# **SCHEDULE A3: Mobile Network Services (SIMs) Schedule**

### Definitions

* 1. In this Schedule the following words and expressions shall have the meanings set out below:

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| **“Airtime Services”** | means voice calls, SMS and/or data Services as provided with a SIM Card from the MNO. |
| **“Artificially Initiated Traffic” or “AIT**” | the flow of calls to any particular Service which is, as a result or consequence of any activity by or on behalf of Customer, disproportionate to the flow of calls which would be expected from reasonable commercial practice and usage of the MNO; |
| “**Connection**” or “**connection**” | means (i) any connection of a new mobile phone number (MPN) to the MNO network for a User or (ii) any connection of a User that is ported to the MNO mobile network from another MNO. |
| “**Effective Date**” | means the date of the Customer’s signature of the Order. In the event the Customer has not signed an Order, the Effective Date shall be deemed the date upon which Services were commenced/ performed (including the preparation for the Services such as meetings held or other preparatory actions). |
| **“Existing Mobile Estate”** | means those mobile communications Devices, including the SIM Cards, detailed in the Order and/or Porting Requests. |
| **“Device”** | means the mobile device which requires a SIM to provide the airtime services. Examples of such device include mobile phones and tablets. |
| **“Fraud”** | means any fraudulent or other unauthorised use (whether actual or attempted) of any telecommunication services (including the Services), the Networks or the use or attempted use of any Services by corrupt, dishonest or illegal means, at any time and by any person; |
| **“Initial Term”** | means the initial term of an individual Mobile Service as set out in an Order; such to commence from the Service Commencement Date, unless expressly started otherwise in an Order. |
| **“International Mobile Services**” | means third party provided SIM Card and/or other Mobile Services, provided on a worldwide geographical basis of use, in accordance with this Schedule. |
| **“GSM”** | means Global System for Mobile Services. GSM is a digital standard for mobile networks, which is available in many countries and may enable use of GSM phones in those countries. |
| **“Laws”** | means any and all laws and/or regulations applicable to the Parties’ duties and/or obligations under this Agreement. |
| “**MNO Contract**” | means a contractual agreement between the Customer and/or User and a MNO. |
| **“Mobile Call”** | refers to the telephone calls and SMS made using a device irrespective of such device was procured via Kerv or elsewhere. |
| **“Mobile Network Operator”** or “**MNO”** | means a wireless service provider, wireless carrier, cellular company, or mobile network carrier. It is a provider of wireless communications services that owns or controls all the elements necessary to sell and/or deliver services to an end user including wireless network infrastructure, back haul infrastructure, billing, customer care and provisioning computer systems and marketing, customer care, provisioning and repair organisations. For the purposes of this Agreement, references to an MNO also include virtual mobile network operators, who operate a wireless communication network but do not own the network infrastructure. |
| **“Mobile Hardware Fund”** | means the fund(s) available to the Customer as set out in this Schedule and/or in an Order. |
| **“Mobile Minimum Spend Commitment”** | means the sum exclusive of VAT detailed in an Order(s) which the Customer shall spend with either Kerv or the MNO (as identified in the Order), for voice services and/or voice and data services and where applicable, in accordance with any associated MNO Contract. Subject always to review of any Shortfall (as defined in paragraph 3) and pursuant to the Customer obligations set out in this Agreement. |
| **“Mobile Services”** | means the use of any mobile Device and/or SIM cards provided to the Customer and/or a User by Kerv, or any facilitation of airtime services under this Agreement and shall include all Devices linked under one account with Kerv under this Agreement and any International Mobile Services. |
| **“MPN”** | means mobile phone number. |
| **“Network”** | means the mobile network to which the Customer is connected. |
| **“PAC”** | means Porting Authorisation Code, required to transfer a mobile number from one MNO to another. |
| **“Port Date”** | means the date that the MPNs are ported, upgraded or newly connected to the MNO or the date the first MPN is ported, upgraded or newly connected if not all on the same date. |
| **“Porting Request”** | means the actions set out in this Schedule at paragraph 7, where a Customer seeks to transfer a MPN from one MNO to another, providing Kerv with a PAC code to facilitate such. |
| **“Resign(s)”** | means Existing Connections which are renewed under this Agreement which shall be governed by this Agreement and no other. Existing Connections not renewed under this Agreement shall be governed by the Customer’s original contract unless agreed otherwise between the Parties. |
| **“Service Commencement Date”** | means the date (subject to Excused Delays) upon which the Service is available for use/Connections have been achieved, irrespective of whether i) the Services are decided not to be used by the Customer and/or ii) all of the Services are not fully delivered in accordance with any specification document. |
| **“Software”** | means the software subscription and maintenance services for any software supplied as part of the International Mobile Service. |
| **“SIM Card(s)”** | means the Subscriber Identity Module (SIM) card, which contains a chip with all data that is necessary for operating the mobile device . It allows the Customer to use the GSM network. Kerv will only give the Customer a SIM card if the Customer chooses a GSM network. [It carries an identification number unique to the owner, stores personal data, and prevents operation of the device if removed](http://www.oxforddictionaries.com/us/). For clarification this definition shall also include e-SIMs. |
| “**SMS**” | means short message service, the service provided by a mobile operator that allows an end-user to exchange text messages using the dedicated application in the device. For clarification, SMS sent by the MNO in relation to operator settings are excluded from this definition. |
| **“Tariff(s)”** | means the associated rates which Kerv will charge the Customer for calls and other Mobile Services. The use of the ‘Charges’ definition within this Agreement, shall be deemed to include the Tariff(s) rates/costs. |
| **“Territory”** | means the rights granted to the Customer pursuant to this Schedule, such rights are hereby granted:   1. For International Mobile Services on a worldwide geographical basis of use; and 2. For UK only based SIM Card Services on a UK basis of use. |

### Overview of Services

* 1. Mobile Services enables the provision and configuration of mobile Devices, which may involve the provision of a SIM Card where such Mobile Services require Airtime Services.
  2. The Mobile Services may comprise of any of the following:
     1. Transition of an Existing Mobile Estate to the MNO airtime service, but (where required by the Customer) with retention of Customer’s existing mobile numbers. Transition (save where a Porting Request is made, as set out in paragraph 7); will be in accordance with a plan to be agreed with the Customer;
     2. The procurement of Devices and/or support Services;
     3. Order processing and inventory management (for addition of new Connections / Devices, cancellation of existing Connections, etc.);
     4. Regular monthly and quarterly account review meetings with the Customer.
  3. At the request of the Customer, Kerv shall apply any airtime usage limits on specific Connections.
  4. The ownership of the SIM card, mobile handset and/or MPN remains the property of Kerv, but the number can be released to the Customer upon both written request and agreement between the Parties.
  5. The details of the Customer chosen MNO shall be set out within the Order form.
  6. The Customer may raise an Order for additional Services, at any time during the term of this Agreement.
  7. Kerv shall have no liability to the Customer in respect of (i) the performance by a MNO and/or (ii) the Customer or MNO’s obligations under any MNO Contract.
  8. Services are designed to work in the Territory. Local barring by an originating carrier or due to roaming restrictions is not within Kerv’s control and Kerv shall have no responsibility to remediate such constraints and does not guarantee that such constraints can be remediated.
  9. Prior to any use of the Mobile Services the Customer hereby fully agrees to act in accordance with and fully adhere to:
     1. Kerv’s third party terms of use;
     2. any End User Licence Agreement (“**EULA**”) and/or
     3. any terms and conditions required by the MNO

collectively referred to as the “**Terms of Use**”.

* 1. The Customer hereby indemnifies Kerv against any third party claims arising as a consequence of the Customer and/or a User, not acting in accordance with the Terms of Use. The Customer acknowledges where they (or a User) breach the Terms of Use, such will be deemed a material breach of this Agreement and such may result in the termination of the Services provided by Kerv and/or its third party supplier(s).

**Mobile Service Terms of Use**

* 1. In the event:
     1. the Customer refuses to provide any such assistance to Kerv; and/ or
     2. the Customer refuses or fails to follow the reasonable advice as provided by Kerv;

Kerv shall not be liable in any form to the Customer, for any failure of Kerv to fulfil its obligations or for any adverse impact or consequences that flow from same; where such obligations are impeded by the Customers refusal to provide assistance or follow advice pursuant to this provision.

* 1. Kerv shall have the right to modify, alter or improve any or all of the Services and shall have the right to discontinue specific Mobile Services. Subject to the terms applied to International Mobile Services, written notice shall be given to the Customer at least forty five (45) days prior to the discontinuation of a Service.
  2. The Customer will:
     1. not be involved in, or knowingly, recklessly, or negligently permit or negligently allow any other party to be involved in Fraud, and will notify Kerv immediately on the Customer becoming aware of or suspecting any Fraud;
     2. not participate in any activities or conduct which may result in Artificially Inflated Traffic and use all reasonable endeavours to detect, identify, and prevent incidents of Artificially Inflated Traffic by Customers and/or Users. In the event such activities are suspected, the Customer will promptly notify Kerv of such incidents occurring on the Network, as soon as reasonably practicable after becoming aware of the same, which may include but shall not be limited to:
        1. establishing and implementing a process of vetting and User risk assessment;
        2. monitoring to identify suspected or potential AIT activity;
        3. implementing comprehensive contractual terms with Users, including obligations equivalent to these for the detection, identification, notification and prevention of AIT;
        4. ensuring the ability for Kerv to retain reasonably suspected AIT revenues from the Customer and/or Users.
  3. Failure by a Customer to send outbound SMS or MMS traffic for activated numbers in a typical usage ratio (i.e. bulk or marketing messages) may lead to suspension of the Mobile Services.
  4. MPNs for inbound out-payment services cannot make calls unless otherwise agreed in writing with Kerv.

**SIM Based Recording**

* 1. In the event the Customer procures SIM based recording, no applications or software are required for the MVR. The MVR Service requires a SIM to be provided by the appropriate MNO. The MVR Service shall be subject to the MVR Schedule, which shall be deemed by the Parties to be incorporated into this Schedule where these Services are procured).
  2. Where SIM based recording is procured and available, Kerv will apply (at the Customer’s direction) network bars on the Customer’s identified numbers. Any new Connections procured requiring the same network bars and/or configuration requirements, will be set out in an Order to confirm such. Only authorised Customer personnel will be able to lift international and/or premium bars; or any other procured and/or agreed configuration requirements. This can be done by contacting support@kerv.com.

**New Mobile Connections and/or Services**

* 1. From time to time during the Term, the Customer may purchase additional Services from Kerv by submitting one or more Orders for Services, each will be subject to Kerv’s acceptance. Any ad-hoc Mobile Services performed under or in relation to this Agreement, shall be deemed to incorporate these terms and conditions.
  2. Requests for new Connections on the current Customer MNO account shall be processed by Kerv subject to the completion of an Order form. The Order must confirm what Device is required (if any) and what Services are to be enabled on the number, such as voice and/or data card / modem.
  3. Where the Order is received before 2pm on a Business Day, Kerv will aim to dispatch the SIM Card and any related Device for delivery by 10am the next Business Day; to the Customer’s specified delivery address. Kerv will invoice the Customer for the Order in accordance with standard practice and subject to the payment terms set out in this Agreement or (where such is agreed) will deduct the agreed Charges from the Customer’s Mobile Hardware Fund.
  4. The Customer hereby acknowledges and agrees to be responsible for all use of the Services by its employees, Users, contractors and/or any other party operating under the direction of the Customer with any relevant terms and restrictions set out in this Agreement.

**Spend Limit**

* 1. The Customer can request a monthly spend limit on either the Mobile Services as a whole, or individual Connections, provided that it gives written notice to Kerv of any such request at least thirty (30) days prior to when the Customer requires such spend limit(s) to be applied ( the “**Spend Limit**”). The same written notice period is required to Kerv for any amendment to an existing Spend Limit. Where the Customer exceeds any Spend Limit, Kerv shall immediately suspend all Mobile Services associated with that Spend Limit until the start of the next billing period.

**Lost/Stolen Device**

* 1. If a Customer Device is lost and / or stolen or if it is not working, the Customer must inform Kerv as promptly as possible where such lost and/or stolen occurrence is reasonably suspected or known. In such circumstances, the Customer will remain liable to pay the Charges under this Agreement.
  2. Replacement handsets or SIM cards will not be ordered by Kerv, unless the approved purchasing procedures have been followed, as agreed with the Customer at the time of such replacement request.
  3. If the Mobile Service is suspended because the Customer SIM card or device is lost or stolen or Kerv reasonably believes or knows the Customer device is being used fraudulently, the Customer will still be obligated to pay the monthly Charges.

**Loan and/or Replacement Device**

* 1. In the event the Customer seeks to evaluate and/or loan a Device provided by Kerv’s third party suppliers, such evaluation/loan will be subject to the terms contained in the ‘Loan Item Agreement’ as appended to this Schedule at Appendix 1.
  2. In the event of a handset developing a fault, or being lost, stolen or damaged beyond economical repair, the User shall follow the procedure below:
     1. The User or their manager must contact Kerv (via the email address: [support@kerv.com](mailto:support@kerv.com)), whereby arrangements to provide a replacement handset shall be made, as appropriate.
     2. If a handset is faulty and is sent to Kerv for repair, it will be sent to an approved repair facility. A quotation will be provided to the Customer containing the cost of the repair. The Customer can elect to have the phone repaired or replaced (if beyond economical repair). Kerv will provide a quotation for any replacement handset/Device.
     3. Kerv will provide a monthly report of all handset faults handled in the previous month detailing the nature of the fault and the cost of the repair.

### Charges

* 1. The Customer is responsible for all Charges incurred from the use/availability of use of a Device and/or SIM card. The Charges applied will depend on the Tariff(s) connected. All Charges applicable shall be set out within an Order.
  2. For additional Services with recurring subscriptions, Kerv will advise the Customer at least thirty (30) days before any additional service fees are due to increase.
  3. Kerv reserves the right to charge an administration Charge for all Customer requested network changes in relation to SIM cards or Connections; while either:
     1. remaining with Kerv,
     2. a transfer from Kerv or
     3. a termination of an Initial Term.
  4. Pursuant to paragraph 3.3 above, such administration Charge will be in line with industry practice and is subject to change.
  5. Risk in any goods/Devices shall pass to the Customer on delivery to the Customer at the agreed delivery address. Kerv shall deliver the goods to the delivery address. Time shall not be of the essence for delivery of the goods/Services, save where otherwise set out in an Order. For clarification, where delivery/activation dates are entered into an Order, such shall be deemed estimates, unless otherwise specified.

**Mobile Voice Recording Charges (SIM based Services only)**

* 1. The Charges invoicing profile applicable to the Services, shall be as set out within the Order form.
  2. The set up Charges for the number of Users (as set out in the Order) will be invoiced up to thirty (30) days post the Cutover. The invoice shall be in arrears for 100% of the set up Charges, as set out in the Order form. Any additional Users will incur a set up Charge and attract a recurring Charge.
  3. The Charges associated with the Users stated in the Order form is the Minimum Commitment. Irrespective of whether the Services are fully used or not, the Minimum Commitment shall be due and payable.
  4. Any additional User added above the Minimum Commitment of Users, shall be invoiced (monthly in arrears), at the same Charge set out on the Order form, commencing from the month post the go live date for the additional users. For clarification, where additional Users are added, the invoice for such shall be captured within the same invoice as that for the Minimum Commitment.
  5. Kerv will receive a monthly report detailing the number of active recorded numbers in the previous month. For the purpose of invoicing, each of these shall be considered as an Active Recorded User and will incur Charges as such, irrespective of whether the User was active for part of the month.

**Mobile Services Hardware Fund**

* 1. Kerv will provide the Customer with the mobile hardware fund set out in the Order(s) which, unless otherwise stated, is credited in two (2) tranches during the Initial Term (the “**Mobile Hardware Fund**”). The Mobile Hardware Fund’s first tranche will be credited by Kerv thirty (30) days after the Service Commencement Date or upon the Renewal Date (the anniversary of the Service Commencement Date post the Initial Term).
  2. The second payment will be made in the month following the anniversary of the Service Commencement Date.
  3. The Customer can elect to use the Mobile Hardware Fund to purchase hardware only. In no event, may the Mobile Hardware Fund (in part or whole), be redeemed by the Customer to facilitate a ‘payment’ on account or be used to set off against any outstanding invoices; unless otherwise agreed in writing.
  4. The Mobile Hardware Fund shall be allocated over the Initial Term as set out in the Order(s), for example where the Initial Term is twenty-four (24) months, the allocation shall be 1/24th per month, save that such allocation shall not preclude the Customer from redeeming funds in advance, as set out above. For clarification, the allocation and accrual of the Mobile Hardware Fund shall always align with the duration of the agreed Initial Term.
  5. Where the Customer has elected to redeem the Mobile Hardware Fund (or any portion thereof) in advance, should this Agreement terminate, for any reason whatsoever, the Customer hereby undertakes that on such termination they shall refund any portion of the Mobile Hardware Fund taken in advance on a pro-rata basis.
  6. Upon expiry or termination of this Agreement or where 80% of the Customer mobile estate has transitioned away from Kerv; Kerv shall remove all rights and obligations it has to provide, and the Customer shall no longer have entitlement to, the Mobile Hardware Fund.

**Mobile Services Concessions**

* 1. The concessions and rebates (“**Concessions**”) extended to the Customer relating to the MNO Contract are as set out in the Order(s):
     1. The Concessions extended to the Customer shall cease on termination of the relevant MNO Contract.
     2. All Concessions undrawn by or unpaid to the Customer at the time of termination of the relevant MNO Contract, prior to the end of its term will no longer be due to the Customer.

**Mobile Minimum Spend Commitment**

* 1. In the event this Agreement is terminated or the Initial Term ends, the Customer’s committed spend to be spent with the MNO over the contracted term (as detailed in any Order(s)) will be assessed. Where the findings of this review show the Customer has not met the obligation of the Mobile Minimum Spend Commitment, Kerv shall invoice the Customer for the difference (the “S**hortfall**”) within thirty (30) calendar days of expiry/termination of the Mobile Services provided under this Agreement and any Order(s). The Shortfall shall be calculated by reviewing the difference between the committed spend agreed with Kerv to be spent with the MNO and the actual spend with MNO over the contracted term.

### Term & Termination

* 1. The Initial Term applied to all the Services procured under this Schedule shall be two (2) years commencing from the Service Commencement Date (save where otherwise stated in an Order).
  2. Subject to the ‘Co-terminus End Date’ paragraphs 4.9 and 4.10 below, each additional Connection/ MPN will be treated as a new agreement, and must be connected for a minimum Initial Term of two (2) year, commencing from the date of Connection/provision.
  3. After the Initial Term this Agreement will automatically renew for a Renewal Term, commencing on the immediate date following the Initial Term (the “**Renewal Date**”). The Renewal Term shall be for a period of twelve (12) months, unless otherwise agreed in an Order and shall continue until Kerv receive a ninety (90) day termination notice (the “**Termination Notice Period**”) from the Customer.
  4. For the avoidance of doubt, where the Customer seeks to terminate either the whole or part of the Mobile Services (irrespective of whether at the end of the Initial Term or any Renewal Term); the Termination Notice Period is required to expire on the anniversary of the Initial Term or any Renewal Term. By way of example;
     1. where the Customer seeks to terminate a twenty four (24) month Initial Term, the termination notice must be issued in writing and received by Kerv no later than month twenty one (21) of the Initial Term, ensuring Termination Notice Period has been validly provided, prior to the anticipated end of the Initial Term;
     2. where the Customer seeks to terminate a twelve (12) month Renewal Term, the termination notice must be issued in writing and received by Kerv no later than month nine (9) of the Renewal Term, ensuring the Termination Notice Period has been validly provided, prior to the anticipated end of the Renewal Term.
  5. The Parties acknowledge and agree the intention of the Termination Notice Period is to ensure the Services do not roll past the Renewal Date. In the event, the Termination Notice Period is not provided by the Customer, this Agreement shall roll for a further Renewal Term.
  6. Kerv may notify the Customer ninety (90) days prior to the expiry of the current Initial Term to inform of the Mobile Services impending expiry and invite a Renewal Term. Where the Customer wishes to procure further Mobile Services, the Parties shall agree to execute a Resign. The Resign shall have an agreed Initial Term and be treated as if such were a new Connection under this Agreement.
  7. MPN use may be withdrawn immediately on contract termination, or where a breach of this Agreement is suspected to have occurred.
  8. Unused MPNs may be withdrawn subject to thirty (30) days’ notice.

**Co-Terminus End Date**

* 1. If at the end of the Initial Term there are individual instances of a Mobile Service (e.g. lines) which have not yet served their Initial Term and the Customer wishes to terminate either an Order in full or part and/or this Agreement, Kerv will advise the Customer accordingly and the Customer shall have the option to elect:
     1. to terminate this Agreement by giving thirty (30) Business Days’ notice and pay any applicable Early Termination Fees; or
     2. to request the total amount of months outstanding (in respect of the individual Services which have not served their Initial Term), be divided into the total number of Services being provided and active at the end of the ‘minimum term’ (meaning the ‘Actual Holding’) which shall be rounded up to the nearest whole month, and to extend the Initial Term for each Service by the amount of time that is calculated (the “**Extended Initial Term**”). The following being a worked example of the amortised formula to apply to find the Extended Initial Term duration:

**Scenario:** There are one hundred (100) Services comprising of SIM cards/Connections/lines/channels connected as part of an overall Mobile Service. Ten (10) of these Services have not completed their full Initial Term, at the end of an Order’s Initial Term (for example they were additional Connections part way through an Order). Each of these ten (10) Services have ten (10) months of time remaining to be completed. The formula to apply would be:

10 Services x 10 months = 100 months. This would be divided across the number of Services, resulting in one (1) month’s extension to each Services Initial Term (this is the Extended Initial Term).

* 1. If the Customer elects to proceed in accordance with paragraph 4.9.2, the relevant Initial Term(s) shall be deemed to have been reduced in accordance with the Extended Initial Term and Kerv will only claim Early Termination Fees (if any) in respect of such reduced Term.

**Termination Rights**

* 1. Kerv reserves the right to Charge an administration fee for all SIM cards or phones that request a transfer from Kerv; or terminate within the agreed Term. The Charges will be aligned with industry practice and are subject to change.

**Termination for Convenience**

* 1. Subject to paragraph 4.13 and 4.2, the Customer may terminate (at any time) an Order for Mobile Services by providing Kerv ninety (90) days’ written notice of such termination. The notice will commence from the date of physical receipt of the notice by Kerv, plus the aforementioned ninety (90) day notice period.
  2. Pursuant to paragraph 4.10, where the Customer instructs this termination right, such termination shall incur:
     1. an Early Termination Charge; and
     2. an administration Charge (per Connection), to be applied at Kerv’s discretion.
  3. On termination the Customer shall pay all outstanding Charges on the account including, but not limited to, the Charges arising from the early termination of the Term.

**Termination for Cause**

* 1. Where the Customer seeks to terminate any Mobile Service Order, due to the acts/omissions of Kerv, the Customer shall provide Kerv with written notice confirming the application of a ninety (90) day notice period for such termination and the following shall apply:
     1. Charges for the part of the Term unused under the Order will continue to apply and will be payable. Charges are payable based on the average full months mobile invoice for the unbilled period i.e. PAC issued at thirty (30) days, then sixty (60) days (2 months) average bill is due;
     2. PAC will be issued to the Customer within the ninety (90) day notice period;

As an example of the possible application of the above sub provisions:

PAC issued at thirty (30) days; resulting in sixty (60) days (2 months) average bill for Services to be invoiced to the Customer.

* 1. Where Kerv seeks to terminate any Mobile Service Order, for example in the event a network is no longer available and suitable/commercially viable alternatives are not available; Kerv will pay the Customer a sum up to and including the date of such termination notice. Furthermore, Kerv will refund (for any unused period), monthly Charges which the Customer has paid in advance.

**Termination of International Mobile Services**

* 1. Kerv shall be entitled to interrupt the Customer and/or its User’s access to the Network and the International Mobile Services or any part thereof; or require the Customer and/or its User’s to cease or procure the cessation of the International Mobile Services or any part thereof, if:
     1. in the reasonable opinion of Kerv, the Customer and/or its User’s fails to take, or unreasonably delays in taking, any necessary action in respect of any Fraud;
     2. Kerv (or its third party providers) is instructed to do so by any competent regulatory, administrative or judicial authority; and/or
     3. Kerv (or its third party providers) reasonably believes that, as a result or consequence of the use of Services, Artificially Inflated Traffic is occurring.
  2. Upon the expiration or termination of an individual Order(s) and/or this Agreement, the Customer shall indemnify Kerv against any liability whatsoever for any damage, loss or expense of any kind suffered or incurred by, arising from, or incident to, any such termination; regardless of whether the Customer is aware of any such damage, loss or expense and regardless of whether such damage, loss or expense resulted from such termination of an Order(s) and/or this Agreement.
  3. Kerv reserves the right to disconnect any Customer and/or User Connection/account which, in Kerv’s sole and absolute discretion, is believed may breach Kerv (and/or its third party providers) security recommendations.
  4. All security policies and configuration recommendations are available on request from Kerv via an email request to: [support@kerv.com](mailto:support@kerv.com). However, the Parties recognise the security policy is subject to change from time to time and that the responsibility of checking the Customer (and Users) conformance to this policy, resides solely with the Customer.
  5. Pursuant to paragraph 4.20 Kerv accepts no liability for security breaches occurring as a result of the Customer’s failure to comply with the appropriate security policies and/or recommendations as set out in the policy.

### Suspension

* 1. Kerv may suspend the Mobile Services immediately where:
     1. The network fails or if modification or maintenance work is being carried out, or if the Network is unavailable for any reason;
     2. The Customer does not act with due urgency to inform Kerv of any suspected and/or actual the loss or theft of a Customer SIM card and / or Device. Irrespective of whether such suspension is applied, the Customer will remain liable for (and must continue to pay) all Mobile Service Charges under this Agreement;
     3. The Customer has not made full payment for any of Charges in accordance with the agreed payment terms;
     4. it reasonably believes and/or knows the Customer Device or SIM card is being used inappropriately, fraudulently or illegally.
  2. If the Mobile Service is suspended:
     1. as set out in 5.1.1 above, for more than three (3) continuous days, the Customer will not have to pay line rental for that period until the Service is reinstated; and/or
     2. as set out in 5.1.2 or 5.1.4 above, the Customer will still have to pay the monthly Charges.

**Network Suspension**

* 1. Kerv may immediately suspend the Mobile Service if the Network fails or if modification or maintenance work is being carried out, or if the Network is unavailable for any reason. There may be reasons beyond Kerv’s control when the Network is unavailable. Where such occurs, it will be considered a Force Majeure Event (subject to clause 16) and Kerv will not be deemed to have committed a material breach of this Agreement.

### Sale/Supply of Goods

* 1. In the event no Service Commencement Date is identified on the Order, the date upon which support and/or maintenance Services commence shall be applied, on a per item basis. For clarification each deliverable may have differing Service Commencement Dates.
  2. Devices not supplied by Kerv will only be taken into support upon Kerv confirming such is possible and upon Kerv’s maintenance acceptance tests being completed.
  3. Any delivery dates for the Services are estimates only and Kerv does not warrant the delivery schedule or accept any liability for late delivery.
  4. Kerv shall supply, install and configure the goods as set out in an Order.
  5. Where any Device becomes End of Life, the Customer agrees that Kerv shall at its option: (a) cease support on such Device after serving reasonable notice to the Customer; or (b) continue to provide support on a reasonable endeavours basis. Where such support continues replacement Devices will only be provided where Kerv has such Device in stock and that no enhancements, upgrades or new software shall be provided on such Device, unless otherwise agreed. The Customer agrees that any Service Levels shall not apply to such Device.

### Special Terms

**International Mobile Services**

* 1. This paragraph 7 shall apply where International Mobile Services are delivered under this Agreement. In the event of any conflict between the below and any other terms set forth; the following shall hold precedence in relation to the International Mobile Services.
  2. Unless provided on a managed basis by Kerv, the Customer network availability is the responsibility of the Customer.
  3. The EULA applied to the International Mobile Services is set out in Appendix 2 (EULA) to this Schedule
  4. Kerv shall be entitled to amend or modify this Schedule (and any terms concerning the Services as set out in the Kerv Linked Master Services Agreement [HERE](https://kerv.com/policies/kerv-collaboration-and-compliance-msa/)) to the extent that such amendment or modification is reasonably and solely required by any relevant Laws or by any regulatory authority required to operate or deploy the Network or provide any of the Services to the Customer. Such amendment or modification shall be effective upon the publishing of the new terms and/or the updating of the amendment log set out in the above link.
  5. Kerv (via its third party providers) shall use reasonable efforts to retain or renew any required authorisations, licenses, rights or other consents which are necessary for Kerv’s continued compliance with its obligations under this Schedule. Kerv’s ultimate failure to secure such authorisations, licenses, rights or other consents shall not constitute a breach of this Agreement and will give rise to the Customer having an immediate termination right of this Agreement.
  6. In the event Kerv (or its third party providers) fails to secure any authorisation, license, right or other consent necessary to continue providing the Services or any portion thereof to the Customer, Kerv may, on written notice to the Customer, withdraw provision of the Services or any portion thereof. Kerv will use all reasonable endeavours to provide as much prior notice of such withdrawal to the Customer and shall have no liability with respect to any such withdrawn Services.
  7. The Parties acknowledge and agree that during the Term there shall be no contractual relationship between Kerv’s third party providers and the Customer (and/or any Users) with whom Kerv has a contract for the Services, unless a pre-existing contract for the Services is already in place between the Customer and Kerv’s third party providers.
  8. Kerv’s third party providers shall be entitled at any time to improve, modify, suspend, change, test, maintain or repair the Networks (or any part thereof), the Services provided to the Customer and any other services offered in relation thereto, and to interrupt the Networks or the Services or any other such services for such purposes without incurring any liability or obligation to the Customer or any User. Kerv will use all reasonable endeavours not to directly cause disruption to the Networks, the Services or any other such services.
  9. Kerv’s third party providers shall be entitled to interrupt the Networks or the Services at any time without notice in cases of emergency, as determined by Kerv’s third party providers, in its sole and absolute discretion. However, where any notice of such emergency action is possible, Kerv shall promptly provide such notice to the Customer.
  10. Kerv’s third party providers shall have the right to access and review the Customer’s and/or the Users use of the Networks and their use of the Services to ensure:
      1. the integrity of the Network; and/or
      2. compliance with any order or investigation by any competent regulatory, administrative or judicial authority, and/or for any other legitimate business purpose of Kerv or its third party providers.

**Limitations of Liability: for International Mobile Services**

* 1. The Customer will be liable pursuant to clause 13 for claims, losses, damages, costs and expenses suffered or incurred by Kerv (including those suffered as a result of acts or omissions of a User), as a consequence of the below:
     1. any claim that voice, text, data or any other data, content or information carried by or otherwise disseminated through the Network by means of the Customer and/or a User infringes the privacy or Intellectual Property Rights of a third party or violates any Laws;
     2. any breach by the Customer and/or a User of any obligations specified by any regulatory authority in the Territory in respect of telephone numbers provided by Kerv for use with the Mobile Services;
     3. any fine or sanction arising from regulatory action due to a breach or breaches by the Customer and/or its User of any regulatory code of practice;
     4. any claims relating to the branding of Kerv or use or resale of the Mobile Service or any element of the Service in violation of the EULA and this Agreement;
     5. any charges borne by the Customer and/or a User which are a result of incorrect configuration of their own systems and equipment or where it can be demonstrated that the correct security procedures or industry best practices were not implemented.
  2. Kerv’s liability for direct International Mobile Service damages, shall in no event exceed one hundred percent (100%) of the paid Charges by the Customer in relation to the International Mobile Services only, within the six (6) months preceding the Customer’s sustainment of such damages.
  3. The limitation of liability set out in paragraph 7.12 will not apply to:
     1. any indemnification obligations of this Agreement;
     2. any claim resulting solely from the gross negligence or wilful misconduct of either the Customer and/or a User;
     3. costs and fees incurred in recovering direct damages under this Agreement, including legal, arbitral, and other professional fees and expenses.

**Software Releases: for International Mobile Services**

* 1. Kerv will make available to the Customer and/or its Users (as applicable), through a cloud environment, periodic Software updates containing fixes for known problems (hereinafter, “**Maintenance Releases**” or “**MRs**”) and the associated release notes describing the fixes and any special instructions for each MR.
  2. The Customer shall be responsible for ensuring the performance of the MR update process via a GUI command option deployed to the Customer. Kerv (or its third party providers) operations personnel, shall be responsible for performing maintenance activities or completing the MR update process only for cloud services directly managed by Kerv or its third party providers.

### Mobile Service Coverage

* 1. The Customer Device will only work in the areas covered by the Network the Customer has chosen. The Customer understands and acknowledges Devices may be affected by interference such as (but not limited to) those caused by the weather, high buildings, geographical feature, tunnels etc.
  2. Some Services may offer multiple network capabilities using software on the SIM Card to select the appropriate Network, particularly the International Mobile Services. International Mobile Services on multiple Network SIM Cards may operate differently than non- International Mobile Services and may carry additional Charges. Kerv does not guarantee access to any specific MNO, and access to an individual operator may be limited or withdrawn at any time without warning.
  3. International SIM Cards will select the most appropriate service available on the Network for carrying the voice or data traffic and this may determine a switch of technology, for example between 4G and 3G.
  4. Kerv does not guarantee coverage or quality of service in any area as Kerv has no control over this, but would strongly recommend the Customer investigates such itself and is comfortable with, any estimated coverage and quality of service information from Kerv.
  5. All equipment supplied to the Customer remains the property of Kerv (until such time as full payment has been received for same; or unless otherwise agreed in writing). ‘Equipment’ in this provision will include (but not be limited to) SIM Cards, mobile phone handsets, mobile terminals, mobile paging transmission devices and all hardware related to a SIM card or Device.
  6. MPNs can receive calls from all locations with which we or our carriers have interconnect agreements. Customer acknowledges the service levels may be impacted by those of our carrier partners, and agrees that Kerv cannot be held liable for number routing or switching within any carrier networks or elsewhere on PSTN or MNO networks.

### Implementation Services

**Porting Mobile Connections**

* 1. If the Customer needs to transfer a mobile number from one MNO to another (a “**Porting Request**”) it must provide Kerv with a PAC code. The PAC code enables the network providers to transfer a mobile number between networks.
  2. All Porting Requests must be sent to support@kerv.com specifying the below information:
     1. the specific Port Date (if required);
     2. what Device and/or SIM Card is required (if any) and quantity of same;
     3. the delivery address for Devices and/or SIM Card (if any); and
     4. what Mobile Services are to be enabled on the number.
  3. Any Porting Request must be received from the Customer’s representative via e-mail before Kerv can organise the transfer with and to the appropriate MNO.
  4. If the Porting Request is received before 2pm on a Business Day Kerv will use its reasonable endeavours to dispatch the Connection for delivery within two (2) Business Days.
  5. Upon Kerv completing the Porting Request, it will confirm to the Customer:
     1. the mobile number;
     2. Port Date; and
     3. the dispatch date of SIM Cards and/or Devices (where appropriate), to the Customer requested delivery address;

together these actions shall be referred to as the “**Port Completion**”.

* 1. Kerv shall invoice the Customer for the additional SIM Cards and/or Devices; or alternatively where agreed with Kerv, use the Mobile Hardware Fund (either for part or full payment).
  2. Any delivery dates for Porting Request are estimates only and Kerv does not warrant the delivery schedule or accept any liability for late delivery. Kerv and/or its third party providers shall notify the Customer once they can access the Service.
  3. Within ten (10) Business Days of Port Completion, such period known as the “**Acceptance Period**” occurring separately for each Order, the Customer shall validate to Kerv that the Services substantially conform to the relevant Porting Request.
  4. The Customer shall be deemed to have accepted the Services if the Customer makes active use of the Services which were subject to the Porting Request. Where the Customer fails to accept the Services within the Acceptance Period Kerv shall discuss and agree next steps with the Customer to facilitate possible rectification of the porting transaction, using its reasonable efforts to do so.
  5. The Customer shall ensure any other adjunct equipment or inter-operability requirements are met to enable and facilitate the Services procured within an Order (for example SIMs where a Software based Service is procured).
  6. If the Customer has failed to perform the Customer Obligations (as set out within this Agreement) or any third party (other than a Kerv supplier or sub-contractor) over whom Kerv has no control causes any delay in the implementation Services which results in Kerv being exposed to additional third-party costs; Kerv may make an additional Charge to the Customer to cover such additional costs.
  7. Kerv cannot warrant that any porting request will be successful and will Charge for failed or rejected porting requests. The Customer acknowledges that the Porting process identified in this Schedule must be followed and additional Charges may be levied where ports fail due to incorrect information supplied by either the Customer and/or Users.
  8. Number ranges must be requested on an order by order basis, and will be subject to this Agreement. Kerv does not guarantee the availability of any specific numbers or number ranges. Additional ranges may be provided subject to a change request from the Customer and extra numbers may be provided subject to an agreed change request.

**International Mobile Services**

* 1. In some territories numbering allocation is subject to specific identity checks imposed by local regulatory authority. It is the responsibility of the Customer to ensure that these checks are fulfilled according to the prevailing regulations
  2. Where an outbound port is available, MPNs may be ported away to the major mobile operators or MNOs or telecoms operators in the appropriate country, using the standard porting process in that country.
  3. Pursuant to paragraph 9.15 Kerv does not guarantee that all operators in a country are covered by or implement the porting process set out in this Schedule. The Customer acknowledges other requirements, processes and/or procedures may be required to comply with a country’s porting requirements and that such may incur additional Charges. In the event of such requirements, the Parties shall discuss and agree the steps to be performed (ahead of actioning the port).

### The Customer’s Obligations

* 1. The Customer shall obtain all permissions, licences and consents necessary for the Implementation Services and/or any other work to be carried out by Kerv. Kerv shall advise the Customer in writing if at any time Kerv become aware of any requirement for the Customer to have any such permission, licence or consents.
  2. The Customer warrants that all information provided to Kerv is true and correct to the best of its knowledge.
  3. Where the Customer does not have a Spend Limit or any other Overage Charge control implemented (pursuant to paragraph 2); the Customer will be fully responsible and liable for the monitoring of their usage and payment for same (save where otherwise agreed in the Order).
  4. The Customer shall at all times:
     1. ensure that all Users conduct all calls using a Device with a SIM that has been enabled for the Services and not use any equipment, which has not been approved for use on the Network;
     2. ensure all Users are adequately trained in the use and operation of the appropriate portal(s);
     3. comply with the Mobile Service terms whether set out within this Agreement, the supporting Documentation and/or an Order; and
     4. ensure any User of a SIM card and / or Device do not allow and/or facilitate use of any Mobile Service for any immoral, harassing or illegal purpose. Kerv may report any such incidents to the police or any other relevant official organisation, where Kerv reasonably believes such behaviour to have occurred/be occurring.
  5. Kerv shall not be liable for a failure to provide the Services due to a failure of the Customer to comply with the responsibilities set out in this Agreement. The Customer’s failure to perform its obligations under this Agreement, in a timely manner may result in additional charges.
  6. The Customer shall be solely responsible for the content of both the voice and/or data transmitted and/or carried through the resources/Mobile Services provided by Kerv. The Customer shall use the voice and/or data transmitted and/or carried in accordance with all applicable statutory or regulatory rules, regulations and guidelines.
  7. The Customer shall not use the Services for sending any data and/or messages which is/are in violation of any Applicable Law. The Customer shall be solely and wholly liable and responsible for any breach of the aforesaid obligation(s) and Kerv shall have no liability arising from such breach.

### Warranties

* 1. The Customer warrants that it will not, and will ensure that it’s Users do not:
     1. transfer to any other person or entity any of its rights to use the Services;
     2. sell, rent, sublicense or lease the Services;
     3. create any derivative works based upon the Services;
     4. copy any feature, function, design or graphic in, or reverse engineer or decompile the Services other than as expressly permitted by law;
     5. access or use the Services in order to compete with Kerv or to assist someone else to compete with Kerv;
     6. use the Services, or permit its use, in a way that violates any law or regulation;
     7. record, upload, store or stream any Data in or via the Services which Kerv reasonably considers is defamatory, threatening, abusive, offensive, infringing, discriminatory or otherwise unlawful;
     8. make inappropriate, fraudulent, or abusive calls using the Services;
     9. upload, install, program or include any virus in the Services;
     10. allow anyone to use the Services (or any part of it) other than Users; or
     11. obscure, amend or remove any copyright notice, trademark or other proprietary marking on, or visible during the operation or use of, the Services.
  2. In relation to the Users, the Customer undertakes that it can add Users at any time and that irrespective of when a User is added to the Service, the Customer shall be liable for all Charges in relation to the User.

# Appendix 1: LOAN ITEM AGREEMENT

This **Kerv Linked Loan Item Agreement** is comprised ofthis Agreement, the Mobile Services Schedule and the Master Services Order form, which shall collectively form (this **“Agreement”).** These documents and other Documentation can be found [HERE](https://kerv.com/policies/kerv-collaboration-and-compliance-msa/). Kerv reserve the right (as reasonably required) to update these terms and conditions from time to time (such amendments to fully supersede any previous provisions agreed). In the event of any substantive or material changes (as determined by Kerv) these shall be notified to the Customer via updates to the Kerv Communications Compliance Practice webpage (found [HERE](https://kerv.com/policies/kerv-collaboration-and-compliance-msa/)). The Customer hereby acknowledges and accepts it is responsible for reviewing and ensuring compliance with any changes made. For the avoidance of doubt all definitions and clauses herein shall apply to the Agreement.

## Loan Items

* 1. The items set out in the below table shall be defined together and singularly as the “**Loan Item(s)**”:

|  |  |  |  |
| --- | --- | --- | --- |
| TABLE 1: LOAN ITEMS | | | |
| Quantity | Make & Model | Serial Number | Value (£) excluding VAT |
|  |  |  | £ |
|  |  |  | £ |
|  |  |  | £ |
| Total Value: £ | | | |

* 1. By taking possession of the Loan Item(s) and signing this Agreement, the Customer agrees to the terms and conditions listed below.

1. Receipt of Loan Item(s)
   1. The Customer acknowledges receipt of the Loan Item(s) listed in Table 1 above and agrees to return it/them to Kerv:
      1. in the event of an evaluation within thirty (30) days from the date of execution of this Agreement; or
      2. upon Kerv’s written request to do so

each, a "**Return Date**".

* 1. From the date on which the Customer receive the Loan Item(s) through to the Return Date, title to the Loan Item(s) shall at all times remain vested in Kerv or in Kerv’s supplier as appropriate.
  2. The Loan Items will be returned undamaged, including all accessories.

1. Failure To Return Loan Item(s)
   1. In the event the Customer fails to return the Loan Item(s) to Kerv by the Return Date, the Customer will be invoiced by Kerv for the full market cost of the Loan Item(s), which the Customer undertakes to pay promptly on receipt, and upon Kerv receipt of payment, in full, the Customer will obtain full ownership rights in the Loan Item(s) along with any remaining warranty.
2. Extended Return Date
   1. Where a circumstance prevents the Customer from returning the Loan Item(s) on or before the Return Date, the Customer may submit a request to Kerv for an extension of five (5) days beyond the thirty (30) day return period.
   2. The Customer may submit a request for the extension to Kerv via the email address: support@kerv.com. Where Kerv approve the extension of up to five (5) days, the extended date will become the Return Date for purposes of these terms, and the Customer will be required to return the Loan Item(s) by that extended Return Date.
   3. All of the terms set forth in this Agreement will apply to that extended Return Date.
3. Repair/Replacement
   1. If relevant (as solely determined by Kerv), Kerv shall provide the Customer with notice of any costs that may be relevant for the repair of the Customer existing phone, which the Loan Item(s) temporarily replaced.
4. Safeguarding
   1. The Customer must take reasonable and prudent precautions to protect the Loan Item(s) against damage, loss, or abuse while in its care, custody, and control. If the Loan Item(s) is lost, stolen or damaged, the Customer must notify Kerv immediately.
   2. Only Kerv may service the Loan Item(s). The Customer may be held responsible for repair or replacement costs if the Loan Item(s) is lost, damaged, or stolen while on loan.
5. Permitted Use
   1. The Customer must not use the Loan Item(s) for any unlawful purpose.
   2. Only software with valid licenses should be loaded on the Loan Item(s)
6. Deletion of Files and Data
   1. The Customer acknowledges that before returning the Loan Item(s), they are solely responsible for erasing all files and data, including personal and/or confidential files and data, created by them. Therefore, should the Customer wish to retain any files which they have created, it is their responsibility to backup those files to an accessible place by them.
   2. Kerv is neither responsible nor liable for any files or data remaining on, or erased from the Loan Item(s), following its return to Kerv. For the avoidance of doubt all data obligations (including the use and storage of) rest with the Customer.
7. Installed Software
   1. The Customer acknowledges that all software provided with the Loan Item(s) is licensed specifically to this Loan Item(s) and the Customer will not remove it. Furthermore, the Customer also agrees not to copy or otherwise reproduce, reverse engineer, disassemble or decompile any software, the equipment, or components provided with the Loan Item(s).
8. Fees
   1. The goods will be insured for the period of the loan and the risk lies with the Customer for the loan period.
   2. Kerv will charge a 15% restocking fee for any Loan Item(s) that are not returned in the same condition as they were sent.
9. Kerv Liability
   1. To the fullest extent permitted by law, Kerv will not be liable for any consequential, incidental, indirect or direct damages arising out of these terms or the use of the Loan Item(s), including without limitation any losses of or affecting Customer personal property, software or data.
   2. To the maximum extent permitted at law Kerv’s maximum liability to the Customer in respect of all losses arising out of or in connection with Kerv’s performance or non-performance of its obligations under this Agreement shall in no event exceed the value of the Loan Item(s) from which the damage first arose.
10. Governing Law
    1. This Agreement shall be governed by the laws of England and Wales and the parties herby submit to the exclusive jurisdiction on the English courts.

By executing this document the Parties agree to the terms and conditions set out in this Agreement.

By and on behalf of:

**Customer**

Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Kerv**

Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Appendix 2: End User Licence Agreement for International Mobile Services

This EULA provides additional terms and conditions to this Agreement, under which the Customer shall order and Kerv shall deliver the Mobile Services. The definitions set out in this Agreement and the Mobile Services Schedule shall apply to this EULA, save where otherwise set out within this EULA.

1. SIM Cards
   1. All SIM Cards will be available in standard triple size form factor and eSIM. However, Kerv does not warrant that all form factors will be available at all times for all Mobile Services.
   2. Each SIM Card Order shall be for a minimum order of 100, or as laid out in the Price List and may be amended from time to time.
   3. Delivery shall be made to a single delivery site as set forth by the Customer (the “**Delivery Site**”). Where no Delivery Site is agreed, the Delivery Site shall be the Customer’s registered address.
   4. Upon Delivery of the SIM Cards to the Delivery Site, the Customer shall inspect the exterior of the packaging of the SIM Cards to determine if the SIM Cards appear to be in undamaged condition.
   5. Customer shall inform Kerv of any defects in SIM Cards within three (3) Business Days of Delivery. Kerv shall, after investigation and confirmation of the defects, promptly provide suitable replacements (that meet the specification) for the defective SIM Cards.
   6. Acceptance of the delivered SIM Cards shall be deemed to have occurred where Kerv are not notified of any discrepancy in either the delivered quantity or any damage to the exterior of the packaging of the SIM Cards within three (3) Business Days of Delivery.
   7. Kerv does not warrant that any application software used or placed on the SIM Card is faultless or that the software is tamper-proof.
   8. Kerv will not be liable for any loss or damage whether direct or indirect, consequential or contingent and whether foreseeable or not howsoever caused arising out of the purchase, possession, sale, rental or use by the Customers and/or a User of SIM Cards. In particular, Kerv hereby disclaims any and all other terms, conditions and warranties, express or implied whether statutory, arising out of trade usage or otherwise, including without limitation any warranty of merchantability or fitness for a particular purpose.
2. SIM Cards Intellectual Property Rights
   1. As between the Parties, save as expressly provided in this Agreement, Kerv will be the sublicensee of the Intellectual Property Rights in the International Mobile Services, subject to the below paragraphs 2.2 to 2.5.
   2. Kerv grants the Customer and/or a User a non-exclusive, non-transferable, royalty free, worldwide, perpetual license to use the Software, solely for the purpose of subscriber identification and provision of International Mobile Services (the “**Licensed Purpose**”).
   3. The Customer and/or a User shall have no right to copy, in whole or in part, the Software and shall not sublicense, sell, offer for sale, lease, loan, transfer or otherwise disseminate the Software, in whole or in part.
   4. The Customer agrees (and confirms that it shall contract same with any User) that only Kerv’s third party provider (the owner of the proprietary Software), shall have the right to alter, maintain, enhance or otherwise modify the Software.
   5. The Customer agrees not to (and confirms that it shall contract same with any User), modify, adapt, disassemble, decompile, reverse engineer, or reverse assemble the Software or any part thereof in any form whatsoever, or otherwise attempt to derive the source code or create derivative works therefrom, or translate in part or in whole the object code of the Software by any means and in any form, and shall not authorise any parent, subsidiary, affiliated entities, or third party to do any of the above.
   6. The Customer and/or User may use the licensed Software (set out in this paragraph 2) as contained in any SIM Card, solely for the purpose of subscriber identification and the provision and use of Mobile Services, as contemplated by this Agreement.

End.