

Definitions

- 1.1 "Agreement" means this agreement entered into between the Customer and Kinex.
- 1.2 "Customer" means the person, sole trader, partnership, legal entity, professional, company, or association, who has agreed to enter into this Agreement with Kinex.
- 1.3 "Customer Equipment" means any equipment, the property of the Customer or rented by the Customer from a third party, connected to the Network and used by the Customer in order to use the Service.
- 1.4 "Number(s)" means the telephone number(s) allocated to the Customer pursuant to this Agreement.

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- 1.2 "Customer" means the party named on the front cover of this Agreement.
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- 1.4 "Network" means the mobile network over which Service is provided pursuant to this Agreement.
- 1.5 "Network Operator" means the mobile network operator that provides the Network.
- 1.6 "Number(s)" means the telephone number(s) allocated to the Customer pursuant to this Agreement.
- 1.7 "Rate Schedule" means the schedule of charges applicable from time to time in respect of the Usage Charges.
- 1.8 "Service" means equipment provision, rental, or sale, provision of SIM cards, calls or airtime services (including messaging services, age restricted services, and premium services), access to the Network, direct or indirect access telecommunication service and/or any other services provided by Kinex to the Customer.
- 1.9 "SIM Card" means a subscriber identity module which allows access to the Network and use of the Service when installed and used in Customer Equipment or Kinex Equipment. The code on the SIM Card contains the Number. The SIM Card and the code on the SIM Card shall remain the property of Kinex and/or its principals.
- 1.10 "Supply Period" means the period during which Service is provided pursuant to this Agreement, which shall commence on the day that Service is first provided, either by delivery of Kinex Equipment to the Customer or by use of Service by the Customer (whichever is the earliest).
- 1.11 "Kinex" means Verastar Ltd.
- 1.12 "Kinex Equipment" means any equipment, including mobile handsets and SIM Cards, the property of Kinex or its principals, that is provided or rented to the Customer by Kinex pursuant to this Agreement.
- 1.13 "Usage Charges" means the charges made by Kinex to the Customer for the provision and use of the Service.

Service

- 2.1 Kinex will procure Service to the Customer subject to the terms of this Agreement. Kinex, or its principals, may at any time without notice vary the Service for technical, operational or other reasons within their entire discretion.
- 2.2 Kinex will use reasonable endeavours to procure a continuous high quality Service in accordance with the terms and conditions set out herein. The quality and availability of mobile reception may be affected by the proximity to a base station, local obstructions, severe weather, or other interference, and may not be at its best underground, in some buildings, in certain areas in the UK, and in some other countries.
- 2.3 The customer acknowledges and accepts that for reasons of changes in the national numbering plan by Ofcom or another regulatory body, or for other technical or operational reasons, Kinex may change the telephone number of a Number, after providing the Customer with reasonable notice (wherever possible) of its intention to do so.
- 2.4 The customer acknowledges and accepts that the Network may change from time to time to another network of similar quality.

Charges & Payment

- 3.1 Kinex will make Usage Charges for the provision and use of the Service in accordance with its Rate Schedule, appearing in the relevant tariff agreed between Kinex and the Customer, prevailing from time to time, which may be varied by Kinex, without notice, subject to clause 3.2.
- 3.2 In the event that increases in the Rate Schedule applied, which may be varied by Kinex, without notice, subject to clause 3.2.
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- 3.4 The customer agrees to pay invoices by Direct Debit in accordance with the advance notice given on your invoice. If an invoice is not paid by Direct Debit, then the Rate Schedule for the period of Service to which that invoice relates, together with all other periods to be invoiced for during the remainder of the Supply Period shall be charged at a deemed rate, approximately equal to twenty-five per cent above the applicable Rate Schedule at that time.
- 3.5 If invoices are not paid monthly by Direct Debit then any collection costs incurred by Kinex, including administration charges, will be charged to the Customer.
- 3.6 Interest will be charged on unpaid invoices from the due date until payment at a rate of 1.5 per cent per month or part thereof.
- 3.7 Value Added Tax or any other levy or tax, at the rate prevailing, will be added to all sums due to Kinex, which are quoted as exclusive of Value Added Tax or any other levy or tax.
- 3.8 The Customer shall not be entitled to delay or withhold payment or claim any set off against any payment due hereunder in respect of any claim or complaint, which the Customer may have for any reason whatsoever. Any payments made by the Customer to Kinex, including payments made by other services that the Customer may receive from Kinex, may be applied by Kinex as it deems fit.
- 3.9 The Customer agrees that Kinex may make credit status enquiries. Subject to credit status, Kinex may require a non-interest bearing deposit or pre-payment. At its discretion, Kinex may, from time to time, set limits on the amount of specific or all charges that the Customer may incur during a period.
- 3.10 The Customer agrees to reimburse and indemnify Kinex for all expenses, including all legal and professional fees, incurred as a result of the Customer's failure to comply with clause 3.4.
- 3.11 Usage Charges shall be invoiced monthly in arrears or monthly in advance, depending on the nature of the Usage Charges (normally, call charges will be invoiced monthly in arrears and fixed monthly charges, including equipment rental, will be invoiced monthly in advance). Usage Charges may be required to be pre-paid by way of deposit. Usage Charges may relate back to months prior to the previous month, and Usage Charges for roaming calls may take longer to be billed than other types of calls.
- 3.12 The Customer agrees to pay all Usage Charges or other charges incurred following a SIM Card being lost or stolen, until such time as the Customer has informed Kinex that the SIM Card has been lost or stolen, following which the Customer will not be liable for calls made using the lost or stolen SIM Card, but will continue to be liable for all other Usage Charges.

Customer Obligations

- 4.1 The Customer agrees and undertakes:
- 4.1.1 To comply with all regulatory conditions and other laws, licences, conditions, directions, codes or regulations relevant to the provision or use of the Service, as amended from time to time (including the laws and regulations applicable in other countries when using the Services whilst abroad);
- 4.1.2 Not to take, and to use all reasonable endeavours to prevent, any action likely to impair, interfere with or damage or cause harm to or distress to any persons, the Network, the operation of the Network Operator services and/or the operations of Kinex or its principals (including the Service);
- 4.1.3 Not to access age restricted services if the Customer is below the age specified to access such services;
- 4.1.4 If the Customer is allowed to access age restricted services not to show or send such content to anyone below the specified age;
- 4.1.5 If the Customer allows anyone under the specified age to use the Service, to deactivate access to age restricted services;
- 4.1.6 Not to circumvent any age restricted service mechanisms;
- 4.1.7 Not to use the Service for any improper, immoral, fraudulent or unlawful purposes or for the sending of any communication or storing of any information,

- which is of an offensive, abusive, indecent, obscene or menacing nature;
- 4.1.8 Not to cause, nor to allow others to cause, any nuisance, annoyance or inconvenience to Kinex or its principals, or to the Network Operator, including the use of the Network for the persistent sending of unsolicited communications without reasonable cause;
- 4.1.9 Not to act in any way such that the operation of the Service or any telecommunication network or any part of the Service or any telecommunication network will be jeopardised or impaired;
- 4.1.10 To use only Customer Equipment that is in good working order, is maintained by a competent maintainer, is compatible with the Service, and complies with all relevant technical standards, legislation and regulation relating to its use;
- 4.1.11 To comply with any reasonable instructions issued by Kinex or its principals, which concern the Customer's use of the Service and to co-operate with Kinex in relation to Kinex's reasonable security and other checks, which may include Kinex making telephone calls or sending text messages to the Customer;
- 4.1.12 Not to send or upload anything that is copyright protected (unless a Customer has permission to do so) or which in any way breaches the intellectual property rights of any third party;
- 4.1.13 To only use the Service for their own personal or business use and in accordance with normal anticipated usage patterns and not for any other commercial purposes and not to distribute content for the Service without the prior written permission of Kinex;
- 4.1.15 To ensure that all Kinex Equipment is insured against loss and kept safe (the Customer acknowledges that all Kinex Equipment shall remain the property of Kinex);
- 4.1.16 Not to use Kinex Equipment other than in connection with the Service, and specifically not to use a SIM card not provided by Kinex with Kinex Equipment;
- 4.1.17 Not to try to interrogate or reverse engineer the code on any Kinex Equipment including but not limited to SIM Cards and mobile handsets;
- 4.1.18 Not to use SIM Cards with any device which makes calls from landlines to mobiles appear to have originated from a mobile device (also known as SIM boxes or GSM gateways);
- 4.1.19 To keep all PINs and passwords provided by Kinex secure and confidential;
- 4.1.20 To pay for all Service provided by Kinex within the time limits and in the manner set out herein and to be responsible for the usage of the Service, whether the use of the Service has been authorised by the Customer or not (and the Customer agrees that Kinex is not obligated to monitor the level of telephone calls and/or report unsolicited telephone call patterns);
- 4.1.21 To notify Kinex, giving at least 30 days notice, of any changes in personal details of the Customer including change of address;
- 4.1.22 To inform Kinex, in accordance with the instructions published on its website, and at the earliest possible time, if the Customer becomes aware that a SIM Card has been lost or stolen (the Customer agrees to pay Kinex for replacement SIM Cards);
- 4.1.23 To continue to pay Usage Charges in respect of Kinex Equipment that may have been lost or stolen, or does not operate.
- 4.1.24 Not to in any way whatsoever cause calls in respect of the Number to be made, which are not routed over the Network;
- 4.1.25 In the case of payment not being made by Direct Debit, to pay the increased Usage Charges in accordance with clause 3.4;
- 4.1.26 At the Customer's expense, to terminate any existing contracts (with alternative suppliers) which provide the Customer with services similar to the Service pursuant to the Number;
- 4.1.27 To pay for all goods and services from third parties, if the Service is used to make purchases;
- 4.1.28 To provide Kinex with explicit consent to allow the disclosure of relevant information about the Customer between Kinex and other telecommunication service providers;
- 4.1.29 Not to claim any ownership rights over any Number or Kinex Equipment, nor to attempt to sell or agree to transfer any Number or any Kinex Equipment provided to the Customer.

Faults

- 5.1 Kinex will use reasonable endeavours to report to its principals any fault on the Network, which is reported to it by the Customer.
- 5.2 If a fault is caused by the Customer Equipment, by breach of this Agreement by the Customer, or by the Customer's negligence, then Kinex may recover all reasonable costs incurred from the Customer's negligence or breach.
- 5.3 If, during the first 12 months after any Kinex Equipment is provided to the Customer (and 3 months in the case of batteries), the Customer notifies Kinex of any defect or fault in the Kinex Equipment arising under normal use in consequence of which it fails to perform in any material respect with the manufacturer's specification, the Customer shall return the faulty Kinex Equipment to Kinex by recorded delivery post and Kinex shall, at Kinex's option, either repair the faulty Kinex Equipment, or replace the faulty Kinex Equipment with the same or an equivalent piece of equipment (which may be new or refurbished). In the event of replacement, the period during which this clause shall apply will end at the end of the first 12 months after the original Kinex Equipment is provided to the Customer (and 3 months in the case of batteries). This clause will not apply if the Customer has, or has allowed, the Kinex Equipment to be amended or damaged (whether accidentally or otherwise) or used in anyway or for any purpose not in accordance with the manufacturer's reasonable instructions or advice, or allowing another person to do so. In these circumstances, the customer shall continue to be liable to pay any charges due under this Agreement, including any charges due in relation to Kinex Equipment, until the Agreement is terminated.
- 5.5 Kinex shall not be liable to the Customer for any losses incurred as a result of an interruption to the Service for any reason whatsoever (including a fault on the Network or the Kinex Equipment), and the Customer shall continue to be liable for any Usage Charges incurred during such interruption.

Suspension of Service

- 6.1 Kinex shall be entitled to suspend Service in order to maintain or improve the Network or if obliged to do so by virtue of any direction or request from any Government Department, Emergency Service, Regulatory or Administrative Authority or by its principals, or if Kinex reasonably believes that the Service is being misused in any way, or for any other reason whatsoever. For the avoidance of doubt, Kinex shall not be liable to the Customer for any losses that are incurred by the Customer as a result of such suspension.
- 6.2 Although Kinex is not required to do so, Kinex may give the Customer notice of any suspension.
- 6.3 Kinex shall be entitled to suspend any part of or all of the Service without notice in the event that the Customer breaches this Agreement, including any payments not being made within 14 days of invoice date or not being made by Direct Debit.
- 6.4 Any suspension of Service for any reason whatsoever will not affect the Customer's obligation to pay for the Service during the period of suspension or thereafter, and will not affect Kinex rights to charge a termination fee.
- 6.5 The Customer agrees to pay an administration fee for each suspension applied in accordance with clause 6.3.

Liability

- 7.1 Neither the Customer nor Kinex excludes or limits its liability for death or personal injury caused by its negligence.
- 7.2 Kinex shall not be liable for any loss or damage caused to the Customer except where caused by Kinex's negligent acts or negligent omissions or Kinex's breach of contract and in such event Kinex's total liability to the Customer under this Agreement for any loss or damage shall be limited to £5000.
- 7.3 Subject to clause 7.1 Kinex shall not be liable to the Customer for: any indirect, consequential and/or special loss or damage; loss of profit; loss of revenue, loss of production or loss of business; loss of contracts; loss of goodwill, loss of reputation or loss of opportunity; loss of anticipated savings or

- loss of margin; loss or destruction of data; wasted management, operational or other time; liability of the Customer to third parties; or the acts or omissions of network operators or other telecommunication service providers on whom Kinex has to rely to provide the Service.

7.4 The Customer is advised to obtain its own business continuity insurance.

Termination

- 8.1 This Agreement will remain in force:
- 8.1.1 For a minimum Supply Period of two years, and will continue thereafter until terminated, by the Customer giving to Kinex not less than 3 months written notice, to expire at the end of the minimum Supply Period or on any anniversary of the end of the minimum Supply Period; and the Customer either arranging for the Number to be transferred to another network or informing Kinex that the Customer wishes the number to cease, in either case within 30 days following the end of the minimum Supply Period or any subsequent anniversary of the end of the minimum Supply Period;
- 8.1.2 Until the Customer has committed a material breach of this Agreement (including but not limited to non-payment by Direct Debit, or non-compliance with this Agreement due to ceasing to be responsible for the Number);
- 8.1.3 Until the Customer has a Receiver, Administrative Receiver, Liquidator or Supervisor of a Voluntary Arrangement appointed over it, or over any part of its undertaking or assets or a resolution is passed for its Winding Up, or if an Administration Order is made, or if it enters into a Voluntary Arrangement with its Creditors, or ceases to carry on business, proof of which must be provided mandatorily in all cases in form of a letter from a solicitor firm or a licensed insolvency practice or an accountancy firm currently registered with and regulated by the respective regulatory authority, or;
- 8.1.4 Until increases in the Rate Schedule pursuant to clause 3.1 during any one calendar year result in an overall increase in the Rate Schedule for the Customer of more than 10% above RPI in which case the Customer may terminate this Agreement immediately on written notice provided it does so within 14 days of the date of Kinex's notification of the price increase.
- 8.1.5 Until the Customer, where it trades as a sole trader, provides a letter from a solicitor or firm of solicitors regulated by the Solicitors Regulation Authority, confirming that it has ceased to trade.
- 8.2 Kinex may suspend Service in circumstances where it could terminate this Agreement, including when the Customer has failed to pay any amount due or it reasonably believes that the Customer will fail to pay any amount due or to become due, and any such suspension will be without prejudice to the right to terminate.
- 8.3 In the event of the Agreement being terminated pursuant to clauses 8.1.2, 8.1.3 or 8.1.4 where the Customer fails to provide proof as stipulated in 8.1.4 then the Customer shall pay to Kinex a termination fee of £75 plus the remaining rental charges that would have been due until the end of the Supply Period. Part months will be counted as full months. 8.4 In the event of the Agreement being terminated for any reason whatsoever, the Customer shall, at the Customer's expense, return to Kinex all Kinex Equipment, including mobile handsets and SIM Cards, provided by Kinex pursuant to the Agreement within 30 days of such termination. If the Customer fails to return any Kinex Equipment, then the Customer agrees to pay Kinex a sum equivalent to the current retail price for any unreturned Kinex Equipment.

General

- 9.1 The Customer may not assign or transfer this Agreement or any rights hereunder to any third party, without the prior written consent of Kinex. Kinex may assign or transfer this Agreement or any rights hereunder.
- 9.2 Neither party shall be liable for breach of its obligations under this Agreement to the extent that such breach is caused by flood, fire, accident, explosion, strike, war, embargo, Government restriction, Act of God, inability to secure materials, industrial dispute or any other cause beyond the parties' reasonable control including in particular acts or omissions of other providers of telecommunication services, with the exception of the Customer's obligations to pay for Service.
- 9.3 The remaining parts of this Agreement shall remain in full force in the event that any part of this Agreement shall be invalid, illegal or unenforceable, as if the unenforceable part had been omitted from the original Agreement.
- 9.4 All the terms of this Agreement are set out herein. Neither party has relied upon any representations, assurances or other agreements, whether verbal or otherwise, unless set out herein.
- 9.5 In the unlikely event that you have a complaint about the service received, please refer to our website www.kinex.co.uk/complaintscodedpractice.pdf for details about our complaints procedure.
- 9.6 Kinex may change the terms and conditions of this Agreement upon giving 14 days notice.
- 9.7 No waiver by either party shall constitute any variation to this Agreement.
- 9.8 Singular words shall be construed as including words of the plural and vice versa.
- 9.9 Any notices given by the Customer under this Agreement shall be made in writing and sent by registered post. Any notices given by Kinex under this Agreement shall be published on its website www.kinex.co.uk (or any other website that the Customer is informed in writing by Kinex has replaced this website for this purpose), or sent by post, email or fax. In either event, the address for service shall be the address provided for each party, unless changed, in which case notice of such change shall be given in accordance with the terms of this clause.
- 9.10 This Agreement shall be governed by and interpreted in accordance with the Laws of England and shall be subject to the exclusive jurisdiction of the courts of England.