

Mobile Terms

Mobile Services Addendum

Mobile Terms (including terms for the Voice Services and/or Data Services)

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

1. Definitions

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

Airtime	means mobile airtime and Network capacity;
AIT or Artificially Inflated Traffic	means the flow of calls to any particular service which is, as a result or consequence of any activity by or on behalf of Business Customers or the Zest4 Partner, disproportionate to the flow of calls which would be expected from good faith commercial practice and usage of the Network;
Business Customer Equipment	means the mobile phone, tablet or other device in which the relevant SIM Card is being used
Commercial Pack	means the plan as notified from time to time by us to you which describes the discounts, incentives arrangements and performance targets which apply to this Agreement;
Controlling Interest	means for any company: <ul style="list-style-type: none">(a) the ownership or control, directly or indirectly, of more than 50% of its fully diluted voting share capital; and/or(b) the ability to direct how more than 50% of the fully diluted votes are exercised at its general meetings on all, or substantially all, matters; and/or(c) the right to appoint or remove its directors that hold a majority of the voting rights at its board meetings on all, or substantially all, matters;
CTN	means connected telephone number;
Data Connection	means any connection and/or communication between Equipment or other device capable or incorporation of a SIM Card by which data is either transmitted and/or received;

Data Services	means the mobile services under which the Business Customer is supplied with Airtime enabling the Business Customer to transfer data on the Network;
Device	means a mobile device or other Mobile Equipment incorporating a SIM Card;
Durable Medium	means any instrument which enables the Business Customer to store information addressed personally to the Business Customer in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored, including electronic documents stored on Zest4 or the Network Operator's servers;
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;
End User Number	means a telephone number allocated by the Network Operator to Zest4 for use by a Business Customer and/or End User for the purposes of obtaining the Mobile Services by means of the Network;
Equipment	means equipment (including handsets or other devices (excluding SIM Cards)) provided by or on behalf of the Network Operator to Zest4 in connection with this Agreement for onwards supply;
Gateway	means any equipment containing one or more SIM Card(s) for one or more mobile networks, which enables the routing of calls and/or SMS and/or any other form of communication from fixed apparatus to Mobile Equipment, by establishing a mobile to mobile call or Data Connection;
General Conditions of Entitlement	means the general conditions of entitlement set out in the notification issued, in accordance with section 48(1) of the Communications Act 2003, pursuant to section 45 of said act, as may be amended, modified or replaced from time to time;

Minimum Period	means the minimum period for which the relevant mobile number and tariff is supplied for (as specified in the relevant Order) – dependent on the tariff selected this can be 30 days, 12 months, 24 months, 36 months or 60 months.
Mobile Equipment Terms	means Zest4's terms and conditions for Mobile Equipment as may be made available on our website (www.Zest4.com), as updated and amended from time to time;
Mobile Services	means the Data Services, Value Added Mobile Services and Voice Services;
Order	has the meaning set out in schedule 1;
Relevant Companies	In respect of any legal entity (the first legal entity), means any legal entity from time to time (1) in which the first legal entity (or one or more of its subsidiary companies, or subsequent holding or subsidiary companies of such entity) has a Controlling Interest; or (2) over which the first legal entity (or one of its subsidiary companies, or a subsequent holding or subsidiary company of such entity) either directly or indirectly exercises significant influence, even though it may own less than fifty per cent (50%) of the shares and/or is prevented from owning a greater shareholding
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 equipment on the Network;
SMS and/or MMS	means the short message service and multimedia message service which allows text messages and/or pictures to be sent and received from Mobile Equipment;
Statement of Commitment	means the document agreed between the Zest4 Partner and Zest4 setting out the Zest4 Partner's commitment to Zest4, including its commitment in respect of volume of business;
Tariff	means the prices and tariffs for the relevant Services to be paid by you to us set out in the Price List and as the same may be replaced, amended or varied by us from time to time

Value Added Mobile Services	means the value added services in relation to mobile services such as, installation, repair etc. as may be made generally available from time to time by us to Business Customers; and
Voice Services	means the mobile services under which you are supplied with Airtime enabling you to make and receive mobile voice calls and SMS texts on the Network.
Zest4 Partner	means the Reseller or the Dealer (as applicable) that is a party to this Agreement.

2. **Mobile Service Standards**

The Zest4 Partner acknowledges, and shall procure that each Business Customer acknowledges, that provision of the Mobile 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 Mobile Services in any particular location that may from time to time adversely affect the provision of the Mobile Services in terms of availability, line clarity and call interference.

3. Obligations of the Zest4 Partner and the Business Customer

- 3.1 The Zest4 Partner shall notify us (and shall procure that each Business Customer shall notify the Zest4 Partner) immediately (and confirm in writing) on becoming aware that any SIM Card has been lost or stolen or that any person is making improper or illegal use of a SIM Card.
- 3.2 The Zest4 Partner will be responsible for any Charges incurred as a result of unauthorised use of any SIM Card, or the information contained within a SIM Card, until Zest4 has received a request from the Zest4 Partner to suspend the provision of Mobile Services to that SIM Card.
- 3.3 The Zest4 Partner shall, and shall ensure that each Business Customer and End User (or anyone having access to the Mobile Services), shall:
 - (a) not use the Mobile Services in any way to generate AIT;
 - (b) not, without prior written consent of the Network Operator which may be withheld at the Network Operator's absolute discretion, establish, install or use a Gateway so that telecommunication services are provided via the Gateway;
 - (c) not make nuisance calls or use the Mobile Services to spam or to send unsolicited advertising or promotional material; and
 - (d) comply with any applicable fair use policy that the Network Operator may issue from time to time.
- 3.4 The Zest4 Partner is not permitted and it shall ensure that the Business Customer is not be permitted to transfer a SIM Card from the Tariff which that SIM Card was originally connected to under or in connection with the Agreement to another Tariff except where Zest4 at its

absolute discretion agrees to do so and Zest4 confirms such a change in writing to the Zest4 Partner.

- 3.5 The Zest4 Partner acknowledges and agree that if Zest4 or the Network Operator reasonably suspects that the Zest4 Partner, the Business Customer, any End User or other third party has:
- (a) established, installed or is using a Gateway without prior consent of the Network Operator; or
 - (b) generated or continues to generate AIT

Zest4 and/or the Network Operator may disconnect such Gateway immediately without liability to the Zest4 Partner, any Business Customer or any End User, or any other affected party, and shall be entitled to suspend or terminate the Agreement, or any Services provided under the Agreement.

- 3.6 Zest4 (and/or the Network Operator) can at its discretion suspend any SIM Card from making calls (other than to emergency services) and disconnect any SIM Card from the Mobile Services if Zest4 (and/or the Network Operator) has reasonable cause to suspect fraudulent use of the SIM Card or relevant Mobile Equipment, or either are identified as being stolen. The Zest4 Partner shall remain liable for all Charges levied in accordance with the Agreement during any period of suspension.

4. Activating the Service

- 4.1 Zest4 shall activate a SIM Card on the date agreed between the parties in writing.

5. Value Added Services

- 5.1 The Zest4 Partner (on behalf of any Business Customer) may order Value Added Mobile Services via the Portal and Zest4 may accept or decline such orders.
- 5.2 Zest4 reserves the right to add to, substitute, or to discontinue any Value Added Mobile Service at any time. Zest4 does not guarantee the continuing availability of any particular Value Added Mobile Service.

6. Business Customer Equipment

- 6.1 Certain elements of the Mobile Services are dependent on the Business Customer and/or the End User having suitable equipment available. If this is not the case, then:
- (a) some of the Mobile Services may not function correctly (the Affected Services);
 - (b) Zest4 may choose not to provide the Affected Services; and
 - (c) Zest4 shall have no liability for any inability (whether of the Zest4 Partner, any Business Customer, any End User or otherwise) to receive those Affected Services.
- 6.2 Any Business Customer Equipment must be:
- (a) technically compatible with the Network and the relevant Mobile Service and shall not harm the Network or equipment belonging to another Business Customer or End User;

- (b) connected to the Network strictly in accordance with Zest4's instructions; and
- (c) used by the Business Customer and each End User in compliance with any relevant instructions, standards and laws,

and the Zest4 Partner shall procure that the Business Customer and each End User complies with the above requirements.

6.3 The Zest4 Partner shall ensure that it obtains and retains an adequate stock of SIM Cards to fulfil its forecasts of sales for Zest4 mobile services. Based upon the Zest4 Partner's average connections over the preceding quarter, we will provide up to a maximum of three (3) months' supply of SIM Cards following receipt of an Order from the Zest4 Partner for such supply and will invoice the Zest4 Partner at the price as set out in the Commercial Pack for each and every SIM Card as and when connected and any such invoice will be payable by the Zest4 Partner to Zest4 in accordance with this Agreement. All SIM Cards supplied by Zest4 shall remain the property of the Network Operator.

6.4 The Zest4 Partner shall ensure that SIM Cards supplied by Zest4 under the Agreement are properly allocated and supplied to Business Customers and End Users. The Zest4 Partner shall be responsible for rectifying any SIM Card supply errors at your sole expense.

7. Numbers

7.1 Zest4 may allocate to you telephone numbers in connection with the Mobile Services and ownership of any such telephone numbers shall remain with Zest4 or the Network Operator (as appropriate).

7.2 Nothing in the Agreement shall be construed so as to transfer ownership of any telephone numbers to the Zest4 Partner (nor to any Business Customer nor to any End User), nor to grant the Zest4 Partner, any Business Customer or any End User the right to sell or dispose of a telephone number. All of the Zest4 Partner's, any Business Customer's or any End User's rights to use telephone numbers supplied by Zest4 in connection with the Mobile Services will cease upon termination of the Agreement or the relevant Mobile Service.

7.3 The Zest4 Partner shall, and shall ensure that each Business Customer and each End User shall, comply with any and all instructions for the use of any telephone number issued by Zest4 from time to time.

8. Security

8.1 The Zest4 Partner shall, and shall ensure that each Business Customer and each End User shall, take all reasonable steps (including testing with the latest commercially available virus detection software) to ensure that any software used by any of them with or in connection with the Mobile Services is not infected by viruses and/or logic bombs, worms, trojan horses and any other types of disruptive, destructive or nuisance programmes.

8.2 The Zest4 Partner shall inform Zest4 immediately if the Zest4 Partner or any Business Customer becomes aware of the loss, theft, damage of any SIM Card/CTN and the Zest4 Partner shall remain liable for all charges incurred by the use or any lost or stolen equipment until reported to the Network Operator by Zest4. Data on any lost or stolen SIM Card is at the Zest4 Partner's risk and the sending of any command for remote wiping of data is the

responsibility of the Zest4 Partner and/or the relevant Business Customer. The Zest4 Partner must send, or must ensure that the relevant Business Customer sends, any remote wipe command prior to reporting the device stolen and Zest4 will use reasonable endeavours to instruct the Network Operator to carry out such a command across the Network. The Zest4 Partner acknowledges that once the loss or theft of the SIM Card is notified to Zest4, Zest4 will instruct the Network Operator to terminate the ability of the SIM Card to communicate with the Network.

8.3 Zest4 may recall, update or have access to the SIM Cards as reasonably required to enhance or maintain the quality of the Mobile Services, but will endeavour to minimise any disruption caused to the Zest4 Partner or any relevant Business Customer.

8.4 The Zest4 Partner shall notify Zest4 immediately on becoming aware that any person is making unauthorised, improper or illegal use of a SIM Card and/or CTN and shall take all such steps necessary (including such steps requested by Zest4) to prevent such use.

9. **GC23**

9.1 The Zest4 Partner shall, and shall ensure that each Business Customer shall, comply with General Condition 23 of the General Conditions of Entitlement (GC23).

9.2 On request from Zest4, the Zest4 Partner shall demonstrate to Zest4 that the Zest4 Partner and each relevant Business Customer has processes in place to ensure that the Zest4 Partner, each Business Customer and each of their Relevant Companies (and the staff of each of the aforementioned) receive appropriate training regarding compliance with GC23.

9.3 The Zest4 Partner undertakes to Zest4 that in the performance of the Zest4 Partner's obligations under the Agreement and, where relevant, under any Customer Contract, the Zest4 Partner and its Relevant Companies shall:

- (a) not engage in dishonest, misleading or deceptive conduct;
- (b) not engage in aggressive conduct;
- (c) not contact any Business Customer or End User or potential Business Customer or End User in an inappropriate manner; and
- (d) create and keep records about the sale of the Customer Contracts and/or Services for a period of not less than six months and where applicable, about a related sales incentive for a period of not less than ninety days after the date by which this sales incentive has to be fully redeemed, but not less than six months. Such records must include the date of the sale, the means through which the contract was entered into and the place where the contract was entered into, where applicable.

9.4 Within 5 Business Days of Zest4's request, the Zest4 Partner shall and shall procure that each Business Customer shall, provide to Zest4 any evidence it reasonably requests so that Zest4 may monitor compliance by the Zest4 Partner, each relevant Business Customer and their respective Relevant Companies with paragraphs 9.1 and 9.2 of this Addendum, including copies of their sales and marketing material and a right to access the Zest4 Partner's and the relevant Business Customer's premises to monitor sales activities. Zest4 shall keep such information confidential and shall only use the information for the purpose of monitoring

compliance with GC23. Zest4 will not pass on such evidence to a third party for whom such evidence could provide a competitive advantage.

9.5 The Zest4 Partner shall ensure that before a Business Customer enters into or agrees an amendment to a Customer Contract the Business Customer:

- (a) is authorised to do so;
- (b) intends to enter into the Customer Contract; and
- (c) is provided with the information set out below in a clear, comprehensible and accurate manner in paper or another Durable Medium which is available or accessible to the relevant Business Customer or, where the relevant Business Customer enters into or amends the Customer Contract during a sales call, by telephone:
 - (i) the identity of the legal entity the Business Customer is contracting with; its address and telephone, fax and/or e-mail contact details;
 - (ii) a description of the Service; the key charges (including minimum contract charges and any early termination charges, if applicable) payment terms; the existence of any termination right, including termination procedures; the likely date the Services will be provided, in case the provision of the Services is not immediate; and any minimum period of contract.

Where the relevant Business Contract enters into or amends the Customer Contract during a sales call, in addition to the oral provision of this information the Zest4 Partner shall ensure that this information is sent to the Business Customer in good time following the call in paper or another Durable Medium.

- (d) Where you offer to any potential Business Customer a sales incentive from which the Business Customer (or potential Business Customer) does not benefit immediately and which the Business Customer (or potential Business Customer) is entitled to receive after entering into a Customer Contract, the Zest4 Partner and its Relevant Companies must ensure that the terms and conditions of such an offer are not unduly restrictive and that the Business Customer is provided with the following information in a clear, comprehensible and accurate manner in paper or another Durable Medium, or, where the sales incentive offer is made during a sales call, by telephone:
 - (i) the identity of the legal entity which makes the sales incentive offer and undertakes to meet the obligation(s) tied to this offer; its address; and telephone, fax and/or e-mail contact details; and
 - (ii) a description of the sales incentive itself; and
 - (iii) the terms and conditions of the sales incentive, including a detailed and clear explanation as to the process the Business Customer has to follow to obtain the sales incentive.

Where the sales incentive offer is made during a sales call, in addition to the oral provision, the Zest4 Partner shall ensure that this information is also sent to the Business Customer in good time in paper or another Durable Medium.

9.6 The Zest4 Partner shall, and shall ensure that each Business Customer shall, promptly provide Zest4 on request with all information it reasonably requires to meet Zest4's obligations, and those of the Network Operator, under GC23 in relation to the Zest4 Partner and its Relevant Companies.

9.7 If you or any of your Relevant Companies do not comply with GC23 this shall be a material breach which will have consequences as set out in the Statement of Commitment.

10. **Apple Service**

10.1 The Apple Service is a **Mobile Service** and the Mobile Terms set out in paragraphs 1 – 9 of this Addendum will apply to this Service.

10.2 Definitions

In addition to those terms defined in the General Conditions and elsewhere in this Agreement, the following terms and expressions apply:

Apple	means Apple Distribution International, an Irish Corporation with offices at Hollyhill Industrial Estate, Hollyhill, Cork, Ireland;
Apple Assets	means Apple-approved images, text, and the like and includes Apple-approved point of sale materials;
Apple Device	means any Apple branded mobile cellular handset, tablet or other electronic device or accessory supplied by the Network Operator to the Zest4 Partner (directly or indirectly from Zest4);
Apple Device Customer	means a Business Customer who acquires from the Zest4 Partner or Zest4 an Apple Device, such person to be a genuine, bona fide user of the Apple Device for its own purposes (as opposed to any other third party or any reseller);
Authorised Location	means a selling location of the Zest4 Partner in the United Kingdom that has been approved by the Network Operator in writing;
Average Subsidy	means the weighted average discount required by paragraph 13.7 of this Addendum. The discount is calculated as the difference between the Wholesale Price of the iPhone and the suggested retail price (excluding VAT) when sold together with a post-pay Carrier Service Plan;

Carrier Service	means any wireless voice or data service of any type offered by the Zest4 Partner, whether now existing or developed during the Term, including services commonly referred to as cellular, WiFi, WiMax, or Voice Over Internet Protocol;
Carrier Service Plan	means a contract for Carrier Service or a prepaid or pay-as-you-go SIM Card offered by the Zest4 Partner to any Business Customer, including any iPhone Plan, and any other standard or custom plan offered to any consumer, business, government, or education customer. A Carrier Service Plan that requires a term commitment of longer than one month and permits payment for Carrier Service before or after such service charges are incurred is referred to as a “post-paid or post-pay Carrier Service Plan”. A Carrier Service Plan that permits payment for Carrier Service before or after such service charges are incurred, but does not require a term commitment of longer than one month is referred to as a “pre-paid or pre-pay Carrier Service Plan”;
Covered Repairs	means a repair or replacement covered by Apple’s standard end-user warranty;
Financing Program	means a program offered by the Zest4 Partner or by a third party that permits the Business Customer to purchase an Apple Device, in whole or part, in equal monthly instalment payments over such plan’s term: (i) without any Carrier Service Plan, with a pre-paid Carrier Service Plan, with a post-pay Carrier Service Plan that has no term commitment, or a post-pay Carrier Service Plan that the Business Customer can terminate without any termination fee, penalty, or other charges connected with the early termination of the post-pay Carrier Service Plan provided that the Business Customer has paid the full cost of the Apple Device as set out in paragraph 13.9 of this Addendum; and (ii) with or without an option for the Business Customer to make an upfront payment or deposit;
Instalment Plan	means a post-pay Carrier Service Plan with a term commitment that permits the Business Customer to pay, in whole or part, for the Apple Device purchased with such plan without any upfront payment or deposit, and in equal monthly instalment payments over such plan’s initial term;
iPhone Plan	means a Carrier Service Plan specifically tailored or otherwise promoted for iPhone users;

Non-Instalment Plan	means any post-pay Carrier Service Plan that is not an Instalment Plan; and
Wholesale Price	Means the price the Network Operator charges for the particular Apple Device

10.3 Relationship between the Zest4 Partner and Apple

- (a) Other than expressly set out in this Agreement:
- (i) The Zest4 Partner shall not, in any correspondence or dealings, hold itself out or represent itself as being part of Apple, or any subsidiaries, holding companies or subsidiaries of those holding companies or as an employee, agent, representative, franchisee or partner of or to a joint venture with Apple;
 - (ii) The Zest4 Partner has no authority or power to bind, or to contract or negotiate in the name of, or to incur any debt or other obligation on behalf of, or to create any liability against, Apple in any way or for any purpose; and
 - (iii) The Zest4 Partner is not granted any permission, consent, licence, authority or other right under this Schedule to use any Apple Assets in connection with the marketing, promotion or sale of any Apple Device.
- (b) The Zest4 Partner acknowledges that it is fully responsible for its acts, omissions or defaults (including those of its employees or agents) in connection with the promotion, marketing, sale and/or support of Apple Devices and you agree to indemnify Apple, Zest4 and the Network Operator against any loss suffered or liabilities or expenses incurred arising from or in connection with (a) any of the Zest4 Partner's acts, omissions or defaults in connection with the promotion, marketing, sale and/or support of Apple Devices (including any unauthorised use of any Apple Assets); or (b) any breach of the Zest4 Partner's obligations under this Addendum.
- (c) You have no contractual rights whatsoever against Apple under the Agreement or otherwise in respect of the subject matter of the Agreement.

10.4 Sales Obligations

- (a) The Zest4 Partner will promote and resell all Apple Devices in a professional and competent manner and in accordance with the Agreement with Zest4 and the reasonable instructions of the Network Operator.
- (b) The Zest4 Partner shall resell Apple Devices only to Apple Device Customers and only through Authorised Locations. The Network Operator may de-authorise any Authorised Location for any reason by giving Zest4 written notice and, if it does so, the Zest4 Partner shall, within seven (7) days, cease selling Apple Devices through such locations and terminate the right of such locations to sell or otherwise distribute Apple Devices.
- (c) Authorised Locations
- (i) each Authorised Location must be staffed with a minimum of two full-time sales advisors who are registered in Apple's online training program currently known

as Apple Sales Training Online (“ASTO”) and have completed the following training:

- (1) ASTO: 80% score or higher on the iPhone and iPad courses required by Apple;
 - (ii) additional ASTO and/or classroom-training requirements shall apply to the Zest4 Partner’s sales staff (retail and telesales) who support enterprise and small and medium businesses (“SMB”) Business Customers; and
 - (iii) at least one full-time sales advisor that has been trained in accordance with the above must be available to: (i) assist Business Customers in each Authorised Location at any time during opening hours and provide a high level customer experience and (ii) provide continual and consistent sales coverage.
- (d) The Zest4 Partner shall not make any representations, warranties, or guarantees with respect to the Apple Devices that are inconsistent with Apple’s literature or training materials or engage in other behaviour that could adversely affect the goodwill or reputation of Apple or the Network Operator.
- (e) Each Authorised Location must provide excellent pre-sales support and demonstrate Apple Devices to potential Business Customers in accordance with Apple’s training specifications.

10.5 Where applicable, the Zest4 Partner shall bear the cost of in-store display fixtures used to promote Apple Devices. The Zest4 Partner shall, at its expense, ensure that each Authorised Location:

- (a) carries and prominently displays Apple Devices in a “premier area”. A premier area, at a minimum, is: (a) visible from the entrance and anywhere within the store, (b) easily accessible by Business Customers, and (c) in the main traffic path of the store;
- (b) carries and prominently displays the recommended Apple Device accessories;
- (c) has adequate inventory at all times;
- (d) has iPhone and iPad demo units that are all continually useable by Business Customers and preloaded with demonstration content supplied by the Network Operator;
- (e) updates all iPhone and iPad demo units with the latest available iPhone or iPad software within one day after such software is released to the Authorised Location;
- (f) provide complimentary cellular data and wifi for all iPhone and iPad demo units on display; and
- (g) always has the latest available version of Apple iTunes software for iPhone and iPad activation.

10.6 Purchase of Equipment

- (a) The Zest4 Partner agrees that it will not and will ensure that each Authorised Location shall not modify any Apple Device in any way, including any way that alters its appearance or functionality without the Network Operator's prior written approval. The Zest4 Partner will and will ensure that each Authorised Location will include all packaging, labels, and in-box materials intact, as shipped from the Network Operator, with each Apple Device sold and will not remove, obfuscate, or add any mark to any Apple Device or related material. The Zest4 Partner will and will ensure that each Authorised Location will distribute software that is incorporated in or packaged with an Apple Device solely in connection with the authorised sale of such product and will have no other rights with respect to such software.
- (b) The Zest4 Partner understands that Apple will extend its standard one-year warranty to Business Customers who purchase an unmodified Apple Device from Zest4 and/or the Zest4 Partner. Apple will be solely responsible for defining its end-user warranty and how it fulfils its warranty obligations. The Zest4 Partner must provide a copy of Apple's standard limited warranty and end-user software licence to any Business Customer or potential Business Customer who requests one.
- (c) If any additional end-user warranties are required by applicable law in connection with Apple Devices (in addition to those offered by Apple as set out in paragraph 13.6(b) above), the Zest4 Partner shall offer such additional end user warranties to Business Customers who purchase an unmodified Apple Device. Such warranties must be the same as or better than Apple's standard one-year warranty and be fulfilled in a consistent manner. The Zest4 Partner shall offer such additional warranties at no additional charge and bear all associated costs. The Zest4 Partner shall indemnify Zest4, Apple and the Network Operator against any loss suffered or liabilities or expenses incurred as a result of such additional warranties.
- (d) If Apple cancels any order with the Network Operator, Zest4 may cancel any order placed by the Zest4 Partner with Zest4 prior to shipment without any liability to you at any time. The Network Operator shall determine, at its discretion, the allocation of any fulfilled order delivered by Apple.

10.7 Average Subsidy

- (a) The average subsidy for each Apple Device with a Wholesale Price of less than or equal to £350 sold with a Non-Instalment Plan shall be equal to 80% of the Wholesale Price of the Apple Device.
- (b) The average subsidy for each Apple Device with a Wholesale Price of more than £350, but less than or equal to £540, sold with a Non-Instalment Plan shall be equal to 75% of the Wholesale Price of the Apple Device.
- (c) The average subsidy for each Apple Device with a Wholesale Price of more than £540 sold with a Non-Instalment Plan shall be equal to 65% of the Wholesale Price of the Apple Device.

10.8 Maximum Retail Price Mark Up

- (a) The Zest4 Partner shall not sell any Apple Device at a price in excess of the maximum retail price stated in the Zest4's Wholesale Price pricelist.

10.9 Maximum Upfront for Apple Devices Sold Through a Financing Program

- (a) For any Apple Device sold through a Financing Program and with a post-pay Carrier Service Plan with a monthly fee for the Carrier Services that is less than or equal to £22 (VAT included):
 - (i) for Apple Device with a Wholesale Price that is less than or equal to £350, you shall offer:
 - (1) at least one Financing Program per Apple Device without any upfront payment or deposit; and
 - (2) at least one Financing Program per Apple Device with a maximum upfront payment of 20% (VAT included) of the Wholesale Price. So for example, if the Wholesale Price of the Apple Device was £245, then the maximum upfront payment that the you can charge any End User wishing to purchase the Apple Device will be £49 (VAT included) (£245 x 20%);
 - (ii) for Apple Device with a Wholesale Price that is more than £350, but less £450, you shall offer at least one Financing Program per Apple Device with a maximum upfront payment of 15% (VAT included) of the Wholesale Price. So for example, if the Wholesale Price of Apple Device was £410, then the maximum upfront payment that the you can charge any End User wishing to purchase the Apple Device will be £61.50 (VAT included) (£410 x 15%);
 - (iii) for Apple Devices with a Wholesale Price that is more than £450, but less than £600, you shall offer at least one Financing Program per Apple Device with a maximum upfront payment of 25% (VAT included) of the Wholesale Price. So for example, if the Wholesale Price of Apple Device is £470, then the maximum upfront payment that you can charge any End User wishing to purchase the Apple Device will be £117.50 (VAT included) (£470 x 25%); and
 - (iv) for Apple Devices with a Wholesale Price that is more than £600, Apple and you will agree the maximum upfront that an End User shall pay when purchasing such Apple Devices through a Financing Program.
- (b) If you wish to offer an Apple Device through a Financing Program and any postpay Carrier Service Plan having a monthly fee for the Carrier Services that is more than £22 (VAT included) and through a Financing Program, then Apple and you will agree maximum upfront payments that shall apply.

10.10 Warranty Repairs

- (a) The Zest4 Partner acknowledges that Apple will provide iPhone users complimentary Covered Repairs during the standard Apple one-year warranty period at Apple's expense.
- (b) The Zest4 Partner (and not the Network Operator or Zest4) shall facilitate Covered Repairs for Business Customers who purchased an Apple Device at the Zest4 Partner's expense, including:

- (i) receiving warranty returns from such Business Customers;
 - (ii) screening such warranty return using Apple-defined test procedures and diagnostics to identify those ineligible for Covered Repairs as defined by Apple, including units with no trouble found or Business Customer abuse, and returning such ineligible warranty returns to the Business Customer who returned them;
 - (iii) shipping Apple Device returns to an Apple-designated return centre in accordance with Apple's specifications; and
 - (iv) receiving repaired or replacement units from Apple and distributing them to the Apple Device user.
- (c) The Zest4 Partner shall comply with specifications provided by Apple and/or the Network Operator in facilitating Covered Repairs and bear all freight and packaging costs (including applicable import fees and duties) when returning Apple Devices to an Apple-designated returns centre for repair or replacement, and for shipping and receiving repaired or replacement units.
- (d) If Apple or an Apple authorised service provider facilitates Covered Repairs, the Zest4 Partner shall reimburse Apple for such facilitation of Covered Repairs.
- (e) The Zest4 Partner accepts that Apple may, but will have no obligation to, screen the Apple Devices the Zest4 Partner returns to an Apple return centre. However, if Apple elects to do so and determines that any Apple Device returned by the Zest4 Partner is not eligible for Covered Repair or has not been returned in accordance with Apple's specifications, Apple will invoice the Zest4 Partner and the Zest4 Partner shall pay Apple the full price of the replacement unit Apple shipped to the Zest4 Partner.
- (f) The Zest4 Partner shall provide a replacement Apple Device or loaner handset (as specified by Apple) to each Business Customer who returns an Apple Device to the Zest4 Partner for Covered Repairs. The Zest4 Partner shall purchase and maintain a sufficient stock of replacement Apple Devices or loaner handsets, as the case may be, at appropriate locations, all at the Zest4 Partner's expense, so that the Zest4 Partner is able to provide such a unit to the Business Customers who request such Covered Repairs. The Zest4 Partner may charge such Business Customers a fee for a loaner handset only if such fee is the same as or less than the fee the Zest4 Partner charges Business Customers using any other manufacturer's cellular handset for a loaner handset. The Zest4 Partner shall ensure that all the features of that Business Customer's carrier service work on his loaner unit.

10.11 Branding, Advertising and Promotion

- (a) The Network Operator shall not provide the Zest4 Partner with, nor grant to the Zest4 Partner any licence to use, any Apple Assets for the Zest4 Partner's use in connection with the Zest4 Partner's exercise of the Zest4 Partner's rights or performance of its obligations under this Addendum or any other provision of the Agreement.

- (b) If the Zest4 Partner uses an Apple Asset without the requisite permission or licence from Apple, Zest4, the Network Operator or Apple may require that you immediately remove the Apple Asset from the offending marketing material.
- (c) Apple retains all rights, title and interest in and to such Apple Assets and the Zest4 Partner acquires no rights, title or interest in or to such Apple Assets or the goodwill associated with them. The Zest4 Partner agrees not to use any Apple Assets, trade dress, design, “look and feel” (e.g., the design and layout of Apple’s retail stores or websites, or the name under which Apple does business), in any manner whatsoever, or act in any manner that implies an endorsement of the Zest4 Partner by Apple.

10.12 Termination

- (a) Notwithstanding anything to the contrary elsewhere in this Agreement, Zest4 may terminate the Zest4 Partner's ability to purchase Apple Devices from Zest4 without liability:
 - (i) At any time on not less than one month’s notice in writing to the Zest4 Partner;
or
 - (ii) Immediately on notice if:
 - (1) Apple terminates the Network Operator’s authorisation to sell Apple Devices to Zest4 for any reason
 - (2) Apple terminates its agreement with the Network Operator for any reason.

10.13 Confidentiality

- (a) Zest4 shall be entitled to disclose the terms of this Addendum to Apple at any time without breaching its obligations of confidentiality owed to the Zest4 Partner.

