 	<p>Device doesn't meet the criteria for Good Working Order or Beyond Economic Repair. This includes;</p> <ul style="list-style-type: none"> Heavy cosmetic damage such as heavy scratching to housing, buttons or screen Chips, dents and cracks to the housing, screen and LCD Functional damage which includes; Broken Speaker or Earphone Water Damage (still fully functional) Damaged/Non-functioning buttons, ports, sim tray WiFi fault Touch screen/LCD damaged (still fully functional) Broken or missing battery Software Issues – device freezes, not recognised by iTunes, won't start up or any software component failing Broken Camera 	<p>Devices that are Beyond Economic Repair.</p> <p>This includes;</p> <ul style="list-style-type: none"> Cracked LCD (unit does not function) Won't Power on Water damage (unit does not function) Crushed, bent device Missing or non-genuine parts Incorrect model or specification returned Security, network, iCloud or other user account lock Lost, stolen or barred by the network operator Device not returned

Non-Return Charge

24 month Minimum Term	
Month	% of Original Equipment Cost
1-24	30%
25	30%
26	29%
27	27%
28	26%
29	24%
30	21%
31	18%
32	14%
33	10%
34	7%

35	3%
36	0%

SCHEDULE 2

USE OF YOUR INFORMATION

1 Terms used in this notice

In this notice, for sole traders, partnerships and other unincorporated customers, "you" means the individuals who own the business (and "your" shall be construed accordingly) and for corporate customers, "you" means both the customer and (where applicable), the directors, officers, shareholders and other parties responsible for the operation of the business (and "your" shall be construed accordingly). In this notice, "we" and "us" means Fidelity Group Limited and/or its assignee (and "our" shall be construed accordingly).

2 What we do with your information when you apply - Credit Reference Agencies

We will make searches about you at credit reference agencies who will supply us with credit information, such as previous applications, the conduct of accounts in your name and the name(s) of those financially linked to you, any business accounts you have, fraud prevention information and public information such as County Court Judgments, bankruptcies and the Electoral Register. The agencies will record details of the search whether or not this application proceeds. This record (but not our name) will be seen by other organisations when you apply for credit in the future. We may use credit-scoring or other automated decision-making methods to assess your application and to verify your identity. We may also search records at credit reference agencies, including credit details, which may be linked to your spouse/partner, or other persons with whom you are linked financially and, if you are a director or partner in a small business, we may also run checks on your business. For the purposes of your application (and whether or not your application proceeds), you may be treated as financially linked and you will be assessed with reference to "associated records". Credit searches and other information which is provided to us, our group companies, our suppliers, and/or the credit reference agencies, about you and those with whom you are linked financially may be used by us and other companies, including third parties and our suppliers, if credit decisions are made about you, or other members of your household. This information may also be used for debt tracing and the prevention of money laundering as well as the management of your account(s).

3 What we do with your information when you apply - Fraud Prevention Agencies

To prevent or detect fraud, or to assist in verifying your identity, we may search records of our group companies and make searches at fraud prevention agencies who will supply us with information. We may also pass information to financial and other organisations involved in fraud prevention to protect us and our customers from theft and fraud. If you give us false or inaccurate information and we suspect or identify fraud, we will record this. Law enforcement agencies may access and use this information. We, members of our group, and other companies, including third parties and our suppliers, may use this information if decisions are made about you or others at your address(es) on credit or credit-related services or motor, household, credit, life or other insurance facilities. It may also be used for tracing and claims assessment. In addition, we may use, process or disclose your personal data in order to carry out procedures relating to the detection and prevention of other forms of financial crime (including, without limitation, breach of any applicable law or regulation relating to anti-money laundering, anti-bribery and corruption, the financing of terrorism or economic sanctions) and may, for the avoidance of doubt, provide such information to law enforcement agencies.

4 What we will do with your information when you have your agreement with us

Where you borrow or may borrow from us (which includes where you enter into hire, leasing or hire purchase agreements with us), we may give details of your account and how you manage it to credit reference agencies. If you borrow and do not repay in full and on time, we may tell credit reference agencies who will record the outstanding debt. We may also tell credit reference agencies if you change your name or address. Account information given to credit reference agencies remains on file for 6 years after the account is closed, whether settled by you or upon default. These records will be shared with other organisations and may be used and searched by us and them to:

- 4.1 consider applications for credit and credit related services, for you and any associated person; and
- 4.2 trace debtors, recover debts, prevent or detect money laundering and fraud, and to manage your account(s).

5 Passing your information to third parties

We may also disclose information about you, your agreement with us and the conduct of your account to any associated and/or subsidiary companies of ours, any of our agents, any of our suppliers, any members of our dealer network, any credit, insurance or other intermediary or other party providing a service pursuant to or in connection with your agreement with us, any person acting on your behalf, any insurers and any person acting on our behalf for the purpose of the administration and enforcement of your agreement with us. If we transfer any of our rights and duties under your agreement with us to any person or Owner, we will pass relevant information about you to them. We may also pass information about you or your agreement with us to any (or any potential) successor or assignee or transferee.

6 Your right of access to your information

If you write to us and pay a fee you have a right of access to your information held by us. Please write to us at the address notified in the Schedule overleaf.

7 Your right of access to your records held by credit reference agencies and fraud prevention agencies

You have the right of access to your personal records held by credit and fraud agencies on payment of a fee. If you ask us, we will tell you the name and address of the credit reference and fraud prevention agencies we use.

8 Transferring your data outside the EEA

The data that we collect from you may be transferred to, and stored at, a destination outside the European Economic Area ("EEA"). It may also be processed by staff operating outside the EEA who work for us or for one of our suppliers. Such staff may be engaged in, among other things, the processing of your payment details and the provision of support services. We will take all steps reasonably necessary to ensure that your data is treated securely and in accordance with this privacy policy.

9 Passwords

All information you provide to us via our site is stored on our secure servers. Where we have given you (or where you have chosen) a password which enables you to access certain parts of our site, you are responsible for keeping this password confidential. We ask you not to share a password with anyone.

10 Security of your information online

The transmission of information via the internet is not completely secure. Although we will do our best to protect your personal data, we cannot guarantee the security of your data transmitted to our site; any transmission is at your own risk. Once we have received your information, we will use strict procedures and security features to try to prevent unauthorised access.