

OUTSOURCERY LIMITED

Reseller Agreement for Mobile Telecommunication Services



IN PARTNERSHIP
WITH OUTSOURCERY

OUTSOURCERY[®]
CHANGING WORK FOR GOOD

BtoB Tariffs	the prices and tariffs for the Wireless Services to be paid by the Reseller to Outsourcery set out in the Price List and as the same may be replaced, amended or varied by Outsourcery from time to time;
Business Customer	<p>a customer who is not an individual consumer, that is to say a customer who is</p> <p>(a) a company within the meaning of section 735 (1) of the Companies Act 1985; or</p> <p>(b) a company incorporated in pursuance of a royal charter or letters patent; or</p> <p>(c) a partnership; or</p> <p>(d) a corporation sole; or</p> <p>(e) a government or other subscription or publicly funded enterprise; or</p> <p>(f) any other body corporate or other entity which is a legal person distinct from the persons (if any) of which it is composed ;or</p> <p>(g) any subscriber connecting a minimum of two (2) SIM Cards under the BtoB Tariffs as a Business Customer and not an individual consumer; and</p> <p>(h) any subscriber that Outsourcery in its absolute discretion agrees is a Business Customer</p>
Business Customer Connections	<p>those Business Customers connected to the Designated Network as a result of the direct sales and promotion activities of the Reseller or its Affiliates in the Territory who are:</p> <p>(a) already connected to the Designated Network at the Commencement Date; and/or</p> <p>(b) connected to the VL Network on or after the Commencement Date.</p>
Business Customer Tariffs	in relation to the Designated Network Operator RRP business tariffs introduced by such Designated Network Operator from time to time in respect of the promotion and direct sale of Wireless Services to Business Customers in the Territory;
Change Control Procedures	the change control procedures set out at Schedule 2;
Co-Branding Guidelines	any guidelines for Co-branding agreed between the parties from time to time ;
Commencement Date	the date of this Agreement ;
Competitor	any Network Operator or Accredited Service Provider (other than the parties) who may from time to time be carrying on business as a Network Operator or a Accredited Service Provider in competition (or who intends to carry on business in competition) with Outsourcery or any Affiliate of Outsourcery in the Territory;
Confidential Information	all information which relates to the business affairs, products, product development, trade secrets, know how, personnel, customers and suppliers of either party and including the Data (which shall be treated as Confidential Information of Outsourcery), whether or not designated as Confidential Information by a party, together with all information derived from the foregoing which is by nature confidential or proprietary;

Control	Shall have the meaning attributed to it in Section 840 of the Income and Corporation Taxes Act 1988;
Customer Contract	any contract entered into with any Outsourcery Customer as a result of the activities of the Reseller pursuant to this Agreement or any Prior Reseller Arrangements
Customer Services	the range of managed customer services provided by the Reseller for the benefit of Outsourcery Customers and/or BtoB Subscribers in accordance with the Service Levels and this Agreement as a whole;
Customer Service Description	the description of the Customer Services to be provided by the Reseller hereunder for the benefit of Outsourcery Customers and/or BtoB Subscribers which is set out in the Service Levels described at Schedule 7;
Data	Data relating to Outsourcery Customers and/or BtoB Subscribers, including call data and billing information;
Data Controller	the Data Controller, Outsourcery Communication, Waterfold Park, Rochdale Road, Bury or as otherwise notified in writing by Outsourcery to the Reseller;
Data Security Policy	the security policy with regard to Data referred to at Clause 33.2 and paragraph 14 of Schedule 7
Data Ownership Principles	the data ownership principles set out at Schedule 3
Designated Network	shall be the VL Network, as detailed in Schedule 1
Designated Network Operator	shall be the entity (VL) providing the Wireless Services on the Designated Network
Direct Channel	the direct sales teams operated by Outsourcery and/or any Outsourcery Affiliate;
Disconnection	the disconnection of any Outsourcery Customer and/or B2B Subscriber from the Designated Network;
Escalation and Dispute Procedures	the escalation and dispute resolution procedures referred to at Clause 20 and described at Schedule 4
Force Majeure	is defined in Clause 22
Outsourcery Billing Platform	the Outsourcery administration billing system.
Outsourcery Customer(s)	the Business Customer(s) connected to the Designated Network and the Outsourcery Billing Platform pursuant to this Agreement or any Prior Reseller Arrangements.
Outsourcery Customer Contract	an agreement made by Outsourcery and any Business Customer for the supply of mobile telecommunication services and/or products.
Outsourcery Customer Data	the Data as defined above and as referred to in Schedule 3
Group Company	either a subsidiary or a holding company of any company, "subsidiary" and "holding company" bearing the meaning assigned to them in s.736 Companies Act 1985 (as amended)

GSM Gateway	devices containing one or more subscriber identity modules (SIMs) for one or more mobile networks, which enable calls from fixed telephones to mobile telephones to be routed directly into the relevant mobile network
Intellectual Property Rights	patent rights, registered and unregistered design rights, rights relating to semiconductor chip topography, copyrights including rights in computer software, extraction rights in relation to databases, rights relating to software, rights relating to registered and unregistered trade marks or service marks or logos, jingles, get-up, livery, trade names, domain names, applications or rights to apply for any of the foregoing, any similar rights to any of the foregoing anywhere in the world, and rights of confidentiality in information of any kind including the Confidential Information
Joint Sales and Marketing Plan	the plan referred to at Clause 12 and described at Schedule 6 and as the same may be amended or substituted from time to time by written agreement between the parties
Key Performance Indicators	the measurable standards by reference to which the Customer Services are to be performed by the Reseller the same being described in the Service Levels and otherwise as amended or substituted from time to time by agreement in writing by the parties
Network Operator	an entity operating under any authority to provide an electronic communications network under the Communications Act 2003 or any licence granted by the Secretary of State under the Wireless Telegraphy Act 1949 (as amended in 1998)
Management Fees	any handling, administration or other charge in addition to the BtoB Tariffs in respect of the sale or supply to the Reseller by Outsourcery of Wireless Services as set out in the Reseller Payment Plan and as the same may be replaced, amended or varied by Outsourcery from time to time
Minimum Sales Target	the minimum Business Customer Connections to be generated within the specified period as set out within Clause 4 of this agreement
Payment and Accounting Procedures	the procedures referred to at Clause 13 and as described at Schedule 5 and as the same may be amended or substituted from time to time by written agreement between the parties
Price List	the published price list for the use of the Wireless Services and ancillary services in relation thereto, as may be amended by Outsourcery from time to time
Prior Reseller Arrangements	any and all contracts, agreements, understandings and arrangements in force prior to the Commencement Date and between Outsourcery and the Reseller, in each case relating to the promotion and/or sale of any wireless services (whether as sales representative, agent, independent contractor, service provide or otherwise)
Quarter or Quarterly	the following calendar quarter periods – 1 January to 31 March; 1 April to 30 June; 1 July to 30 September; and 1 October to 31 December
Quarterly Review Meeting	the regular review meetings held between the parties each Quarter as described at Clause 21.
Reseller Billing Platform	the Reseller's administration billing system

Reseller Customer Contract	in respect of connections to the VL Network existing at the Commencement Date or new connections to the VL Network a contract upon the standard terms and conditions as attached at Schedule 1 between the parties referred to therein (as such standard terms and conditions may be amended or replaced by the VL Network or Outsourcery from time to time).
Reseller Employee	the employees of the Reseller together with any other persons engaged in the performance of the Customer Services
Reseller Payment Plan	the plan as published, amended or replaced from time to time by Outsourcery which describes the discounts and incentives arrangements which may be available to service providers generally
Respond	references to a party responding to a request or submission from the other party shall mean a written response (which may include e-mail; and which may follow as confirmation of an earlier non-written response so long as delivered within 2 Working Days of the initial response); and any process of responding will be reviewed as part of the Quarterly Review Meeting and adjusted as agreed
Security Document	any document creating or evidencing any financial security (including any guarantee) entered into by the Reseller in favour of Outsourcery, whether pursuant to Clause 2 and/or paragraph 1.7 of Schedule 5 or otherwise, which is intended to secure all or any monies due or to become due from the Reseller to Outsourcery including under or in respect of this Agreement.
Service Levels	the service levels in the form attached as Schedule 7 and as the same may be amended or substituted from time to time by written agreement between the parties
Service Relationship Arrangements	the arrangements for provision by the Reseller to BtoB Subscribers and/or Outsourcery Customers of the Customer Services and any other services to be provided (or envisaged to be provided) to such entities and individuals
Shared Customer Data	details of and information concerning the identity of Outsourcery Customers including individuals engaged by Outsourcery Customers and related contact details
SIM Card	subscriber identification module being a physical item of equipment which allows access to the Designated Network when used with customer equipment and relating to a Outsourcery Customer's and/or B2B Subscriber's mobile phone number.
Territory	England, Scotland, Wales, Northern Ireland and the Isles of Scilly, but excluding the Channel Islands and the Isle of Man
Transfer Regulations	the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended from time to time
VAT	value added tax or other similar tax, charge or levy
VL	Vodafone Limited (registered in England and Wales with company number 1471587) whose registered office is at The Courtyard, 2-4 London Road, Newbury, Berkshire
VL Network	the telecommunications networks VL uses to provide the Wireless Services to Business Customers and for which VL is the Network Operator
Wireless Revenue	all revenue generated in respect of the sale or supply to Outsourcery Customers of Wireless Services pursuant to Customer Contracts ; excluding any VAT, customer equipment charges, one off network infra structure charges or any termination charges stipulated in the Reseller Customer Contract
Wireless Services	any telecommunication service as may from time to time be provided by means of the Designated Networks

- Working Day any day (other than a Saturday or Sunday) on which banks are open for the conduct of normal banking business in the City of London
- 1.2 The expressions Reseller and Outsourcery include their respective successors and permitted assigns.
- 1.3 The headings in this Agreement are for convenience only and shall not affect its interpretation.
- 1.4 Unless the context otherwise requires, singular shall include the plural and vice versa.
- 1.5 References to Clauses, Schedules and Paragraphs shall be to Clauses, Schedules and Paragraphs in this Agreement.
- 1.6 The Schedules and Appendices form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the Schedules and Appendices.
- 1.7 In this Agreement unless otherwise specified, reference to a statute or statutory instrument or accounting standard or any of their provisions is to be construed as a reference to that statute or statutory instrument or accounting standard or such provision as the same may have been or may from time to time hereafter be amended or re-enacted.

PART A: ACQUISITION ARRANGEMENT

2 Condition and Term

- 2.1 It is a condition of this Agreement that the Reseller shall, if required to do so at Outsourcery' sole discretion, provide to Outsourcery such financial security as in the opinion of Outsourcery is appropriate as security against Reseller's non-compliance with or non-observance of any of the provisions hereof (including without limitation the failure to pay charges) in accordance with paragraph 1.6 of Schedule 5.
- 2.2 This Agreement will commence on the Commencement Date and will continue (subject to earlier termination in accordance with clause 15) for a period of twelve months or until this Agreement is terminated by a new agreement in writing between the parties hereto (whichever is the earlier).
- 2.3 Subject to Clause 31 this Agreement shall supersede and replace any and all Prior Reseller Arrangements. [***In addition, prior to entering into this Agreement the Reseller shall terminate any and all contracts, agreements, understandings and arrangements in force prior to the Commencement Date and between VF and the Reseller, in each case relating to the promotion and/or sale of any wireless services (whether as sales representative, agent, independent contractor, service provide or otherwise)***].

3 Appointment and Channel Conflict

- 3.1 For the Acquisition Arrangements Term Outsourcery hereby appoints the Reseller as a non exclusive sales representative to assist it in the promotion of the Wireless Services provided over the VL Network to Business Customers in the Territory and the Reseller accepts its appointment on such terms.
- 3.2 Outsourcery reserves the right (subject to the terms of this Agreement) to promote the sale of the Wireless Services itself through its Direct Channel or its Affiliates, to Business Customers in the Territory, whether or not such Business Customers have the benefit of existing sales or account relationships with the Reseller.
- 3.3 For the Acquisition Arrangements Term, Outsourcery shall not actively promote or solicit the transfer of Business Customers to its Direct Channel while such customers are within their minimum period of connection pursuant to a Reseller Customer Contract unless a Business Customer has expressed dissatisfaction with Customer Services and/or other services being supplied by the Reseller pursuant to this Agreement and specifically requests such a transfer to the Designated Network or to Outsourcery.
- 3.4 For the Acquisition Arrangements Term, the Reseller shall:
- (a) not promote or solicit the transfer of any Business Customer and/or B2B Subscriber to another Network Operator or Accredited Service Provider (other than Outsourcery) while such subscriber is within its

minimum connection period pursuant to a Reseller Customer Contract (including for the avoidance of doubt any amended, varied or modified Airtime Customer Contract) unless such customer specifically requests such transfer;

- (b) avoid channel conflict, with the Direct Channel and with Outsourcery's sales agents, dealers, distributors so as to discourage the transfer of Direct Channel subscribers to the Reseller while such subscribers are within their minimum period of connection pursuant to a Outsourcery Customer Contract and vice versa.

4 Reseller Sales Obligations

4.1 During the Acquisitions Arrangements Term the Reseller shall:

- (a) act at all times in its relations with Outsourcery, Outsourcery Customers, B2B Subscribers, the Designated Network Operator and Business Customers in good faith;
- (b) act in accordance with sound commercial principles in its relations with Business Customers and to do nothing which Outsourcery or the Designated Network Operator may reasonably consider may be prejudicial to its goodwill or commercial interests;
- (c) comply with all reasonable and lawful instructions of Outsourcery from time to time concerning the sale of the Wireless Services over the VL Network in the Territory to Business Customers;
- (d) promote the sale of the Wireless Services over the VL Network only to Business Customers and only in the Territory with due care and diligence and so as to seek to improve the goodwill of Business Customers to Outsourcery and the VL Network in the Territory;
- (e) bring to the attention of Business Customers the Reseller Customer Contract and its standard terms and ensure that each Outsourcery Customer (including existing and new Business Customers) enters into and remains party to the Reseller Customer Contract during the Acquisition Arrangements Term;
- (f) not without Outsourcery's prior written consent make or give any representations, warranties or other promises concerning the Wireless Services provided by the VL Network beyond those contained in the Reseller Customer Contract or the BtoB Tariffs;
- (g) not procure Business Customers to become customers or users of the VLNetwork for any improper, immoral or unlawful purpose;
- (h) so far as the Reseller might reasonably be aware not directly or indirectly be involved or knowingly recklessly or negligently permit any other person to be involved in any fraud and the Reseller shall promptly upon becoming aware of any such fraud notify Outsourcery and comply with such procedures and rules adopted by or binding on Outsourcery from time to time concerning fraud;
- (i) not agree to provide or procure the provision of the Wireless Services to Business Customers other than pursuant to a Reseller Customer Contract or knowingly connect any customer to the VL Network pursuant to this Agreement who is not a Business Customer;
- (j) except as authorised by Outsourcery not to act in any way which will incur any liabilities on behalf of, nor to pledge the credit of, Outsourcery or the Designated Network Operator;
- (k) adhere to any reasonable procedures issued by Outsourcery from time to time in relation to the Blacklisting of reported stolen SIM Cards or customer equipment and maintenance of records of Blacklisted SIM Cards or customer equipment;
- (l) so far as the same are applicable to the Reseller in its capacity under this Agreement comply with the rules of the "Mobile Communications Crime Prevention Scheme", or any successor scheme established by the Federation of Communication Services Limited, or any successor body as notified by Outsourcery from time to time.

- (m) account and pay to Outsourcery in accordance with the Payment and Accounting Procedures all sums billed to the Reseller by Outsourcery in respect of the Wireless Services to the Outsourcery Customers and any other payments due from the Reseller to Outsourcery pursuant to the terms of this Agreement.
- (n) refrain from action that is likely to bring Outsourcery or the Designated Network Operator into disrepute with regard to the collection of monies from the Outsourcery Customers. The Reseller will ensure that any debt collection or credit risk contractor engaged by it will not engage in harassment, intimidation or threats against Outsourcery Customers and will comply with Office of Fair Trading and Credit Risk Association guidelines.
- (o) send a completed original of each Reseller Customer Contract to Outsourcery via post within 7 Working Days following signature of the said Reseller Customer Contract by the Business Customer. Contracts must be sent to Choice c/o Outsourcery Limited, Waterfold Park, Rochdale Road, Bury BL9 7BJ.
- (p) refer all matters of a contentious nature (including any claims or letters threatening claims howsoever in relation to this Agreement) to Outsourcery immediately, in order that the litigation process of the Designated Network Operator may be adhered to.
- (q) not use (or encourage, request or permit any third party to use) Wireless Services, or any other services provided pursuant to this Agreement, for the purpose of installing or using, or otherwise in connection with, a GSM Gateway and/or Artificially Inflated Traffic ("AIT").
- (r) not in any way and/or for any reason whatsoever make any amendments to the standard terms and conditions of any Reseller Customer Contracts
- (s) no Vodafone ex-employees can form part of the Resellers management team
- (t) the Reseller shall not during the Term resell Wireless Services for another Network Operator or Accredited Service Provider (or provider of similar Wireless Services) other than Outsourcery.
- (u) achieve the Minimum Sales Target of 100 Business Customer Connections per month

5 Outsourcery' Obligations

- 5.1 During the Acquisitions Arrangements Term Outsourcery shall act at all times in its relations with the Reseller in good faith;
- 5.2 Outsourcery undertakes to be responsible for
 - (a) the procurement of Wireless Services from the VL Network ;
 - (b) the maintenance of existing Wireless Services from the VL Network Operator;
 - (c) the provision of a prompt response to reported faults with respect to Wireless Services.
- 5.3 Outsourcery further undertakes to supply the Reseller on a monthly basis with all requisite network data to ensure that such information is up to date, accurate and complete so as to enable the Reseller to bill Outsourcery Customers for their use of Wireless Services.
- 5.4 Outsourcery agrees that details of customers connected via the Reseller are, to the extent Outsourcery holds such details, to be held confidentially by Outsourcery and access to this data will not be given to the Direct Channels or any other sales channel within the Outsourcery business.

6 Acquisition Rewards

- 6.1 As from the Commencement Date and for the Acquisition Arrangements Term Outsourcery shall reward the Reseller for the fulfilment of its obligations pursuant to the Acquisition Arrangements in accordance with the

Acquisition Rewards. The parties shall pay and account to each other in respect of the Acquisition Rewards in accordance with the Payment and Accounting Procedures.

- 6.2 If any dispute arises as to the calculation of any payments to be made under the terms of the Acquisition Rewards then such dispute shall be resolved in accordance with the Escalation and Dispute Procedures.

PART B: PRICING AND TARIFF MANAGEMENT

7 Pricing and Tariff Management

7.1 For the Acquisition Arrangements and the Acquisition Arrangements Term, the parties agree as follows:

- (a) Management of BtoB Tariffs is the responsibility of Outsourcery;
- (b) Outsourcery will connect Outsourcery Customers and/or B2B Subscribers onto the Outsourcery Billing Platform on and against the appropriate BtoB Tariff;
- (c) Outsourcery will from time to time review (inter alia) the BtoB Tariffs and/or the Reseller Payment Plan and identify any changes required to respond to market circumstances or at Outsourcery's absolute discretion to reflect changes to tariffs and/or fees and/or rewards introduced by the Designated Network Operator.

7.2 Outsourcery will provide the Reseller with reasonable notice of any changes or additions to BtoB Tariffs and/or the Reseller Payment Plan and will permit the Reseller to promote such new or amended BtoB Tariffs and/or Reseller Payment Plan provisions immediately on any change or addition taking effect;

7.3 In relation to selling Wireless Services and/or other services over the VL Network, the Reseller will not conduct Above the Line marketing and sales promotions of discounted VL Network BtoB Tariffs.

7.4 Except as expressly provided in this Agreement the Reseller shall not be entitled to any payment (including without limitation reimbursement of any costs or expense) in relation to the performance of this Agreement

8 Customer Service

8.1 The Reseller agrees and undertakes that it will on and with effect from the Commencement Date and thereafter during the Term:

- (a) provide the Customer Services fully in accordance with this Agreement;
- (b) not be involved in or knowingly, recklessly or negligently permit or negligently allow any other party to be involved in any fraudulent or other unauthorised use or attempted use of SIM Cards by corrupt or dishonest or illegal means at any time and by any person and will notify Outsourcery immediately on becoming aware of or suspecting such activity;
- (c) not knowingly, recklessly or negligently permit or allow any lost or stolen SIM Cards to be connected to the Designated Network and will adhere to any procedures issued by Outsourcery from time to time in relation to lost or stolen SIM Cards and claims in respect thereof.

8.2 Sums billed to Outsourcery Customers by the Reseller shall be collected by the Reseller on behalf of Outsourcery and shall be accounted and paid to Outsourcery in accordance with the Payment and Accounting Procedures.

8.3 The Reseller undertakes to provide the Customer Services:

- (a) in accordance with the Customer Service Description and the Service Levels; and
- (b) to the standards described in the Key Performance Indicators.

- 8.4 The parties acknowledge that the terms of the Service Levels are intended to be flexible to accommodate on-going change and operational development of the provision of the Customer Services and reasonable revisions to the same may be agreed from time to time to reflect such change and development.
- 8.5 The Reseller undertakes that each bill sent to a Outsourcery Customer shall contain such information as Outsourcery may from time to time require in order to afford the Customer complete transparency including but not limited to call rounding provisions, minimum charges, methodology of calculation, and mechanics of the Outsourcery and/or Reseller Billing Platforms

9 Customer Equipment and Connection

- 9.1 The Reseller may obtain handsets and other customer equipment for supply to Outsourcery Customers either through the Reseller's own distribution channels and commercial arrangements; or from Outsourcery. In relation to each Reseller Customer Contract entered into by Outsourcery pursuant to this Agreement or any Prior Reseller Arrangements the Reseller shall assume, the obligations of Outsourcery and/or the Network Operator for the supply of any Equipment (as defined in the relevant Reseller Customer Contract) to the Outsourcery Customer(s) and the replacement of faulty Equipment (as defined in the Relevant Customer Contract) and warranty claims in relation thereto, in each case in accordance with the relevant Reseller Customer Contract. In the event that the Reseller purchases from sources other than Outsourcery, then Outsourcery accepts no liability for replacement of faulty equipment or warranty claims in relation thereto.
- 9.2 The Reseller must carry out its own stringent vetting of its suppliers other than Outsourcery so as to ensure that such suppliers are bona fide companies duly accounting as and when required to HM Revenue and Customs in respect of the VAT on the supply of all handsets and other customer equipment supplied to Outsourcery Customers and the Reseller undertakes to indemnify Outsourcery against any HM Revenue and Customs claims for VAT on all handsets and other customer equipment supplied to Outsourcery Customers by suppliers other than Outsourcery.
- 9.3 In the event that the Reseller obtains handsets or other customer equipment from Outsourcery the Reseller agrees to make payment for such equipment within 14 days of the date of the Outsourcery invoice and the Reseller agrees that it shall have no right whatsoever to set-off or deduct monies due to Outsourcery in relation to any such invoice rendered to the Reseller by Outsourcery for the supply of such equipment.
- 9.4 The Reseller will acquire SIM Cards that are to be supplied to Outsourcery Customers solely from Outsourcery. Based upon the Reseller's average connections over the preceding quarter, Outsourcery will provide up to a maximum of three months' supply of SIM Cards following receipt of an order from the Reseller for such supply and shall reserve the right to invoice the Reseller at the price as set out in the Reseller Payment Plan for each and every SIM Card as and when connected and any such invoice will be payable by the Reseller to Outsourcery in accordance with Clause 9.3
- 9.5 The Reseller shall ensure that SIM Cards supplied by Outsourcery under this Agreement are properly allocated and supplied to Outsourcery Customers. The Reseller will be responsible for rectifying any SIM Card supply errors at the Reseller's sole expense.
- 9.6 All SIM Cards supplied by Outsourcery or any Network Operator shall remain the property of the Network Operator.
- 9.7 Title to all Equipment (as defined in each Reseller Customer Contract) shall except to the extent that title thereto is or becomes vested in any Outsourcery Customer become the property of Outsourcery upon termination of this Agreement for any reason. The Reseller shall do such acts and execute such documents as may be necessary to vest title in the Equipment in Outsourcery in accordance with this clause.

10 Claims

- 10.1 The Reseller shall indemnify Outsourcery against any claims or legal proceedings brought by a third party including a Outsourcery Customer and/or B2B Subscriber because the Reseller has exceeded its authority to act on behalf of Outsourcery or has failed to comply with Clause 4.1(i) or any of its other obligations under this Agreement.

- 10.2 The Reseller shall give such assistance as Outsourcery may reasonably require for the purpose of resolving faults or failures in respect of the Wireless Services or in recalling as a matter of urgency from use by Outsourcery Customers and/or B2B Subscribers the Wireless Services or any of them.
- 10.3 The Reseller shall when it becomes aware of a matter which may result in a claim in respect of the supply of a Wireless Service (whether against the Reseller or against Outsourcery or against the Designated Network Operator):
- (a) Give immediate notice to Outsourcery (or at Outsourcery's request to the Designated Network Operator) of the details of the claim;
 - (b) afford reasonable access to Outsourcery (or at Outsourcery's request to the Designated Network Operator) and permit copies to be taken of any materials, records or documents as Outsourcery and/or the Designated Network Operator may reasonably require;
 - (c) allow Outsourcery or the Designated Network Operator the exclusive conduct of any proceedings or part of the proceedings which constitute a claim against Outsourcery or the Designated Network Operator (as appropriate) and/or take whatever action as Outsourcery or the Designated Network Operator (as appropriate) shall reasonably direct to defend or resist the matter; and
 - (d) not admit liability or settle the matter without the prior written consent of Outsourcery and the Designated Network Operator.

11 Data and Security

- 11.1 The Reseller agrees that Outsourcery will own the Data and shall be entitled to make use of Data in accordance with the Data Ownership Principles. The Reseller shall comply with the Data Ownership Principles. Data and other Confidential Information shall be maintained by the Reseller in the strictest confidence.
- 11.2 The Reseller warrants that any Data held by it shall be accessed only by authorised employees of the Reseller via a security password and in compliance with the Data Security Policy.
- 11.3 The Reseller shall comply with Outsourcery's directions from time to time regarding the use, security and storage of Data.
- 11.4 To the extent that ownership of any Data or any database containing Data vests in the Reseller, the Reseller hereby assigns to Outsourcery all its rights, title and interest in and to such Data and databases and all Intellectual Property Rights relating thereto (free from any encumbrances and third party rights). This clause 11.4 shall operate as a present and future assignment of Intellectual Property Rights and the Reseller shall do all such things and execute all such documents as Outsourcery may require in order to give effect to any assignment under this clause.
- 11.5 Outsourcery hereby grants to the Reseller a non-exclusive licence during the term of this Agreement (subject to clause 11.8) to use the Data solely for the purposes of this Agreement.
- 11.6 Except as expressly permitted under in this Agreement the Reseller is not allowed to disclose the Data to any third party or use the Data.
- 11.7 Notwithstanding any provision to the contrary, Outsourcery shall be entitled both during and after this Agreement to use and disclose and authorise others to use and disclose Data as Outsourcery in its absolute discretion thinks fit.
- 11.8 Without prejudice to the other provisions in this clause 11, the Reseller shall not, during the term of this Agreement or for a period of six months thereafter, use any Shared Customer Data for the purposes of actively promoting or soliciting the sale of its own or other Network Operator's or any third party's wireless services.

12 Joint Sales and Marketing Plan and Co Branding

- 12.1 The parties agree to undertake all marketing and sales activities with respect to the Acquisition Arrangements and Service Relationship Arrangements in accordance with the Joint Sales and Marketing Plan.
- 12.2 Outsourcery will provide the Reseller with thirty (30) days advance written notice of any changes which it makes to the Outsourcery Customer Contract.
- 12.3 The parties agree to undertake all marketing and sales activities with respect to the Acquisition Arrangements and Service Relationship Arrangements in accordance with the Co Branding Guidelines.
- 12.4 The Reseller undertakes that it will not use any trade names, trademarks or service marks of the Designated Network Operator other than those whose use by the Reseller is expressly authorised by Outsourcery and further that it will:
- (a) not use such names or marks in any way which allow them to lose their distinctiveness, be liable to mislead the public, or be materially detrimental to or inconsistent with the goodwill, reputation or image of the Designated Network Operator or any affiliate or group company thereof;
 - (b) cease to use such names or marks immediately upon termination of this Agreement (howsoever caused); and
 - (c) only use such names and marks for the specific purpose of complying with its obligations pursuant to this Agreement.
- 12.5 The Reseller agrees and acknowledges that its use of any trade names, trade marks or service marks of either Outsourcery or the Designated Network Operator shall not create for itself any rights or goodwill in or to any of the same, and in the event that any such rights or goodwill are created then the Reseller shall promptly on request assign such rights and goodwill to the Reseller or the Designated Network Operator (as appropriate).

PART C: PAYMENT AND ACCOUNTING PROCEDURES

13 Payment and Accounting Procedures

- 13.1 In relation to each Customer Contract the parties shall pay and account to each other in respect of Wireless Revenue and Acquisition Rewards in accordance with the Payment and Accounting Procedures.

PART D: SUSPENSION OF SERVICE AND TERMINATION ARRANGEMENTS

14 Suspension of Service

- 14.1 Outsourcery may suspend the provision of the Wireless Services or any part thereof if:
- (a) the Reseller fails to meet any of its obligations under this Agreement including, but not limited to, failure to make payment pursuant to Schedule 5;
 - (b) the Outsourcery Customer fails to meet any of its obligations under the Reseller Customer Contract;
 - (c) in the opinion of Outsourcery the Reseller's or Outsourcery Customer's conduct may result in the breach of any law or is otherwise prejudicial to the interests of Outsourcery; or
 - (d) this is required by Outsourcery in order for Outsourcery to comply with any order, instruction or request of a competent governmental, regulatory or other authority or the Designated Network Operator.
- 14.2 Outsourcery will, where practical, give the Reseller notice of intention to suspend any Wireless Service and, in relation to suspension for the reasons stated in Clauses 14.1(d) above, will restore the Service as soon as Outsourcery are reasonably able to do so.

- 14.3 If Outsourcery exercise their right to suspend any Wireless Services this will not restrict their right to terminate this Agreement.
- 14.4 The Reseller and/or Outsourcery Customer and/or B2B Subscriber will indemnify and hold Outsourcery harmless against any claim or demand of whatsoever nature and howsoever arising as a result of suspension pursuant to this Clause.
- 15 Termination**
- 15.1 Either party may terminate this Agreement at any time upon giving 90 days written notice to the other party.
- 15.2 Either party may terminate this Agreement at any time forthwith upon giving written notice to the other party if:
- (a) the other party commits a material breach of any of its obligations or undertakings under this Agreement and, where such breach is capable of remedy, the other party fails to remedy such breach within twenty (20) Working Days after the date on which the first party served written notice on the other party in relation to such breach;
 - (b) the other party ceases or threatens to cease to carry on business or is or becomes unable to pay its debts;
 - (c) any meeting of creditors of the other party is held or any arrangement or composition with or for the benefit of its creditors (including any voluntary arrangement under the Insolvency Act 1986) is proposed or entered into by or in relation to the other party;
 - (d) a supervisor, receiver, administrator, administrative receiver or other encumbrance takes possession of or is appointed over or any distress, execution or other process is levied or enforced (and is not discharged within seven (7) Working Days) upon the whole or a substantial part of the assets of the other party;
 - (e) a petition is presented or a meeting is convened for the purpose of considering a resolution for the making of an administration order in respect of, or for the winding-up or dissolution of, the other party; or
 - (f) the other party has been prevented by an event of Force Majeure from materially performing its obligations under this Agreement for a continuous period of more than forty (40) Working Days.
- 15.3 Outsourcery shall be entitled to terminate this Agreement with immediate effect by giving notice of such termination if :
- (a) there is a change of Control of the Reseller without the prior written consent of Outsourcery which consent shall not be unreasonably withheld; or
 - (b) any agreement between Outsourcery and the Designated Network Operator is terminated (for any reason), or varied in a manner that means Outsourcery can no longer comply with any provision of this Agreement;
 - (c) the Reseller commits an irremediable breach of this Agreement; or
 - (d) the Reseller commits a material breach of any of its obligations or undertakings under this Agreement .For the purposes of the foregoing, the Reseller shall be deemed to be in material breach of this Agreement if the Reseller fails to perform Customer Services to the Service Levels and Key Performance Indicators described in Appendix 1 to Schedule 7 within the periods described therein or persistent failure to perform the Customer Services to the requisite standard as set out in Appendix 1 to Schedule 7 in each case which has not been rectified by implementation of a remedial plan or otherwise remedied within 60 days of the parties first meeting to agree a remedial plan and the Reseller fails to remedy such breach (or to restore the performance standards) within twenty (20) Working Days after the date on which Outsourcery served written notice on the Reseller in relation to such breach;

15.4 Each right of termination contained in Clauses 15.1, 15.2 and 15.3 is a separate and independent right the exercise of which shall not affect or prejudice any other right or remedy which the party exercising such right may have under this Agreement or at law.

16 Effects of Termination

16.1 Termination of this Agreement by either party pursuant to Clauses 15.1, 15.2 or 15.3 shall automatically terminate the Acquisition Arrangements but shall be without prejudice to any claims or remedies that either party may have against the other accrued up to the date of termination.

16.2 The provisions of Clauses 6.2, 9.2, 9.7, 10, 11.1, 11.2, 11.4, 11.6, 11.7, 11.8, 12, 16, 17, 18, 19, 22,23, 24 to 29, 31 to 35 and paragraph 3 of Schedule 5 shall survive and remain in full force and effect notwithstanding any such termination. Termination of this Agreement shall not affect the continuing rights and obligations under any Clauses which are expressed to survive termination.

16.3 The parties shall continue to use and protect the Outsourcery Customer Data and Shared Customer Data in accordance with the Data Ownership Principles.

16.4 Following service by Outsourcery of notice of termination of this Agreement pursuant to clauses 15.1, 15.2 or 15.3 the Reseller shall immediately upon demand by Outsourcery provide Outsourcery, or the Designated Network Operator if so requested, with all such assistance and access as Outsourcery may reasonably require in order to permit Outsourcery to facilitate a smooth and orderly hand over of responsibility for the provision of Customer Services (including billing) to Outsourcery or such third parties as Outsourcery in its sole discretion shall select (hereinafer referred to as the "Handover"). The Reseller shall ensure that Handover is completed within such period as Outsourcery may specify being a period of no more than 2 months after the date of termination of this Agreement (hereinafer referred to as the "Continuation Period").

16.5 Following termination of this Agreement for any reason the parties shall continue to pay and account to each other in respect of Wireless Revenue in accordance with the Payment and Accounting Procedures in respect of the period prior to the end of the Continuation Period. Following the date of handover of responsibility for billing in respect of any Customer Contract to Outsourcery or its selected third party or the date which is two months after the date of termination of this Agreement, whichever is the earlier (hereinafer referred to as the "Customer Billing Transfer Date") the Reseller shall not be entitled to any Acquisition Rewards or other payment in respect of the relevant Customer Contract. All Wireless Revenue in respect of any Customer Contract relating to the period after the Customer Billing Transfer Date shall as between Outsourcery and the Reseller accrue entirely to Outsourcery.

16.6 During the term of this Agreement and for 12 months after the end of the Continuation Period, the Reseller shall continue to hold and shall continue to allow Outsourcery access to information held by the Reseller as Outsourcery may reasonably require to facilitate invoicing and debt recovery with respect to Outsourcery Customers.

16.7 Following termination of this Agreement each party shall at the end of the Continuation Period return to each other any property in its possession or control owned by and belonging to the other party (including all media containing the Outsourcery Customer Data, or Confidential Information of the other party).

16.8 Following termination of this Agreement the Reseller shall upon Outsourcery's request forthwith supply to Outsourcery such data relating to each Reseller Customer Contract and/or the provision or use of any Wireless Services and/or Customer Services in its possession or control as Outsourcery may require and in such format as Outsourcery may reasonably stipulate.

PART E: MISCELLANEOUS

17 Indemnities and Non-Performance

- 17.1 The Reseller shall indemnify in full, keep indemnified and hold harmless Outsourcery from and against all losses, damages, demands, liabilities and associated costs and expenses which may be suffered, paid or incurred by Outsourcery as a consequence of:
- (a) any material breach by the Reseller of any of its obligations under this Agreement;
 - (b) any act or omission of any Outsourcery Customer and/or B2B Subscriber; and
 - (c) any failure by the Reseller to comply with its obligations (in full or in part) pursuant to clause 16.4 above.
- 17.2 For the avoidance of doubt, the provisions of clause 18 shall not be effective to in any way restrict or limit the liability of the Reseller under any indemnity in this clause 17.
- 17.3 Neither party shall be responsible for any failure to perform its obligations under this Agreement to the extent caused or otherwise directly attributable to non-performance by the other party of that party's obligations under this Agreement.

18 Limitations on Liabilities

- 18.1 Subject to clause 17, neither party shall be liable to the other party under this Agreement for any indirect or consequential loss or damage, or for any loss of profits, revenue or goodwill suffered by the other party whether such loss is caused by that party's breach of its contractual obligations or by any tortious act or omission (including negligence) or in any other way; provided that nothing contained in this clause shall limit liability in relation to the payment of the Wireless Revenue to Outsourcery.
- 18.2 Notwithstanding Clause 18.1 neither party excludes or limits liability for death or personal injury to persons resulting from its negligence, or any liability resulting from fraud by that party.
- 18.3 Without prejudice to the provisions of Clause 18.1 the quantum of any claim or claims which the Reseller may have against Outsourcery (whether pursuant to the terms of this Agreement at common law or in tort; and whether caused by negligence or otherwise; and specifically including any indemnities provided by Outsourcery under this Agreement) shall in aggregate be limited to a maximum aggregate amount equal to the average monthly invoice paid (pursuant to this Agreement) to Outsourcery by the Reseller in the six (6) months immediately preceding the event giving rise to the claim.
- 18.4 Outsourcery shall not be liable to the Reseller for any breach of its obligations under this Agreement to the extent that any such breach is caused by a breach of the Reseller's obligations under this Agreement.
- 18.5 To the maximum extent permissible in law all conditions and warranties which are implied by statute or otherwise by general law into this Agreement are hereby excluded.

19 Transfer of Employees

- 19.1 For the purpose of this Clause 19 the terms "contract of employment", "collective agreement" and "trade union" shall have the same meanings respectively as in the Transfer Regulations and "New Provider" shall mean VL or any alternative provider of Network Services or Customer Services, including Outsourcery.
- 19.2 The parties accept that on the variation or termination of this Agreement and/or the transfer of Customer Services with respect to Outsourcery Customers and/or B2B Subscribers (in whole or part) to the New Provider (a "**Transfer Event**") the Transfer Regulations may apply in which event the provisions of this clause 19 shall apply in connection therewith.
- 19.3 Notwithstanding the provisions of the Transfer Regulations, the parties intend that none of the Reseller Employees will transfer to the New Provider.
- 19.4 The Reseller shall indemnify Outsourcery and keep it indemnified against any costs, losses, liabilities or demands which Outsourcery incurs itself or as a result of having indemnified and having kept the New Provider indemnified

against any Losses which the New Provider or Outsourcery reasonably incurs as a result of conducting, defending or settling any claim by any Reseller Employee or former Reseller Employee that any contract of employment or collective agreement has effect as if originally made with the New Provider or Outsourcery pursuant to the provisions of the Transfer Regulations or otherwise.

19.5 If any contract of employment or collective agreement shall on a Transfer Event have effect as if originally made between the New Provider or Outsourcery and any Reseller Employee ("**Transferring Employee**") or a trade union as a result of the provisions of the Transfer Regulations (without prejudice to any other rights or remedies which may be available to the New Provider):

- (a) Outsourcery shall procure that it or the New Provider may, subject to it complying with its obligations under Clause 19.5(b) and 19.5(c) below, upon becoming aware of the application of the Transfer Regulations to any such contract of employment or collective agreement, terminate such contract or agreement immediately;
- (b) Outsourcery shall procure that it or the New Provider shall inform the Reseller of any termination of employment it proposes to make under Clause 19.5(a) as soon as reasonably practicable and in any event prior to the termination;
- (c) Outsourcery shall procure that the New Provider shall, in good faith, seek to minimise the Losses arising from any such dismissal; and
- (d) The Reseller shall indemnify Outsourcery and keep Outsourcery indemnified against any Losses which Outsourcery incurs itself or as a result of having indemnified and having kept the New Provider indemnified relating to or arising out of such termination and reimburse Outsourcery or the New Provider for all costs and expenses (including, without limitation, any taxation) incurred in employing such employee in respect of his employment

19.6 The Reseller shall indemnify Outsourcery and keep Outsourcery indemnified against any Losses which Outsourcery incurs itself or as a result of having indemnified and having kept the New Provider indemnified against any Losses which relate to or arise out of any act or omission by the Reseller (including, but not limited to, any failure to inform and consult with appropriate representatives) or any other event or occurrence which the New Provider or Outsourcery may incur in relation to any contract of employment or collective agreement concerning one or more of the Transferring Employees having effect as if originally made with the New Provider or Outsourcery pursuant to the provisions of the Transfer Regulations or otherwise, and/or in relation to any contract of employment or collective agreement concerning any other Reseller Employee being alleged or being deemed as having effect as if originally made with the New Provider or Outsourcery pursuant to the provisions of the Transfer Regulations or otherwise, including, without limitation, any such matter relating to or arising out of:

- (a) The Reseller's rights, powers, duties and/or liabilities (including, without limitation, any taxation) under or in connection with any such contract of employment or collective agreement, which rights, powers, duties and/or liabilities (as the case may be) are or will be transferred to the New Provider or Outsourcery in accordance with the Transfer Regulations; or
- (b) anything done or omitted to be done in connection with the termination of the Service Relationship Arrangements and transfer of Customer Services in respect of the Outsourcery Customers and/or B2B Subscribers to the New Provider or Outsourcery by or in relation to the Reseller in respect of any such contract of employment or collective agreement of any Transferring Employee which is deemed by the Transfer Regulations to have been done or omitted by or in relation to the New Provider or Outsourcery.

19.7 The indemnities in clauses 19.5 and 19.6 shall not have effect in relation to:

- (a) any Reseller Employees to whom the New Provider or Outsourcery makes an offer of employment or offers to engage, whether as an employee, consultant or otherwise, and who accepts such offer of employment or engagement; and
- (b) any Reseller Employees whose contracts of employment, contrary to the parties' intention, have effect as if originally made with the New Provider or Outsourcery pursuant to the provisions of the Transfer Regulations or otherwise, whose employment the New Provider or Outsourcery does not terminate, or

give notice to terminate, within one (1) month of having become aware of their transfer to the New Provider or Outsourcery.

20 Escalation and Dispute Procedures

The parties shall use all reasonable endeavours to resolve any dispute, including by application of the Escalation and Disputes Procedures.

21 Quarterly Review Meetings

21.1 The parties shall each appoint a representative in respect of this Agreement. Such representatives may be appointed or removed from time to time by the appointing party by notice in writing to the other party.

21.2 The identity of the parties' nominees shall be as follows:

- (a) For Outsourcery Head of Channel Services
- (b) For the Reseller Signatory of this Agreement, successor or permitted assign.

21.3 In relation to the implementation and operation of this Agreement, the parties shall procure that the representatives will meet no less than once each Quarter to:

- (a) measure, track and evaluate each party's performance of its obligations in respect of this Agreement; and
- (b) particularly in the first three (3) months of operation of this Agreement to consider changes to this Agreement, which are appropriate in the light of experience.

21.4 The parties will also use the Quarterly Review Meetings to consider the extension of this Agreement, and the application of the terms and processes set out in this Agreement, to any relevant new products or services for Business Customers.

22 Force Majeure

22.1 Without prejudice to the provisions of Clause 18, neither party to this Agreement shall be deemed to be in breach of this Agreement or otherwise liable to the other party in any manner whatsoever for any failure or delay in performing its obligations under this Agreement due to Force Majeure.

22.2 If a party's performance of its obligations under this Agreement is affected by Force Majeure, then:-

- (a) it shall give written notice to the other party, specifying the nature or extent of the Force Majeure as soon as possible on becoming aware of the Force Majeure and will at all times use all reasonable endeavours to mitigate the severity of the Force Majeure and its effects;
- (b) the date for performance of such obligation shall be deemed suspended only for a period equal to the delay caused by such event;
- (c) it shall not be entitled to payment from the other party in respect of extra costs and expenses incurred by virtue of the Force Majeure event.

22.3 For the purposes of this Clause 22 "Force Majeure" means, in relation to either party, circumstances beyond the reasonable control of that party including, without limitation, acts of God, acts of any governmental or supra-national authority, war or national emergency, riots, civil commotion, fire, explosion, flood, epidemic, lock-outs (whether or not by that party), strikes and other industrial disputes (in each case, whether or not relating to that party's workforce), restraints or delays affecting carriers, inability or delay in obtaining suppliers or adequate or suitable materials and lawful refusal by the Designated Network Operator to supply the Wireless Services to Outsourcery to in turn supply to the Business Customers and/or B2B Subscribers.

23 Sub Contracting and Assignment

- 23.1 The Reseller shall not sub-contract, delegate, transfer or assign the performance of any or all of its obligations under this Agreement with respect to Acquisition Arrangements to any person other than a sound and reputable sub-contractor who is in the opinion of Outsourcery capable of providing such of the services as are to be sub-contracted and/or delegated in a proper and efficient manner and who is not a Competitor.
- 23.2 Outsourcery shall be entitled to assign the benefit of and/or its obligations under this Agreement to any Affiliate of Outsourcery which (in the case of an assignment of Outsourcery's obligations hereunder) undertakes with the Reseller to perform such obligations in lieu of Outsourcery.
- 23.3 The Reseller shall not be entitled to assign the benefit of and/or its obligations under this Agreement without the prior written consent of Outsourcery.

24 VAT

- 24.1 VAT or any other similar tax which shall replace or be introduced in addition to VAT shall where applicable be applied to all sums of money expressed to be payable under this Agreement and all such sums of money are expressed in this Agreement are exclusive of VAT or any such other tax.
- 24.2 Where under this Agreement the Reseller makes any supply to Outsourcery for VAT purposes and VAT is properly chargeable on such supply, then:
- (a) The Reseller shall issue to Outsourcery a valid VAT invoice in respect of such supply, complete in all respects and stating inter-alia the VAT properly chargeable thereon; and
 - (b) Outsourcery shall pay to the Reseller, against receipt of such VAT invoice, a sum equal to the VAT so chargeable (the "VAT Amount").

Provided Always That;

Where Outsourcery has paid any VAT Amount to the Reseller pursuant to the provisions of this clause, or has otherwise made any payment to the Reseller in respect of VAT, and it subsequently transpires that the VAT in respect of which any such payment was made was not properly chargeable, the Reseller shall refund to Outsourcery forthwith, an amount equal to the sum paid by Outsourcery in respect of such VAT, along with any interest accrued thereon and other sums necessary to ensure that Outsourcery is in the same position after the refund as it would be had it not made any payment to the Reseller in respect of the VAT wrongly charged.

25 Confidentiality

- 25.1 Without prejudice to the Data Ownership Principles and subject to Clauses 11.7, 25.2 and 25.3 each party hereto agrees that it will not either by itself or by its officers, employees, sub-contractors or agents (except as expressly authorised by the other party in writing) at any time disclose to any third party (other than an Affiliate and provided that such Affiliate is bound by the terms of this Clause 25) or use for any purpose other than in accordance with this Agreement any Confidential Information of other party obtained by it and that it will keep confidential all such Confidential Information.
- 25.2 Clause 25.1 shall not have effect if and to the extent that the Confidential Information:
- (a) has been published or has otherwise come into the public domain, other than by a breach of confidentiality by the receiving party;

- (b) was known to the receiving party prior to the parties first contact with each other when negotiating the terms of this Agreement without any restriction of confidentiality as evidenced by that party's written records and was not acquired prior to that date directly or indirectly from the disclosing party or its predecessor in title to such information;
- (c) has been lawfully acquired by the receiving party without any restriction of confidentiality from a source other than the disclosing party, its predecessor in title, or a source who was directly or indirectly bound by an agreement with the disclosing party or its predecessor in title to maintain the confidentiality of such information;
- (d) is required to be disclosed in order to enable the receiving party to perform its obligations under this Agreement (provided that the recipient is bound by confidentiality obligations equivalent to this Clause 25);
- (e) is required to be disclosed by an order of any court of competent jurisdiction, provided that each party shall forthwith notify the other upon becoming aware of such an order being applied for against it;
- (f) is required to be disclosed pursuant to any law or regulation from time to time in force in England and Wales or to or on the request of any competent regulatory authority; or
- (g) is appropriately disclosed to its professional advisers and auditors provided that such professional advisers and auditors agree to be bound by the terms of this Clause 25.

25.3 Each party shall restrict disclosure of Confidential Information to the minimum number of its employees of suitable standing and training required to enable it to carry out its obligations under this Agreement.

25.4 Neither party shall issue or allow its employees or agents to issue any press release advertisement, announcement or circular regarding the subject matter of this Agreement, or ancillary matter without the prior written consent of the other party (not to be unreasonably delayed or withheld).

25.5 Each party shall ensure that its officers, employees, subcontractors and agents to whom Confidential Information is disclosed in accordance with this clause 25 are bound by a legal duty to it, sufficient to ensure that such persons observe the same duties with regard to the Confidential Information as the party is obliged to do and the party shall be jointly and severally liable for any breach of those duties by such persons.

26 Notices

Any notice or other communication given or made in connection with this Agreement shall be in writing and shall be given or made to the Reseller or Outsourcery, as the case may be, at its address stated at the head of this Agreement and sent to the Reseller marked for the attention of the Chief Executive of the Reseller or sent to Outsourcery marked for the attention of the Managing Director of Outsourcery as the case may be, or to any other address or facsimile number in England as either party to this Agreement may from time to time notify to the other. Any notice or other communication, if so addressed, shall be deemed to have been duly given or made, if delivered by hand, upon delivery at the address of the relevant party, if sent by prepaid first class post, two Working Days after the date of posting and if transmitted by facsimile, at the time of transmission, (provided a confirmatory letter is sent by prepaid first class post) provided that where, in accordance with the above provisions, any notice or other communication would otherwise be deemed to be given or made on a day which is not a Working Day or after 4.00pm on a Working Day, such notice or other communication shall be deemed to be given or made at 9.00am on the next Working Day.

27 Invalidity and Severability

If at any time any clause or part of this Agreement is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid or unenforceable in any respect:

- (a) that shall not affect or impair the legality, validity or enforceability of any other provision of this Agreement;

- (b) the parties shall in good faith amend this Agreement to reflect as nearly as possible the spirit and intention behind that illegal, invalid or unenforceable provision to the extent that that spirit and intention is consistent with English law and jurisdiction so that the amended clause complies with English law; and
- (c) if the parties cannot agree upon the terms of any amendment within one (1) month of the date upon which a clause was determined to be wholly or partly illegal, invalid or unenforceable by any court, tribunal or administrative body then the parties agree to submit the terms of the amendment for resolution in accordance with the Escalation and Disputes Procedures.

28 No Partnership

Each of the parties hereto is an independent contractor and nothing contained in this Agreement, and no action taken by the parties pursuant to this Agreement, shall be construed to imply that there is any relationship between the parties of partnership or of principal/agent or of employer/employee nor are the parties hereby engaging in a joint venture, association or other co-operative venture and accordingly neither of the parties shall have any right or authority to act on behalf of the other to bind the other by contract or otherwise unless expressly permitted by the terms of this Agreement.

29 Waiver

No failure, delay or indulgence by either party in enforcing any right, power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise or waiver of any right, power or privilege preclude or restrict any further exercise thereof or the exercise of any other right, power or privilege.

30 Amendment

Save as otherwise provided in this Agreement, no provision of this Agreement may be amended otherwise than by the express written agreement of the parties hereto.

31 Entire Agreement

31.1 Subject to clauses 31.2, 31.3 and 31.4, each party acknowledges that:

- (a) this Agreement, together with the agreements and documents expressly referred to in it and any agreements executed pursuant to it, sets forth the entire agreement between the parties with respect to the subject matter covered by them and they supersede and replace all prior communications, drafts, representations, warranties, stipulations, undertakings, understandings, arrangements and agreements of whatsoever nature, whether oral or written between the parties relating thereto including without limitation the Prior Reseller Arrangements all of which shall terminate on the Commencement Date without prejudice to any accrued rights up to the date of such termination;
- (b) it does not enter into this Agreement or any other documents referred to herein in reliance on any warranty, representation, undertaking, stipulation or agreement other than those contained in this Agreement, or relevant document;
- (c) with the exception of the specific remedies identified in this Agreement, its only remedies are for breach of contract;
- (d) it has no right to rescind this Agreement for negligent or innocent misrepresentation;

provided that the provisions of this Clause 31 shall not exclude any liability which either party would otherwise have to the other or any right which either party may have to rescind this Agreement in respect of any statements made fraudulently by the other prior to the execution and delivery of this Agreement.

31.2 The Reseller hereby irrevocably and unconditionally waives for the benefit of Outsourcery any rights to payment of compensation or other sums as a result of or in connection with the termination of the Prior Reseller Arrangements.

31.3 The payment and accounting obligations of the Reseller under any Prior Reseller Arrangements shall terminate on the Commencement Date without prejudice to any accrued rights of Outsourcery up to the date of termination. The payment and accounting obligations set out in Schedule 5 shall apply in respect of each Customer Contract which is in force at any time during the Acquisition Arrangements Term including, without limitation, each Customer Contract entered into with any Outsourcery Customer pursuant to any Prior Reseller Arrangements.

31.4 Subject to clause 31.3, nothing in this clause 31, shall affect the continuance in force of any obligations or liabilities of the Reseller under or in connection with any Prior Reseller Arrangement which are expressed to or are intended to continue in force and survive termination of the Prior Reseller Arrangements.

32 Third Party Rights

The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it..

33 Data Protection

33.1 Both the Reseller and Outsourcery shall comply at all times with the Data Protection Act 1998 (as applicable) ("the Legislation") and any regulations made under or separate to the Legislation or any other legislation relating to the protection of the personal data.

33.2 The Reseller undertakes to ensure that appropriate technical and organisational measures are adopted by it against unauthorised or unlawful processing of Data and against accidental loss or destruction of, or damage to the Data.

33.3 Without limiting the application of Clause 33.2 above, the Reseller undertakes to implement and to maintain the Data Security Policy in respect of the Data. The Reseller further undertakes to ensure the compliance with such Data Security Policy by its officers, employees, agents and sub-contractors at all times.

33.4 The parties agree to review and update the Data Security Policy at Outsourcery's reasonable request so that the Data Security Policy is in line with Outsourcery's own data security policies.

33.5 The Reseller undertakes to inform Outsourcery promptly in the event of any breach of Data Security Policy which comes to their attention and to provide Outsourcery with the Reseller's proposals to remedy the breach.

33.6 The Reseller undertakes to inform Outsourcery promptly in the event of any unauthorised or unlawful processing of Data ("an unauthorised event") and in the event of any accidental loss, destruction or damage to Data ("an accidental event") and to provide Outsourcery with its proposals to remedy the unauthorised or accidental event.

33.7 The Reseller undertakes:

- (a) to use the Data solely for the purpose of performing the Acquisition Arrangements in accordance with the Data Ownership Principles. Use of the Data for any other purpose, in particular for its own purposes, is expressly prohibited;
- (b) subject to Clause 33.2 to process the Data only in accordance with the instructions of Outsourcery;
- (c) to provide to Outsourcery from time to time as part of the Agreement such information which the Reseller has in its possession as Outsourcery may require in relation to the Data, including without limitation information as to any specific individual to whom the Data relates;
- (d) to correct, suppress, delete and block data from further processing and/or use, if requested by Outsourcery; and
- (e) to submit to Outsourcery's right of audit as set out in Clause 33.10 below.

33.8 If a request is made by Outsourcery for the correction, suppression, blocking or deletion of any Data, then within five (5) Working Days from receipt of a written notice from Outsourcery containing the relevant request, the Reseller shall confirm in writing to Outsourcery that the request has been carried out.

- 33.9 Both parties undertake to comply with their obligations under this Clause 33 notwithstanding that they may have a claim against or a dispute with each other.
- 33.10 The Reseller shall permit Outsourcery or its agent or representative at all reasonable times and on reasonable notice to enter any place where the processing of the Data shall be carried on for the purpose of inspecting and verifying the compliance of the Reseller with its obligations under this Clause 33. Furthermore, the Reseller undertakes to give Outsourcery access to all relevant documentation, computers, word processors or other similar machines in its possession, custody or control for such purpose.
- 33.11 The rights of Outsourcery set out in Clause 33.10 shall continue for a period of six (6) months after the date of termination of this Agreement irrespective of the cause of termination.
- 33.12 The Reseller undertakes to use its reasonable endeavours to ensure that its officers, employees, agents and sub-contractors engaged in the performance of this Agreement are reliable and trustworthy individuals and further undertakes to make those individuals aware of its obligations under this Agreement particularly with regard to the confidentiality of the Data, and the requirement to process the Data only in accordance with the instructions of Outsourcery.
- 33.13 In the event that the Reseller receives a request for subject access from an individual about whom it holds Data for the purposes of fulfilling its obligations under this Agreement, the Reseller shall promptly forward such request to Outsourcery for the attention of the Data Controller. Outsourcery shall from time to time notify the Reseller of the identity and contact details of the Data Controller.

34 Compliance

- 34.1 Each party shall comply with all relevant legislation, regulations, and codes of practice, guidance and other requirements of any relevant government or government agency together with any reasonable Outsourcery compliance requirements notified to the Reseller which Outsourcery applies from time to time within its business and which originates with any such legal or regulatory requirements.
- 34.2 The Reseller shall ensure that any employee, independent contractor or agency worker engaged by the Reseller receives adequate training to ensure compliance with this Clause 34.

35 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of England and the parties hereby submit to the jurisdiction of the English Courts.

36 Counterparts

This Agreement may each be executed in two counterparts, and by the parties on separate counterparts, each of which so executed and delivered shall constitute an original of the relevant agreement, but all the counterparts of the relevant agreement shall together constitute one and the same instrument, which shall only be deemed executed when the counterparts have been delivered.

37 Records

Each party shall keep separate accounts and records giving correct and adequate details of all enquiries received and transactions conducted in respect of the Payment and Accounting Procedures; and shall permit Outsourcery's duly appointed representatives at all reasonable times to inspect all such accounts and records and to take copies thereof.

Schedule 2

Change Control Procedures

- 1 The provisions of this Schedule govern changes to the Payment and Accounting Procedures and any other processes identified in this Agreement as subject to Change Control Procedures. Changes will only be effective if they are conducted in accordance with these procedures.
- 2 Either Outsourcery or the Reseller may request a change. Change requests may be made at any time and for any reason. Requests should be in writing. A change request must specify in reasonable detail:
 - (a) a description of any proposed change;
 - (b) any proposed variations or amendments to the Payment and Accounting Procedures;
 - (c) any other details which the other party might reasonably want to know and which relate to the change proposed.
- 3 If Outsourcery submits a change request, the Reseller must evaluate it and, within 10 Working Days, submit a response setting out in reasonable detail:
 - (a) responses to this information supplied under paragraph 2 above;
 - (b) If relevant, Outsourcery's opinion of the technical feasibility of the proposed change;
 - (c) Whether or not it is prepared in principle to agree to the proposed changes;
 - (d) Any additional changes or terms which it would propose.
- 4 When a change request is submitted by the Reseller, Outsourcery must evaluate it and, within 10 Working Days, submit a response setting out in reasonable detail:
 - (a) responses to this information supplied under paragraph 2 above;
 - (b) if relevant, Outsourcery's opinion of the technical feasibility of the proposed change;
 - (c) Whether or not it is prepared in principle to agree to the proposed changes; and
 - (d) Any additional changes or terms which it would propose.
- 5 All change requests from Outsourcery shall be submitted to the Reseller's nominee and all change requests from the Reseller shall be submitted to Outsourcery's nominee, both as referred to at clause 21.2 of the agreement
- 6 Once a response has been submitted, the parties will then discuss the proposed changes and any related matters. If agreement is reached on any changes, a document will be prepared which specifies all relevant changes to the Payment and Accounting Procedures by the party requesting such change.
- 7 All changes will be subject to final approval and signature on behalf of both the Reseller and Outsourcery. Once signed on behalf of both the Reseller and Outsourcery, the change will be binding and will form part of this Agreement.
- 8 If the parties fail to reach agreement as to any change request in accordance with this Appendix then the party requesting the change may refer such matter to be resolved in accordance with the Escalation and Disputes Procedures.
- 9 If the Reseller fails to respond to a change request from Outsourcery within the 10 working days stipulated, Outsourcery reserves the right to implement the change thereof without further notice.
- 10 All change requests must be sent by 1st class post or email to the respective postal or email address of the parties.

Schedule 3

Data Ownership Principles

It is agreed:

- 1 The parties have agreed that as between Outsourcery and the Reseller, Outsourcery shall exclusively own all Data. To the extent that ownership of any Data vests in the Reseller, the Reseller hereby assigns title to the same to Outsourcery absolutely and in perpetuity.
- 2 During the term of this Agreement
 - (a) The Reseller shall use the Data solely for the purpose of providing invoices to the Outsourcery Customers; and
 - (b) The Reseller shall not use the Data for the purposes of actively promoting or soliciting the sale of its own or other Network Operators' or Accredited Service Providers' (other than Outsourcery') wireless services.
- 3 Following termination of this Agreement, The Reseller shall cease to use any Data.

Schedule 4

Escalation and Dispute Procedures

1 General escalation process

1.1 Subject to paragraph 1.3 below, the parties shall, in respect of all disputes between the parties arising under this Agreement and provided a party has served written and dated notice on the other party that it requires an identified dispute to be resolved in accordance with the terms of this schedule, use best endeavours to resolve such dispute in accordance with the following procedures:

- (a) a dispute which has not been resolved by the parties nominated representatives within 5 (five) Working Days may be escalated by either party to the first level by written notice to the other party.
- (b) if the dispute is not resolved at the First Level within ten (10) Working Days, either party may refer the dispute to the Second Level by written notice to the other party.

Outsourcing

First level: Channel Manager
Second Level: Managing Director

The Reseller

First level: xxxxxxxxxxxxxxxxxxxx
Second level: xxxxxxxxxxxxxxxxxxxx

1.2 If such a dispute is not resolved within twenty (20) Working Days (or within such other period as the parties may agree in writing) of its referral by written notice to the Second Level for resolution in accordance with this schedule then the dispute shall be referred and dealt with in accordance with Paragraph 2 below.

1.3 Each Party shall be entitled to disregard this Escalation and Dispute Procedure and such action and steps as is permitted by law (including obtaining judgment in a court of competent jurisdiction) where it can show that principal subject matter of the relevant dispute concerns:

- (a) non-payment of any sum due or payable pursuant to this Agreement and which is not disputed in good faith; or
- (b) a breach, or threatened breach, of the provisions of clause 25 (non-disclosure of Confidential Information) in respect of which a party wishes to claim injunctive relief, including (without limitation) to protect its Intellectual Property Rights.

2 Unresolved disputes

2.1 If a dispute is not resolved using the general escalation process described in Paragraph 1, the dispute will be resolved in accordance with the following:

- (a) Where the parties agree that the dispute concerns a technical matter (such as the operation of IT systems) or is otherwise appropriate for alternative dispute resolution, the dispute will be referred to the Centre for Dispute Resolution ("CEDR") for appointment of an individual with suitable expertise and experience to assist the parties in resolving the dispute.
- (b) Any negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings.
- (c) If the parties reach agreement on the resolution of any such dispute the agreement will be put in writing and once signed by the parties will be binding on them.

- 2.2 The parties agree that neither of them will commence legal proceedings on a dispute until the escalation process described at paragraph 1 of this Schedule has been complied with. If the parties do not agree to a dispute being referred for alternative dispute resolution in accordance with paragraph 2.1, or if the parties fail to reach agreement in the course of any such negotiation within sixty (60) days of the dispute being referred for resolution, then either party may commence proceedings regarding the dispute in the English courts.
- 2.3 Unless otherwise agreed the parties shall fulfil their respective obligations under this Agreement insofar as possible regardless of any dispute which is proceeding under the dispute resolution processes described in paragraphs 1 and 2.1 of this Schedule.

Schedule 5

Payment and Accounting Procedures

1 Acquisition Arrangements

- 1.1 The parties shall pay and account to each other in accordance with the Reseller Payment Plan. The Reseller shall issue invoices to Outsourcery Customers on a monthly basis or such other basis as Outsourcery may direct.
- 1.2 The Reseller shall pay Outsourcery the Wireless Revenue less Acquisition Rewards (if any) to the extent that such Acquisition Rewards relate to events or matters arising on or after the Commencement Date. Wireless Revenue is determined and based on billed revenue (not received revenue), with bad debt being the risk and responsibility of the Reseller.
- 1.3 All charges of Outsourcery shall be paid by the Reseller together with VAT at the appropriate rate.
- 1.4 Payment of all sums due from the Reseller to Outsourcery shall be made by such reasonable methods as may be agreed between the parties hereto.
- 1.5 Where charges are not paid by the Reseller in accordance with this paragraph 1 Outsourcery reserve the right to charge:
- (a) interest (both before and after any judgment) on all amounts overdue from the Reseller pursuant to The Late Payment of Commercial Debts (Interest) Act 1998 at a rate of 8% per annum above the Bank of England base rate to run from the due date of payment until receipt by Outsourcery of the overdue amount (including any accrued interest and compensation) but for the purposes of this agreement, Outsourcery shall limit the above interest rate to 4% per annum above the Bank of England base rate PLUS
 - (b) compensation arising out of late payment pursuant to Clause 5A of The Late Payment of Commercial Debts Regulations 2002.
- 1.6 Outsourcery shall be entitled to set off and/or withhold any payments to the Reseller against any other sums owed or liable to be paid to Outsourcery by the Reseller.
- 1.7 Outsourcery may at any time require the Reseller to enter into bank or other guarantees (or to provide some other form of financial security) which in the opinion of Outsourcery is/are appropriate as security against the Reseller's non-compliance with or non observance of any provision of this Agreement (including failure to pay charges due). Refusal to provide such security or failure to provide such security within thirty (30) days (or such longer period as Outsourcery may reasonably allow) of the date of Outsourcery's request for the same shall be deemed to be a breach of a condition of this Agreement by the Reseller which is incapable of remedy..
- 1.8 Without prejudice to Outsourcery's rights under this Agreement, in the event that the Reseller at any time fails to make payments in accordance with this Agreement Outsourcery shall be entitled to exercise all or any of its rights under any Security Document.

2 Additional Invoicing and Payment Terms

- 2.1 Payment in connection with this Agreement will be subject to the following additional requirements:
- (a) Each of Outsourcery and the Reseller shall supply information to be reported under this Schedule in accordance with the requirements of this Schedule. All such reports will be provided within seven (7) Working Days of the end of the relevant month or other reporting period.
 - (b) Each of Outsourcery and the Reseller shall identify a "nominated representative" for information reporting and reconciliation under this Schedule.

- (c) Each of Outsourcery and the Reseller shall verify reported information and raise related (VAT compliant) invoices identifying any amounts payable by the other party within seven (7) Working Days of receipt of the relevant report.
- (d) Payment of invoiced amounts (or amounts identified in billing statements) shall be due within forty five (45) days of the date of the invoice unless specifically stated otherwise in this Agreement.

2.2 Where charges are not paid by the Reseller in accordance with paragraph 2.1(c) above Outsourcery reserve the right to charge:

- (a) interest (both before and after any judgment) on all amounts overdue from the Reseller pursuant to The Late Payment of Commercial Debts (Interest) Act 1998 at a rate of 8% per annum above the Bank of England base rate to run from the due date of payment until receipt by Outsourcery of the overdue amount (including any accrued interest and compensation) but for the purposes of this agreement, Outsourcery shall limit the above interest rate to 4% per annum above the Bank of England base rate PLUS
- (b) compensation arising out of late payment pursuant to Clause 5A of The Late Payment of Commercial Debts Regulations 2002.

2.3 Any payment or acceptance of payment by either party to or from the other shall be without prejudice to any claims or rights it may have against the other and shall not constitute an admission as to the performance by the other of its obligations pursuant to the Agreement.

2.4 The Reseller shall pay amounts due to Outsourcery in accordance with the payment terms of this Schedule 5 and without delay, set-off, holdback or other adjustment resulting from any payment or accounting dispute.

2.5 In other respects, any payment or accounting disputes are to be resolved in accordance with the Escalation and Dispute Procedures.

2.6 Initially, Outsourcery will perform one (1) bill run per month relevant to these Payment and Accounting Procedures. Changes in the number of bill runs will be subject to the Change Control Procedures.

2.7 Any changes to billing practices, billing formats or billing relating reporting will be made pursuant to the Change Control Procedures.

3 Clawback

3.1 The provisions of this Agreement (including this Schedule and the Reseller Payment Plan) relating to Clawback apply in relation to any Customer Contract entered into as a result of the activities of the Reseller (whether under this Agreement or any Prior Reseller Arrangements). Accordingly, the Reseller's entitlement to Acquisition Rewards and any payment in relation to any Outsourcery Customer is subject to adjustment to take account of any Clawback to which Outsourcery is entitled under this Agreement.

3.2 The provisions of this paragraph 3 shall survive termination of this Agreement for any reason.

3.3 For the purposes of this paragraph 3, Clawback means the (i) recovery from the Reseller or reimbursement by the Reseller to Outsourcery of any and all monies paid by Outsourcery to the Reseller including, without limitation, bonuses, non-usage and churn; and/or (ii) retention by Outsourcery in accordance with this Agreement of any and all monies that would otherwise be due to the Reseller under this Agreement as a result of the Reseller's failure to meet its obligations under this Agreement, the Schedules and Appendix hereto; and/or the provisions of the Reseller Payment Plan.

Schedule 6

Joint Sales and Marketing Plan and Brand Guidelines

1. Co Branding

- 1.1. The Outsourcery Customer Contract shall be formatted in such form, size and location as Outsourcery may expressly agree from time to time and shall be branded in accordance with the specimens annexed at Schedules 1a and 1b.1.2 This branding will appear in all written communication between the Reseller and Outsourcery Customers and/or BtoB Subscribers
- 1.2. The Reseller will comply with such other co branding guidelines as may be agreed by Outsourcery from time to time.

2. Acquisition Marketing

- 2.1. The Reseller will provide Outsourcery with data feeds for the purpose of customer base profiling as follows:

Customer Data Required from the Reseller

<u>Data</u>	<u>Frequency</u>
1. Name + address feed	Monthly
2. Retail tariff code per MPN (and code table)	Monthly
3. Bill Value	Monthly
4. Account details (i.e. which MPN's are on same account)	Monthly
5. Who has upgraded and date	Monthly

3. Customer Relationship Management

- 3.1. The Reseller shall maintain and operate a Customer Relationship Management ("CRM") programme for dealing with Outsourcery Customers.
- 3.2. The quarterly meeting as provided for at Clause 21 of this Agreement shall include the formulation of a detailed CRM plan to be implemented by the Reseller for the following quarter.
- 3.3. Product and/or service information and/or details of promotional activity shall be provided to the Reseller by Outsourcery from time to time.
- 3.4. The Reseller will use its best endeavours proactively to promote the provision and development of the Wireless Services to Outsourcery Customers including, but not limited to, contact with Outsourcery Customers within the last two months of "minimum period" of their Outsourcery Customer Contract in order to extend the said contract for a further "minimum period".
- 3.5. Any failure by the Reseller to comply with the terms of this paragraph 3 may be deemed, in the sole discretion of Outsourcery, a material breach of this Agreement.

Schedule 7

Customer Services, Customer Service Descriptions, Service Levels, Key Performance Indicators.

Customer Services and Service Levels

1. Introduction
2. System Availability
3. Provision of Customer Equipment, SIM Cards & MPN Management
4. Business Customer Service
5. The Reseller Team and Contact Strategy
6. CDR Processing, Billing and Fulfilment
7. Credit Control and Debt Management
8. CustomerCare
9. Service Levels and Review Process
10. Customer Data and Security
11. Tariff Management and Archiving of Outsourcery Customer Contracts
12. Disaster Recovery
13. Change Control

The following words and expressions used in this Schedule shall, unless the context otherwise requires, have the following meanings:

Definitions

“Complaint”	means where a Outsourcery Customer has expressed dissatisfaction with any element of the Service
“Key Performance Indicators” or “KPIs”	means the Key Performance Indicators set out at Appendix 1 to this Schedule
“Material Change”	means significant changes to the Customer Services (which are to be made in accordance with the Change Control Procedures)
“Service Hours”	means the help desk and customer account team hours of availability as set out at paragraph 6 of this Schedule
“Service Reviews”	means the review of the Customer Services to be undertaken by the parties pursuant to Clause 21 of the Agreement and paragraph 13 of this Schedule
“Systems Availability”	means the Customer Services and Reseller System availability required to manage Outsourcery Customers so as to achieve the KPIs’ during the Service Hours and excluding planned outage periods

1 Introduction

1.1 This Schedule 7 outlines the service and details the service levels to be provided by the Reseller on behalf of Outsourcery to Outsourcery Customers and the obligations of both parties. In addition it provides useful contact information.

1.2 Scope

It incorporates: -

1.2.1 Definitions and descriptions of Customer Services

1.2.2 The Service Levels and Key Performance Indicators in relation to Customer Service

1.2.3 Management processes and procedures

1.2.4 Requirement for regular reviews of performance and trends

1.3 Customer Services

1.3.1 The Reseller will provide Outsourcery Customers with a designated point of contact and all necessary and/or associated services that shall support billing; fault reporting, general enquiries and value add services for Outsourcery Customers.

1.3.2 The Reseller shall provide services to enable the billing of Outsourcery Customers in accordance with the performance and service levels requirements detailed within this Schedule 7.

1.4 Resourcing and forecast levels

1.4.1 It will be the responsibility of the Reseller to ensure that at all times there are sufficient resources, including but not limited to manpower, systems etc, to meet the likely demand for Customer Services in accordance with the terms of this Agreement.

1.4.2 It will be the responsibility of the Reseller to ensure that Reseller Employees working on the Customer Services have sufficient skills to meet the current and where applicable future service levels in order to achieve the likely demand for Customer Services in accordance with the terms of the Agreement.

1.4.3 The Reseller will closely monitor the demand for Customer Services and will use its reasonable endeavours to forecast the demand for Customer Services so as to achieve the Service Levels and KPIs. In doing so the Reseller will take into account any reasonable representations made by Outsourcery in this regard.

2 System Availability

The Reseller will ensure Systems Availability for the Customer Services during the Service Hours.

3 Provision of Customer Equipment, SIM Card and MPN Management

3.1 SIM Card and MPN management

3.1.1 Subject to Clause 9 of the Agreement, the Reseller will be responsible for the supply of customer equipment and contracts with customers for the supply of such customer equipment. The Reseller shall make available to Outsourcery Customers all appropriate sales, service and general information concerning customer equipment

3.1.3 The Reseller shall ensure that all customer equipment is sent to Outsourcery Customers using reputable courier services, which may be Outsourcery, and who provide satisfactory delivery confirmation systems.

4 Business Customer Services

4.1 Customer Credit Checks

4.1.1 The Reseller shall be solely responsible for customer credit checks and vetting in accordance with its obligations under Clause 4 of the Agreement.

4.1.2 Should delivery to the Business Customer not be possible either at all or not within the specified time scales as a result of the credit vetting procedures, then the Reseller shall promptly inform the Business Customer, by telephone, of the delay and (if relevant) the revised delivery time.

4.2 Activations

4.2.1 The Reseller shall comply with its obligations under Clause 4.1(e) of this Agreement and ensure that the Outsourcery Customer is aware and understands the Outsourcery Customer Contract and the nature of its commitments.

4.2.2 Outsourcery will provide The Reseller with non-usage reports monthly. Where the Outsourcery identifies a SIM Card or a handset as not being used the Reseller shall contact the Outsourcery Customer to stimulate use.

4.3 Fraud Management

4.3.1 The Reseller will comply with its obligations under Clause 4(h) of this Agreement, and will be solely responsible for fraud management and will implement its existing policies and all reasonable practices and checking mechanisms to prevent misuse of the Wireless Services and SIM Cards. The Reseller shall maintain a written record of its policies regarding such matters. The Reseller will supply Outsourcery with a copy of such policies. Any changes to Reseller policies will be a Material Change.

4.3.2 The parties acknowledge that the Reseller fraud management policies may on occasion result in a handset being restricted when the calling pattern of the handset reflects what the parties believe to be unusual or fraudulent use. Where calling patterns or other means used for identifying potential fraud indicate fraud then the Reseller will restrict such SIM Cards or handsets overnight. In all instances the restrictions will have been placed to limit the potential losses to the Outsourcery Customer. The Reseller will contact the Outsourcery Customer to explain why the restriction has been placed as soon as practicable during the next working day. Instances whereby handsets have been restricted incorrectly will have the restriction removed within 2 working hours, subject to customer availability and will not be subject to compensatory claim. Any changes to Reseller policies in this regard will be a Material Changes.

4.3.3 Where Outsourcery advises the Reseller that a SIM card is being used as a GSM Gateway and/or for AIT Outsourcery will disconnect that SIM card in accordance with their standard policies and procedures. Outsourcery will regard any Outsourcery Customer found to be operating GSM Gateways or AIT as a material breach by the Reseller of its obligations under Clause 4.1(q) of this Agreement.

5. The Reseller Team and Contact Strategy

Service Hours and Contact Details

5.1 The Resellers service team can be contacted on or by the following means:

Customer Service Number	xxxxxxxxxxxxxxxx
Fax Number	xxxxxxxxxxxxxxxx
Email Address for general enquiries	xxxxxxxxxxxxxxxx

The Resellers service team will be available during the following times:

9.00 – 17.30 Monday to Friday

During those hours when the Resellers service team is not available, the reseller shall provide an out of office hours message service which will provide Outsourcery Customers with telephone contact numbers for the Designated Network Operators who will manage lost and stolen mobile telephones.

5.2 Any change to the Service Hours or contact details shall be a Material Change.

6. CDR, Billing and Fulfilment

6.1 Monthly Customer Charges. The Reseller will ensure that

6.1.1 Tariff Transfers will be processed along with any other billing information change requests.

6.1.2 All requests for disconnection will be actioned by the Reseller. The requests will be responded to within 2 Working Days.

6.1.3 The format for airtime and hardware invoices, printing, envelope stuffing and distribution will follow the existing process. The Reseller will notify Outsourcery of any changes to this process through the Change Control Procedure. Invoiced information will be stored on the Reseller Billing Platform for retrieval and archiving for 5 years.

6.1.4 The Reseller shall provide additional billing insert production and stuffing services.

6.1.5 Outsourcery Customer invoices will reflect network access charges in advance and call charges billed in arrears.

7 Credit Control, Debt and Fraud Management

7.1 The Reseller agrees to assist with the Designated Network Operator's litigation process, and shall in the first instance in any event refer all claims or disputes to Outsourcery.

7.2 The Reseller will analyse call records and notify Outsourcery of any errors or omissions. Where errors or omissions are detected pre billing these will be notified to Outsourcery by the Reseller IT team promptly. Where errors or omissions are raised by the Outsourcery Customer post-billing these will be resolved by the Reseller promptly and notified to Outsourcery.

7.3 The Reseller shall resolve Outsourcery Customer billing queries and shall update customers reporting a billing query on progress.

8. Customer Care

8.1 Customer Satisfaction

8.1.1 The Reseller shall actively work with Outsourcery to maximise the level of Outsourcery Customer satisfaction. The Reseller agrees to perform the Customer Services so as to achieve customer satisfaction

8.1.2 Outsourcery may from time to time request data from the Reseller in order to carry out a Outsourcery Customer satisfaction survey. The format and content of the survey will be agreed beforehand between Outsourcery and the Reseller and the survey results will be shared.

8.2 Customer Complaints

- 8.2.1 The Reseller shall maintain a dedicated escalation process for Complaints. The Reseller shall use all reasonable endeavours to resolve Complaints in accordance with such escalation process. The Reseller shall provide a copy of such escalation process for Complaints to Outsourcery.
- 8.2.2 The Reseller agrees to use all reasonable endeavours to resolve all Complaints promptly (including Complaints which concern the network or the quality of Wireless Services) without the need to escalate to Outsourcery.
- 8.2.3 The Reseller shall be responsible for any appropriate goodwill credits or compensation paid in respect of Complaints save for Complaints concerning (principally) the Designated Network Operator or the quality of Wireless Services.
- 8.2.4 The Reseller agrees to bring to the attention of Outsourcery Complaints which raise issues affecting the Outsourcery business as a whole.
- 8.2.5 The Reseller may escalate to Outsourcery Complaints, which concern (principally) the Designated Network Operator or the quality of the Wireless Services. As and between the Reseller and Outsourcery, Outsourcery shall assume responsibility for the resolution of such cases.
- 8.2.6 In the event that the Reseller resolves a Complaint concerning (principally) the Designated Network Operator or the quality of Wireless Services by way of a compensation payment or other goodwill gesture then the Reseller will provide details of such Complaints so resolved to Outsourcery at Service Review Meetings. Any dispute concerning such matters shall be resolved in accordance with the Escalation and Disputes Procedures.
- 8.2.7 In the event that a Complaint is made to Outsourcery direct, including a High Level Complaint then the Reseller will promptly provide Outsourcery with dedicated contacts in the Reseller team, with individual email addresses, direct dial telephone numbers and names, who will respond to requests for information which would include copies of system notes etc in order to resolve such High Level Complaint. On receipt of appropriate information the Outsourcery complaints team may provide advice on appropriate resolution of such High Level Complaint. A High Level Complaint is defined as a Outsourcery Customer who addresses their letter to one of the following:
- Chairman of the Designated Network or Outsourcery
 - MD of the Designated Network or Outsourcery
 - Board Member of the Designated Network or Outsourcery
 - Press Office of the Designated Network or Outsourcery
 - Legal and Regulatory of the Designated Network or Outsourcery
 - Ofcom

 - Any other appointed Telecoms Ombudsman
- 8.2.8 The parties agree that any change to these Complaints handling procedures shall be a Material Change.

9 Service Level & Review Process

9.1 Service Levels

The Service Levels and Key Performance Indicators form the basis upon which Outsourcery will judge the operational performance of the Reseller. The Reseller shall comply with the Service Levels and Key Performance Indicators set out in Appendix 1 to this Schedule 7.

9.2 Quarterly Service Review.

A nominated Reseller manager shall meet with a designated Outsourcery contact every quarter to review the performance, service levels and customers service experience. The meeting shall be minuted and all actions duly noted and diarised for the next Quarterly Service Review.

10. Customer Data and Security

10.1 The Reseller will be solely responsible for data security and data access management and will implement its existing policies and all reasonable practices to prevent misuse or unauthorised access to Data. The Reseller shall maintain a written record of its Data Security Policy. The Reseller will supply Outsourcery with a copy of such policy. Any changes to the Data Security Policy shall be a Material Change.

10.2 The Reseller agrees to manage Data and to control access to Data in accordance with its Data Security Policy.

10.3 The Reseller undertakes to inform Outsourcery promptly in the event of any breach of Data Security Policy which comes to their attention and provide Outsourcery with proposals to remedy the breach and such assistance as Outsourcery may require to resolve it.

11 Tariff Management & Outsourcery Customer Contracts

11.1.1 The Reseller will provision and manage the tariffs, which will be the Business Customer Tariffs and/or BtoB Tariffs (as updated from time to time, and excluding any agreed exceptions). Agreed tariffs will be set up on the Reseller System with an implementation lead time of 10 Working Days from the point of confirmation by Outsourcery.

11.1.2 The Reseller will store hard copies of Outsourcery Customer Contracts along with all hard copy correspondence and will provide copies to Outsourcery promptly upon request.

12. Disaster Recovery

12.1 The Reseller will recover operations (relocation, systems and telephony) if its main site or operational building is a total loss due to fire/flood etc. in five (5) Working Days.

12.2. The Reseller will be solely responsible for disaster recovery and will implement its existing policies and all reasonable practices to ensure disaster recovery is provided in accordance with paragraph 16.1. The Reseller shall maintain a written record of its Disaster Recovery Policy. The Reseller will supply Outsourcery with a copy of such policy. Any changes to the Disaster Recovery Policy shall be a Material Change.

13. Change Control

13.1 In relation to Material Changes the parties shall comply with the Change Control Procedures.

13.2. In relation to all other procedural or minor changes to the Customer Services then the Reseller shall notify Outsourcery of such changes when they are implemented and in any event at Quarterly Review Meetings.

13.3 In the event that Outsourcery (acting reasonably) does not accept a change referred to at 13.2 above, the Reseller will refrain from implementing such change until it has been the subject of the Change Control Procedures.

Appendix 1

Service Levels & Key Performance Indicators

1. Requirements	2. Key Performance Indicators	3. Service Level	4. How Measured
Customer Satisfaction KPIs			
Disconnections	The total number of Disconnections of BtoB Subscribers over a monthly period	<40%	Annualised as a percentage of the average BtoB base
Managing Complaints in accordance with escalation process	Managing complaints in accordance with Paragraph 8.2. Targets to be reviewed at 3 month Service Review		Exception Report
Grade of Service (PCA15)	Inbound telephone calls will be answered within 15 seconds	80%	Report
Grade of Service (PCA)	Inbound telephone calls will be answered	95%	Report
Correspondence	Customers who require a reply to general correspondence will be dealt with within three Working Days Cannot be measured electronically and therefore would have to be manual audit.	95%	Exception Report

Operational KPIs			
Internal Systems Availability	98% availability assessed over 6 months report		
Notify customers of inability to provision	Within 2 Working Days of receipt of sales order		
Contact inactive customer	Within 4 Working Days of report, measured over one month period		
Customer Contact	Customers who requires a return call will be dealt within the same Working Day		
General and Billing enquiries	Routine enquiries will be resolved within 4 hours		
Changes to Customer Details	Customer details requiring amendment will be completed within the working day		
Contact Strategy	Maintaining contact and account management strategy, measured over a 6 month period		
Tariff Transfer	Within 2 Working Days unless agreed otherwise		
Disconnection request	Actioned by Reseller Employees within 2 Working Days		
Billing information produced and sent to Billing Contractor	Within one Working Day following processing		
Invoices produced and dispatched	Within 3 Working Days of receipt of request		
Customer Billing queries	Average age of billing queries should not exceed 2 Working Days measured over one month		

Signed for and on behalf of the parties by their duly authorised representatives.

For and on behalf of..... (the Reseller)

Name (print).....Position.....

Signature.....Date.....

For and on behalf of OUTSOURCERY LIMITED

Name (print).....Position.....

Signature.....Date.....