

## **M2M & IoT Terms**

### **M2M & IoT Services Addendum**

#### **M2M Terms**

The following additional terms and conditions apply to the provision of the M2M Services.

#### **1. Definitions**

In these M2M Terms, in addition to those terms set out in Schedule 1 of the Agreement, the following terms and expressions apply:

Access Fee	means the monthly or other periodic fee payable to Zest4 IoT by the Zest4 IoT Partner as set out in the Order or otherwise agreed between the parties
Business Customer Equipment	means the equipment of the Business Customer which is used to access the M2M Services and to carry data packets into which a SIM Card is inserted
Call-off date	means the date agreed by the parties by which the Committed Volume of SIM Cards will be ordered by the Zest4 IoT Partner, in respect of which a failure to achieve the Committed Volume by such date shall entitle Zest4 IoT to bill for the same;
Committed Volume	means the minimum number of SIM Cards which the Zest4 IoT Partner commits to ordering on or before the Call-Off date;
Connection	means the configuration of a SIM Card to attach to and be recognised by the Network in order for a Business Customer (via the Zest4 IoT Partner) to utilise the relevant Services and which shall include Active Connections and Inactive Connections;
Connection Charge	means the fee payable by the Zest4 IoT Partner to Zest4 IoT for configuring a SIM Card and/or connecting the Customer Equipment to be able to use them on the Systems as set out in the Order or otherwise agreed between the parties
Disconnect	means to permanently terminate a SIM Card such that the Network can no longer be accessed (and "Disconnected" and "Disconnection" shall be construed accordingly);

End User	means a person permitted to use the Mobile Services by the Business Customer, such person to be a genuine, bona fide user of the Mobile Services for their own use;
GSM Gateway	means a fixed cellular terminal or other equipment containing a SIM Card which enables the routing or connection of calls from fixed apparatus to mobile equipment by establishing a mobile-to-mobile call, and <b>GSM Gateways</b> shall be construed accordingly;
Inactive Connection	means a SIM Card that has been provided to the Zest4 IoT Partner but has not been Activated;
M2M	means machine to machine
M2M Tariff Guide	means the Zest4 IoT M2M & IoT commercial pack and tariff guide which outlines Zest4 IoT's tariffs and rates
Minimum Term	means the period commencing on the Commencement Date and ending the date thirty six (36) months after the last Activation of a SIM Card provided by or on behalf of Zest4 IoT to the Zest4 IoT Partner;
Product(s)	means a SIM Card and/or any accessory that is sold ancillary thereto;
Roaming	means a service which allows the Zest4 IoT Partner to use a SIM Card on international Networks;
SIM Card	means a subscriber identity module card, which is an electronic memory device for storing user specific data to allow controlled and secure use of Customer Equipment on the Network;
Software	means any software made available to the Zest4 IoT Partner by or on behalf of Zest4 IoT (including any licensors) including software used to access Zest4 IoT portals and virtual private networks in connection with the relevant Services;
Software Licence	means the terms and conditions that prescribe how the Zest4 IoT Partner shall use Software which shall set out the rights of the Software owner and the Software user in relation to such Software with which the Zest4 IoT Partner shall comply;
Software Licence Fee	means the fee payable by the Zest4 IoT Partner to Zest4 IoT for the Zest4 IoT Partner's and the

	Business Customer's use of Software as set out in the Order or otherwise agreed between the parties;
Standard List Price(s)	means Zest4 IoT's standard list of charges for Services and Products in force, as: (1) set out on the Zest4 IoT website; and/or (2) advised to the Zest4 IoT Partner by Zest4 IoT; and/or (3) as is available on request from Zest4 IoT, as amended by Zest4 IoT from time to time;
Systems	means any systems of Zest4 IoT or a Network Operator to which the Zest4 IoT Partner has access;
Suspend	means the de-activation of a SIM Card from accessing Services and the terms "Suspended" and "Suspension" shall be construed accordingly;
Zest4 IoT Partner	means the Reseller or the Dealer (as applicable) that is a party to this Agreement;
Zest4 IoT Partner Portal	means a portal that Zest4 IoT Partners access to view commercial packs, marketing collateral and other documentation and place Orders with Zest4 IoT;
Zest4 IoT Website	means any Internet worldwide web host controlled or maintained by Zest4 IoT.

## 2. **Mobile Service Standards**

- 2.1 The Zest4 IoT Partner acknowledges and shall procure that each Business Customer acknowledges that provision of the M2M Services is subject to the geographic extent of airtime coverage and local geography, topography and/or atmospheric conditions and/or other physical or electromagnetic interference and/or the number of users trying to access the M2M Services in any particular location that may from time to time adversely affect the provision of the M2M Services in terms of availability, line clarity and call interference.
- 2.2 The Services may be used by the Zest4 IoT Partner and each Business Customer to transmit data to databases, websites and/or networks. Zest4 IoT accepts no responsibility for the nature of any such content.
- 2.3 Zest4 IoT shall exercise reasonable efforts to ensure the security of each Business Customer's communications over the Network but Zest4 IoT cannot guarantee that all communications shall be completely secure. The Zest4 IoT Partner accepts and shall ensure that each Business Customer shall accept that there is a risk that its communications may be unlawfully intercepted, hacked or accessed by those other than the intended recipient. The Zest4 IoT Partner acknowledges and shall procure that each Business Customer acknowledges that it is such Business Customer's responsibility to take all precautions as it considers appropriate for itself and its End Users to protect data from data breaches, cyber attacks, fraud, viruses and other harmful executables.
- 2.4 The Zest4 IoT Partner acknowledges and shall procure that each Business Customer acknowledges that Zest4 IoT does not make any representations or warranties as to the

suitability of the Products or Services for use by a Business Customer or for a Business Customer's use vis-à-vis its End Users. Zest4 IoT shall have no liability or responsibility for a Business Customer's use of the Products and Services itself or via End Users.

- 2.5 The Zest4 IoT Partner shall not and shall procure that each Business Customer shall not use the Products or Services for Internet phone calls (Voice Over Internet Protocol (VOIP)), unless agreed in writing by Zest4 IoT at its sole discretion.
- 2.6 On expiry of a Service Period, the Service shall continue until terminated by either Party on 30 days notice, in accordance with the Order Form and this Agreement.

### 3. **Business Customer Obligations**

- 3.1 The Zest4 IoT Partner shall not and shall procure that each Business Customer shall not use the Services or allow any third party (including each End User) to use the Services for any immoral, obscene, defamatory, harmful, offensive or otherwise unlawful purpose. If Zest4 IoT becomes aware of such misuse it shall have the right to immediately disconnect the SIM Cards without liability to ensure that such use ceases.
- 3.2 If a Business Customer fails to order the Committed Volume by the Call-off date:
  - (a) where the Reseller model applies, Zest4 IoT shall be entitled to bill Zest4 IoT Partner. and the Zest4 IoT Partner shall pay an amount equal to the shortfall between the Charge for the actual volume of SIM Cards ordered under accepted Orders and the Charges that are due for the Committed Volume; or
  - (b) or where the Dealer model applies, Zest4 IoT shall be entitled to bill the relevant Business Customer (under the relevant contract with the Business Customer) an amount equal to the shortfall between the charge for the actual volume of SIM Cards ordered under accepted Orders and the charges that are due for the Committed Volume.
- 3.3 The Zest4 IoT Partner shall comply and shall procure that each Business Customer complies with all regulatory requirements and relevant laws in relation to the exercise of its rights and performance of its obligations under this Agreement.

### 4. **End User Obligations**

- 4.1 The Zest4 IoT Partner shall and shall procure that each Business Customer and each of its End Users use the Products and Services in accordance with any user guide or other instructions issued by Zest4 IoT or a Network Operator from time to time.
- 4.2 The Zest4 IoT Partner acknowledges and shall procure that each Business Customer and each of its End Users acknowledge that it shall be the End User's responsibility to carry out its own investigations as to compatibility of and installation of Business Customer Equipment for the purpose for which it is required. The Zest4 IoT Partner shall procure that each Business Customer and each of its End Users acknowledge that Zest4 IoT is not responsible for any faults, errors, interruptions, disruptions or any other problems in relation to the Services that are caused either directly or indirectly as a consequence of the use and/or installation of any Business Customer Equipment.

- 4.3 The Zest4 IoT Partner acknowledges and shall procure that each Business Customer and each of its End Users take adequate precautions to prevent damage to or unauthorised use or theft of the Products. The Zest4 IoT Partner shall procure that each Business Customer and each of its End Users inform Zest4 IoT immediately if a SIM Card is lost, stolen, damaged, destroyed or is being used (or is reasonably likely to be used) in an unauthorised manner.
- 4.4 The Zest4 IoT Partner shall procure that each Business Customer and each of its End Users co-operate with Zest4 IoT in the conduct of reasonable security checks from time to time.
- 4.5 The Zest4 IoT Partner shall notify Zest4 IoT not less than 30 days in advance of changing its name, address, contact details or bank account details.
- 4.6 If a SIM Card is lost, stolen, damaged, destroyed or used in an unauthorised manner, the Zest4 IoT Partner acknowledges and shall procure that each Business Customer acknowledges that:
- (a) Zest4 IoT may charge the Zest4 IoT Partner (where the Zest4 IoT Partner is a Reseller) or the Business Customer (where the Zest4 IoT Partner is a Dealer) a reasonable fee for the re-Activation and/or replacement of such SIM Card; and
  - (b) the Zest4 IoT Partner (where the Zest4 IoT Partner is a Reseller) or the Business Customer (where the Zest4 IoT Partner is a Dealer) shall be responsible for paying all Charges that are incurred up until the time and date that Zest4 IoT becomes aware that such SIM Card has been lost or stolen.

5. **Products: Risk, Title Repairs and Replacement**

- 5.1 Subject to Clauses 5.2 and 5.3, where new SIM Cards are provided to a Zest4 IoT Partner, Zest4 IoT shall pass-through to the extent reasonably possible the benefit of any warranty given to Zest4 IoT by the relevant Network Operator to such Zest4 IoT Partner. Such warranty being subject to the terms applicable to such warranty.
- 5.2 Subject to clause 26.1 of the Reseller Agreement and clause 24.1 of the Dealer Agreement (as applicable):
- (a) where an Activated SIM Card fails within a warranty period, Zest4 IoT's total liability shall be limited to the cost of a replacement SIM Card;
  - (b) Zest4 IoT accepts no liability for any defect resulting from fair wear and tear; rain, water or other liquid damage; accidental or wilful damage; failure to follow the manufacturer's instructions or those of the Network Operator (whether oral or in writing); or misuse or alteration or repair of the SIM Cards without the manufacturer's and Network Operator's approval;
  - (c) for the avoidance of doubt, where Activated SIM Cards fail outside the warranty period or in respect of Inactive Connections that are not Activated until expiry of the warranty period, Zest4 IoT shall have no liability in respect of any such failure.
- 5.3 The Zest4 IoT Partner acknowledges and shall procure that each Business Customer acknowledges that SIM Cards have a limited life span and may need to be replaced from time to time. Zest4 IoT does not guarantee the lifespan of any SIM Cards.

#### 5.4 Network Operator 4G SIMs for M2M use – Terms & Conditions

- (a) The Zest4 IoT Partner acknowledges that Zest4 IoT is supplying the Zest4 IoT Partner, at the Zest4 IoT Partner's request, with 4G SIM Cards that are not standard M2M SIM Cards. 4G SIM Cards do not have the same level of physical and electrical tolerance that M2M SIM Cards have.
- (b) The Zest4 IoT Partner acknowledges that all SIM Cards have a limited life span and may need replacing from time to time. Zest4 IoT cannot guarantee the lifespan, but under normal operation (including, for example, reasonable power cycling, turning a SIM Card on and off), M2M SIM Cards can be expected to have a lifespan of not less than 12 months. Using a 4G SIM Card in an M2M environment increases the chances that it may reach the end of its lifespan sooner than expected.
- (c) Subject to clause 26.1 of the Reseller Agreement and clause 24.1 of the Dealer Agreement (as applicable), the Zest4 IoT Partner understands that Zest4 IoT limits its total liability for a 4G SIM Card which falls within 12 months of connection to the cost of a replacement 4G SIM Card. Zest4 IoT recommends that the Zest4 IoT Partner informs any Business Customer and any End User to avoid any unnecessary power cycling of SIM Cards and that the equipment in which the 4G SIM Card is installed is built to enable SIM Cards to be accessible by the supplier, so that they can be easily replaced should it be necessary.
- (d) The Zest4 IoT Partner agrees to indemnify Zest4 IoT and hold Zest4 IoT harmless from any claim from a third party in connection with the M2M Services, including any direct or indirect claims from a Business Customer or End User in respect of the M2M Services. We recommend that once Network Operator M2M 4G SIM Cards are available, any installed Network Operator 4G SIM Card is replaced with an Network Operator M2M 4G SIM Card, which Zest4 IoT will supply free of charge to the Zest4 IoT Partner on request. An order for 4G SIM Card(s) shall be deemed to be the Zest4 IoT Partner's acceptance of these terms and conditions. If the Zest4 IoT Partner does not agree to these Network Operator 4G SIM Card terms and conditions, the Zest4 IoT Partner must not request connection of the 4G SIM Card.

5.5 The Zest4 IoT Partner shall only purchase SIM Cards in connection with the Services from Zest4 IoT.

#### 6. **Service Availability**

- 6.1 Where required for the purposes of upgrade, modification, maintenance, emergency or security some or all of the Services may become temporarily unavailable from time to time. Zest4 IoT will use its reasonable endeavours to keep Services disruption to a minimum. In the event of prolonged or persistent disruption and where practically and reasonably possible to do so, Zest4 IoT will transfer the Business Customer and its End Users to another Network.
- 6.2 The Zest4 IoT Partner accepts that Roaming relies on Networks over which Zest4 IoT has no control. Zest4 IoT does not offer any guarantee about the availability and quality or prices of Roaming services.
- 6.3 Zest4 IoT may, by giving the Zest4 IoT Partner reasonable prior notice, Suspend some or all of the M2M Services:

- (a) if Zest4 IoT has reasonable grounds to believe that (i) the Zest4 IoT Partner has not complied with this Agreement, or (ii) a Business Customer and/or an End User has failed to comply within any obligation imposed on such Business Customer and/or End User (as applicable) in connection with the Services;
  - (b) the Zest4 IoT Partner fails to pay the Charges when due;
  - (c) Zest4 IoT has the right to terminate under the Agreement; or
  - (d) in the event of an emergency, upgrade or maintenance of the Network.
- 6.4 Suspension of the Services shall not affect this Agreement or the Zest4 IoT Partner's obligation to pay the Charges which shall continue to be due and payable during any period of any Suspension unless agreed otherwise by Zest4 IoT.
- 6.5 Zest4 IoT may charge the Zest4 IoT Partner a reasonable administration fee for any reconnection of the Services following a Suspension in accordance with the Standard List Price.
- 7. **GSM Gateways**
  - 7.1 The Zest4 IoT Partner shall not connect or continue connection by itself nor allow any Business Customer or End User to connect or continue connection of any GSM Gateways (or other fixed cellular terminal) to the Systems:
    - (a) for illegal purposes, including, without limitation, the provision of electronic communication services to a third party; or
    - (b) that are permissible according to applicable law and regulation, without the prior written consent of Zest4 IoT, which may be withheld at Zest4 IoT's absolute discretion.
  - 7.2 The Zest4 IoT Partner shall cooperate with Zest4 IoT at all times to ensure that any approved GSM Gateways connected to the Systems are and remain compliant with applicable law and regulation and Zest4 IoT's policies. If the Zest4 IoT Partner becomes aware that any of its Business Customers and/or End Users or third parties have established, installed or are using a GSM Gateway in an illegal manner or in breach of Zest4 IoT's policies (as advised to the Zest4 IoT Partner from time to time), the Zest4 IoT Partner shall notify Zest4 IoT immediately and shall upon request from Zest4 IoT provide to it all technical details of the GSM Gateway and its use.
  - 7.3 The Zest4 IoT Partner shall comply with Zest4 IoT's instructions to facilitate the disconnection of any GSM Gateway that breaches this Clause 7. Zest4 IoT may require the Zest4 IoT Partner to repay to Zest4 IoT any payments or bonuses paid to it in connection with GSM Gateways that are discontinued subject to this Clause 7.
  - 7.4 Zest4 IoT may alter or amend the contractual terms or commercial policy relating to GSM Gateways at Zest4 IoT's discretion by giving no less than 20 Business Days' notice.