

1. Definitions and Interpretation

In this Agreement the following words and expressions shall have the following meaning unless this Agreement states otherwise; “Act” means the Data Protection Act 1998;

“Agreement” means these terms and conditions, your Registration Form and our acceptance of your application;

“Affiliate” means the company stated as such in the Registration Form;

“Affiliate’s Branding” means the name, trademarks (registered or otherwise) and logos owned by or licensed to the Affiliate;

“Affiliate Website” means the Affiliate’s website(s) located at the URL as stated in your Registration Form;

“Agent” means any individual engaged by the Affiliate in the provision of the Services;

“Business Day” means any day (other than a Saturday or Sunday) when principal banks are open for the transaction of business in London;

“Call Scripts” means any documents containing scripts to be followed by the Telephone Advisors in relation to the Products;

“Commission” means a commission in respect of each Confirmed Purchase, according to the commission amounts set out in the Schedule;

“Commencement Date” means the date your Registration Form is accepted by us and this is confirmed by email;

“Confidential Information”

means all information which relates to the business affairs, products, services, marketing strategy, trade secrets, know-how, personnel, customers and suppliers of either party all data subject to the Act, other data, and information which are supplied or in respect of which access is granted by one party to the other pursuant to this Agreement, or which was disclosed by one party to the other either directly or indirectly PROVIDED THAT Confidential Information shall not include information:

- (i) which was in the public domain at the time of disclosure;
- (ii) which, though originally Confidential Information, subsequently falls into the public domain through no fault of either party receiving the Confidential Information, as of the date of its so falling;
- (iii) independently developed by either party where such party can show it had no access to Confidential Information received under this Agreement;
- (iv) lawfully in the possession of either party at the time of disclosure or which is subsequently lawfully received from a third party; or
- (v) disclosed pursuant to a duty imposed by law or by a court of competent jurisdiction or the requirements of a relevant regulatory authority but only to the extent so required.

“Confirmed Purchase” means a purchase of an e2save.com Service made by a person visiting the e2save.com Website via the Link and/or I-frame Website and provided that such a purchase passes through the entire e2save.com order system to the satisfaction of e2save.com and is not cancelled or returned by the customer to e2save.com within 14 days of dispatch;

“Content” means content within the Affiliate Website that has been provided directly and authorised by the e2save.com;

“Customers” means purchasers or potential purchasers of e2save.com’s Services who visit the e2save.com Website via the Link and/or I-frame Website;

“Data Controller” has the meaning given by the Act;

“Data Protection Directives” means the European Union Directive entitled “Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data” and the European Union Directive entitled “Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector”;

“Data Protection Legislation” means any United Kingdom legislation in force from time to time which implements the Data Protection Directives or otherwise relates to the use of personal data including the Act;

“Data Subject” means a living individual who is the subject of Personal Data;

“e2save.com” means The Carphone Warehouse Limited Registered Number 2142673, trading as e2save.com;

“e2save.com Group” means The Carphone Warehouse Group plc, its subsidiaries and any subsidiary of any such subsidiary, from time to time and “subsidiary” shall be construed in accordance with Sections 736 and 736A of the Companies Act 1985;

“e2save’s Branding” means the name, trade marks (registered or otherwise) and logos owned by or licensed to e2save.com;

“e2save.com Services” means the mobile telephony products and services supplied by e2save.com;

“e2save.com Website” means the website found at the URL: <http://www.e2save.com> and any other websites which e2save.com may notify the Affiliate of from time to time;

“Event of Force Majeure” means an event which is beyond the reasonable control of the affected party for the avoidance of doubt this shall include the acts or omissions of any third party telecommunications provider but it shall not include industrial or other disputes involving the affected party’s staff or any sub-contractor of the claiming party or its staff, or any shortage of labour, materials or other resources;

“Good Industry Practice” means the exercise of that degree of reasonable skill, diligence, prudence and foresight which would be expected from a skilled and experienced provider of services similar to the Services, seeking in good faith to comply with its contractual obligations;

“I-frame Website” means a website hosted on e2save.com’s server but which is accessed via the Affiliate Website URL and bears the Affiliate’s Branding;

“Intellectual Property Rights” means all copyright and other intellectual property rights, howsoever arising and in whatever media, whether or not registered, including (without limitation) patents, trade marks, service marks, trade names, registered design, data, database and any applications for the protection or registration of these rights and all renewals and extensions thereof throughout the world;

“Link” means a hyperlink connecting the Affiliate Website with the e2save.com Website;

“NUI” means Norwich Union Insurance Limited;

“Personal Data” means personal data as defined in the Act supplied by the Affiliate to e2save.com;

“Privacy Regulations” means The Privacy Regulations and Electronic Communications (EC Directive) Regulations 2003’

“Processing” means obtaining, recording or holding Personal Data or carrying out any operation or set of operations on Personal Data;

“Products” means those products and services forming part of the e2save Services in respect of which the Affiliate is entitled to carry out the Services;

“Registration Form” means the e2save.com whitelabel registration form completed by the Affiliate at www.secure-mobiles.com/affiliates/signup;

“Services” means the Affiliate displaying on the Affiliate’s Website a Link, Content and an I-Frame Website and any Telephone Services;

“Telephone Advisors” means individuals engaged by the Affiliate in the provision of and Telephone Services;

“Telephone Services” means any services provided by the Affiliate to Customers in relation to any of e2save.com Services involving telephone calls by the Affiliate to a Customer or from a Customer to the Affiliate;

“Term” means the term of this Agreement as set out in clause 2.2; and

“User” means a person using a software browser to access the World Wide Web.

1.1 A reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment of it.

1.2 Unless otherwise provided the singular includes the plural and the masculine includes the feminine and vice versa.

1.3 Headings are included in this Agreement for ease of reference only and shall not affect the interpretation or construction of this Agreement.

1.4 References to Clauses are, unless otherwise provided, references to Clauses to this Agreement.

2 Services and Duration

2.1 In consideration of the payment by e2save.com of the Commission and in accordance with the provisions of this Agreement, the Affiliate shall provide the Services upon the terms and conditions of this Agreement.

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- 2.2 This Agreement shall commence on the Commencement Date and shall continue thereafter unless or until terminated by either party in accordance with the provisions of this Agreement and in particular the provisions of Clause 8.
- 3 The Affiliate's Obligations to e2save.com**
- 3.1 At all times during the Term:
- 3.1.1 the Affiliate undertakes that it will, and will procure that the Agents will provide the Services with the care and skill of a leading provider of mobile telecommunications marketing services, in accordance with Good Industry Practice, in accordance with any customer service or other requirements reasonably required by e2save from time to time ;
- 3.1.2 the Affiliate shall display prominently on the Affiliate Website one or more of the following: a Link; Content and/or an I-frame Website as advised and in accordance with the instructions set out from time to time by e2save.
- 3.1.3 the Affiliate will use its reasonable endeavours to encourage and ensure that the visitors who visit the e2save.com Website via the Affiliate Website are visitors who are likely to purchase the e2save.com Services. The Affiliate will take advice from e2save.com on how best to achieve this.
- 3.1.4 the Affiliate will give notice to e2save.com of any material change in the content or structure of the Affiliate Website;
- 3.1.5 the Affiliate shall not display on the Affiliate Website any content in relation to the e2save.com Services that has not been directly approved or authorised by e2save.com;
- 3.1.6 the Affiliate will not promote or facilitate the sale of any e2save products or services other than the Products ;
- 3.1.7 the Affiliate will inform e2save.com immediately if for whatever reason the Link and/or, Content (where applicable) is removed from the Affiliate Website or ceases to function correctly;
- 3.1.8 the Affiliate shall make reasonable endeavours to make the Affiliate Website available to Users 24 hours each day, seven days per week;
- 3.1.9 the Affiliate shall ensure that any services and products offered on the Affiliate Website and any content displayed on the Affiliate Website comply with all relevant statutory and regulatory requirements;
- 3.1.10 The Affiliate warrants that the Affiliate's Branding is not in breach of any third party's intellectual property rights and, without prejudice to any other right or remedy available to e2save.com, the Affiliate will indemnify e2save.com against all claims, actions, damages, proceedings and related costs and expenses incurred by e2save.com as a consequence of such a breach.
- 3.1.11 The Affiliate will not intentionally or negligently act in any way or make any omission which would, in the opinion of e2save.com (in its absolute discretion) bring e2save.com Group or the business of e2save.com Group into disrepute in any manner or otherwise damage the brand or reputation of e2save.com Group;
- 3.1.12 if, in the opinion of e2save.com, the Affiliate has breached either clause 3.1.10 or clause 3.1.11, the Affiliate shall immediately remove the offending material, content, Links and any reference to e2save.com from the Affiliate Website and shall publish such material as e2save.com requires in order to restore the reputation of e2save.com . This shall not prejudice any claim e2save.com may have against the Affiliate.
- 3.2 The Affiliate shall not undertake telephone sales or marketing activity (which, for the avoidance of doubt, shall include sales or marketing by SMS) in relation to the Products
- 3.3 The Affiliate shall not undertake any activity regulated by the Financial Services Authority in connection with any services provided by e2save.com or any member of the e2save.com Group.
- 3.4 Where the parties have agreed that the Affiliate will offer mobile phone insurance as agent for e2save, the Affiliate shall in relation to such services:
- 3.4.1 not assign, appoint agents or sub-contract its rights or obligations;

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- 3.4.2 act with due care, skill and diligence;
- 3.4.3 maintain adequate internal systems and controls to ensure compliance with all applicable legal and regulatory requirements and take such steps as e2save may reasonably specify from time to time in writing to ensure that e2save complies with the legal and regulatory requirements applicable to e2save and NUI complies with the legal and regulatory requirements applicable to NUI;
- 3.4.4 rectify any systems and controls or procedures for carrying out such services if they are not in accordance with this Agreement or such legal and regulatory requirements as are applicable to the Affiliate, e2save or, to the extent notified in writing by e2save, NUI and take such steps as e2save may reasonably specify from time to time in writing in respect of the Affiliate's systems and procedures to ensure that e2save complies with the legal and regulatory requirements applicable to e2save and NUI complies with the legal and regulatory requirements applicable to NUI;
- 3.4.5 on request by e2save submit to e2save details of all systems, controls, procedures, training records, assessment processes or other documents and information as the case may be relating to performance of the obligations, authorities, powers or duties;
- 3.4.6 comply promptly with all requests by e2save for the rectification of any systems and controls or procedures which e2save at its discretion considers inconsistent with the standards required by this Agreement or such legal and regulatory requirements as are applicable to the Affiliate or e2save and promptly take such steps as e2save may reasonably specify from time to time in writing in respect of the Affiliate's systems controls and procedures to ensure that e2save complies with the legal and regulatory requirements applicable to e2save and NUI complies with the legal and regulatory requirements applicable to NUI;
- 3.4.7 obtain and thereafter maintain in effect any licence which the Affiliate may be required to hold by law for the performance of its obligations, authorities, powers or duties in relation to this Agreement;
- 3.4.8 generally take such steps as e2save may reasonably specify from time to time in writing to ensure that NUI complies with the legal and regulatory requirements applicable to NUI;
- 3.4.9 to the extent required by applicable legal and regulatory requirements, obtain and maintain in force for the term of this Agreement, and thereafter until the Affiliate's obligations are discharged, errors and omissions insurance that is both adequate to cover any liability that it may have to e2save arising directly or indirectly out of the operation of this Agreement and compliant with the minimum standards prescribed by the legal and regulatory requirements;
- 3.4.10 maintain under its care and control proper and adequate records of all matters;

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- 3.4.11 allow e2save or NUI and its external auditors, professional advisers and regulators, and their respective officers and employees, access to its records (and for such purpose to its premises), for the purpose of inspection, monitoring and review of such records between the hours of 9am and 5pm on Business Days and at such other time as may be required by law or regulation. Those persons with rights of access under this clause shall be entitled to take copies or print outs of any of the records inspected, monitored or reviewed. The Affiliate shall procure that its officers and employees provide reasonable co-operation and assistance (including without limitation answering questions and providing explanations) to any person performing any inspection, monitoring or review under this clause;
- 3.4.12 upon written request by NUI, provide NUI within 7 Business Days (or as soon as reasonably practicable if required to comply with any legal or regulatory requirement) with copies of such records held by it as NUI may require to comply with legal and regulatory requirements; and
- 3.4.13 permit e2save, notwithstanding clause 6, to provide NUI with a copy of this Agreement.
- 3.5 The Affiliate shall not send marketing messages relating to the Products or any other products or services of e2save by email, SMS or any other form of electronic communication as defined by The Privacy Regulations (“Electronic Marketing”) without e2save’s prior written consent. e2save shall be entitled to revoke such consent at any time.
- 3.6 Where the Affiliate undertakes Electronic Marketing pursuant to clause 3.5:
- 3.6.1 the Affiliate shall ensure that all Electronic Marketing complies with The Privacy Regulations and Data Protection Legislation. This shall include but is not limited to:
- 3.6.1.1 ensuring that any individual to whom it sends Electronic Marketing has explicitly agreed to receive marketing messages from the Affiliate relating to the e2save Services;
- 3.6.1.2 implementing an maintaining an effective means of allowing individuals to opt out of receiving further marketing messages and including such information on any Electronic Marketing message.
- 3.7 The Affiliate agrees to indemnify and keep indemnified e2save.com and all other members of the e2save.com Group, from and against all liabilities, penalties, damages, claims, actions, proceedings, costs and expenses (including legal costs on a full indemnity basis) suffered or incurred by e2save.com or any other member of the e2save.com Group arising out of or in connection with any breach of this Agreement by the Affiliate, or arising as a consequence of the Affiliate exceeding its authority under this Agreement or otherwise caused by the breach or proven negligence of the Affiliate.
- 3.8 The Affiliate warrants that:
- 3.8.1 it is able to enter into this Agreement on the terms set out herein;
- 3.8.2 it has all the necessary capability and resources in order to provide the Services in accordance with this Agreement;
- 3.8.3 it is and shall remain, registered for value added tax (“VAT”) where required by law and for so long as it is required by law to be so, during the term of this Agreement and will provide e2save with a copy of its VAT certificate or letter headed paper on request.

4. e2save.com Obligations to the Affiliate

4.1 e2save.com undertakes that it will:

4.1.1 provide the Affiliate with all reasonably necessary documents, data, information, goods and/or materials relating to the Products within sufficient time to enable the Affiliate to provide the Services in accordance with this Agreement;

4.1.2 without imposing any financial obligation on e2save.com provide such advice, assistance and co-operation as the Affiliate may reasonably request in order to perform the Services;

4.1.3 pay the Commission in accordance with the Agreement.

4.2 The Affiliate shall have no authority to commit e2save.com and e2save.com shall be under no obligation to accept any application for the e2save.com Services and the credit checking policy used by e2save from time to time shall be at e2save's own discretion.

4.3 For the avoidance of doubt, e2save.com shall be under no obligation to make further products and services available to the Affiliate to market on the terms of this Agreement, and e2save.com shall be entitled to withdraw any of the Products at any time.

5 Commission and Payment

5.1 In consideration for the inclusion of the Services by the Affiliate, e2save.com shall pay the Commission.

5.2 The Commission is exclusive of value added tax (“VAT”) or similar sales tax which may be levied now or in the future.

5.3 5 calendar days after the end of each calendar month, e2save.com shall raise an invoice on behalf of the Affiliate for the Commission due for the previous month and shall pay such Commission within 45 days of the raising thereof by BACS to an account notified in advance by the Affiliate.

5.4 Each party shall be liable to pay interest calculated at the rate of 2% above the base rate of the National Westminster Bank Plc from time to time prevailing from the date 45 days after payment from such party was due until payment in respect of all overdue sums is received from such party in cleared funds unless such overdue sum is the subject of a dispute between the parties.

5.5 e2save.com shall be entitled at any time and without Notice to the Affiliate to set off any liability of the Affiliate to e2save.com against any liability of e2save.com to the Affiliate (but only if such liability is due and payable). Any exercise by e2save.com of its rights under this clause shall be without prejudice to any other rights or remedies available to e2save.com under this Agreement or otherwise.

5.6 Throughout the duration of this Agreement e2save.com will provide an online, real-time reporting facility to allow affiliates to track the status of sales (the “Report”).

6 Confidentiality

6.1 Each party warrants that it (and any person employed or engaged by it in connection with this Agreement in the course of such employment or engagement):

6.1.1 shall use Confidential Information only for the purposes of this Agreement;

6.1.2 shall not disclose Confidential Information to any third party without the prior written consent of the other party; and,

6.1.3 shall take all reasonable precautions to ensure that all Confidential Information is treated as confidential and is not disclosed (save as aforesaid) or used other than for the purposes of this Agreement.

6.2 Each party undertakes to the other to take all such steps as shall from time to time be responsible reasonable to ensure compliance with the provisions of clause 6.1 above by its employees agents consultants and sub-contractors.

6.3 Neither party shall advertise or publicly announce its involvement in the Agreement without prior written consent of the other party (which shall not unreasonably withheld) unless required to do so by any law or applicable regulation.

6.4 The obligations contained in this clause 6 shall continue in force for twelve (12) months after the termination of this Agreement.

7 Insurance and Liability

7.1 Except in respect of death or personal injury caused by negligence, neither party shall be liable to the other under this Agreement for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims which arise out of or in connection with the provision of the Services.

8 Termination

- 8.1 This Agreement may be terminated by either party upon 30 day's written notice.
- 8.2 This Agreement may be terminated forthwith by notice in writing by either party if:
- 8.2.1 the other commits a material breach of any terms of this Agreement which (in the case of a breach capable of being remedied) is not remedied within 10 Business Days of a written request to remedy the same. For the avoidance of doubt, any breach by the Affiliate of the provisions of clause 3 will be a material breach of this Agreement;
- 8.2.2 the other shall convene a meeting of its creditors;
- 8.2.3 a proposal shall be made in respect of the other for a voluntary arrangement within Part 1 of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors;
- 8.2.4 the other shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- 8.2.5 a trustee, receiver, administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other party;

8.2.6 a petition is presented in respect of the other (and is not discharged within 30 days) or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other party or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction);

8.2.7 the other ceases to carry on business as a going concern.

8.3 This Agreement may be terminated by either party by giving at least 1 week's notice if:

8.3.1 the other undergoes a change of control (other than an internal reorganisation where ultimate control does not change);

8.3.2 the other ceases to be in a position to fulfil its obligations under this Agreement.

8.4 In the event that this Agreement is terminated at any time for any reason:

8.4.1 the Affiliate shall return to e2save all documents, data, information, goods and/or materials belonging to e2save which is in the Affiliate's possession or control;

8.4.2 each party shall immediately return to the other party all of its Confidential Information.

8.5 Any termination of this Agreement pursuant to this clause 8 shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force or any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

9 Force Majeure

9.1 Neither party shall be liable for any delay or failure to perform its obligations under this Agreement resulting from an Event of Force Majeure where such failure or delay could not have been overcome by that party acting reasonably and prudently.

9.2 Each party agrees to notify the other immediately upon becoming aware of an Event of Force Majeure such notice to contain details of the circumstances giving rise to the Event of Force Majeure.

10 Waiver

The waiver by either party of a breach or default of any provisions of this Agreement by the other party shall not be construed as a waiver of any succeeding or continuing breach of the same or other provision nor shall any delay or omission on the part of either party in exercising or availing itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.

11 Notice

Any notice request instruction or other document to be given hereunder shall be delivered or sent by first class post or by electronic or facsimile transmission (such electronic or facsimile transmission to be confirmed by letter posted within 12 hours) to the registered office of the other party and any such notice or other document shall be deemed to have been served (if hand-delivered) at the time of delivery (if sent by post) upon the expiration of 48 hours after posting.

12 Dispute Resolution

- 12.1 If during the Term a dispute arises out of or in connection with this Agreement the parties shall in the first instance meet in good faith with a view to resolving the dispute.
- 12.2 If the resolution of a dispute is not agreed within twenty Business Days of the meeting referred to in clause 12.1 either party may request a further meeting to be attended by a Senior Manager or Head of Department of each party. This meeting will be held within ten (10) Business Days of a written request from one party to another.
- 12.3 If the resolution of the dispute is not agreed within twenty Business Days of the Senior Manager/Head of Department meeting referred to in clause 12.2 either party may request a further meeting to be attended by a Director of the Affiliate and a Director of e2save.com. If the resolution of the dispute is not agreed at this meeting then either party may pursue such remedies as are available at law or under this Agreement.

13 Invalidity and Severability

If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.

14 Contracts (Rights of Third Parties) Act 1999

Save as provided by clause 16.2, this Agreement is not intended to be for the benefit of, and shall not be enforceable by, any person other than one of the parties hereto under the Contracts (Rights of Third Parties) Act 1999 and no party can declare itself a trustee of its rights under this Agreement for the benefit of any third party.

15 No Partnership

Nothing in this agreement is intended to or shall operate to create a partnership or joint venture of any kind between the parties, or to authorise either party to act as agent for the other and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way.

16 Assignment

- 16.1 This Agreement may not be assigned by either party, other than by e2save.com to a company within the same group of companies as e2save.com, without the prior written consent of the other which consent shall not be unreasonably withheld or delayed.
- 16.2 This Agreement shall enure for the benefit of e2save.com's ultimate holding company The Carphone Warehouse Group PLC (a company registered in England and Wales with registered number 3253714 whose registered office is at 1 Portal Way, London, W3 6RS) and each of its other subsidiary companies from time to time.

17 Announcements

Neither party shall issue any press release or other public document containing, or make any public statement containing or otherwise disclose to any person who is not a party, information which relates to or is connected with or arises out of this Agreement or matters contained in it without prior written approval of the other party, such approval not to be unreasonably withheld or delay.

18 Non-solicitation

18.1 Neither party shall (except with the prior written consent of the other) during the term of this Agreement, and for a period of six months thereafter, directly or indirectly solicit the services of any staff of the other party who have been engaged in the provision of the Services or the management of this Agreement or any significant part thereof either as principal, agent, employee, independent contractor or any other form of employment or engagement other than by means of a national advertising campaign open to all-comers and not specifically targeted at such staff of the other party.

18.2 The Affiliate shall not during the Term of this Agreement or for a period of one year thereafter intentionally attempt to solicit or entice away from e2save.com or assist any person in soliciting or enticing away from e2save.com any customer of e2save.com who has been acquired pursuant to this Agreement.

19 Data Protection

19.1 The Affiliate and e2save.com shall at all times comply with the provisions of the Act in relation to the Personal Data and undertake that they will adhere to all data protection principles recognised by the European Commission.

19.2 e2save.com and the Affiliate shall be joint Data Controllers in respect of all Customer data and all Personal Data generated pursuant to this Agreement and shall each own such data.

19.3 Where a Data Subject exercises his or her right under the Act in respect of Personal Data Processed by a party to this Agreement or where a party is required to deal or comply with any assessment, enquiry, notice or investigation by the Information Commissioner, then the other party will cooperate as requested to enable the party to comply with all obligations which arise as a result of the exercise of such rights or as a result of such assessment, enquiry, notice or investigation.

19.4 The Affiliate undertakes that all necessary consents have been obtained from the Affiliate's customers to enable e2save.com to contact such customers for the purpose of selling the e2save.com Services without either e2save.com or the Affiliate being in breach of any Data Protection Legislation or The Privacy Regulations.

20 Intellectual Property

20.1 Except where expressly set out in this Agreement, the Affiliate acknowledges and agrees that all Content, material and data supplied to the Affiliate by e2save.com pursuant to this Agreement (“**Supplied Data**”) are and shall remain the absolute property of e2save.com and the Affiliate shall never at any time have any title to the Supplied Data.

20.2 All Intellectual Property Rights in, and used in connection with the e2save Services and all other material and data supplied to the Affiliate by e2save.com pursuant to this Agreement or supplied by customers to the Affiliate in providing the Services are and shall remain vested in e2save.com absolutely who may use the same as it so wishes and grant licences in respect thereof as it so wishes.

20.3 Subject to clause 19, the Affiliate hereby assigns to e2save.com, with full title guarantee all present and future right, title and interest it may acquire in any Intellectual Property Rights by virtue of providing the Services.

20.4 If at any time during the term of this Agreement the Affiliate becomes aware that any of the material and data supplied to the Affiliate by e2save.com pursuant to the Agreement is in breach of any applicable law or regulation or infringes the Intellectual Property Rights of any third party or that the Intellectual Property Rights in the material or data supplied by e2save.com to the Affiliate pursuant to this Agreement are being infringed by any third party then the Affiliate agrees to immediately notify e2save.com in writing and the Affiliate shall make no comment or admission to any third party in respect of such matter.

21 Employees

21.1 The Affiliate shall be solely responsible, as between the parties, for making any appropriate PAYE deductions for tax and national insurance contributions

(“Contributions”), from the remuneration which any Agents are paid for performing the Services. Without prejudice to clause 9, the Affiliate agrees to indemnify and keep indemnified, e2save.com and all other members of the e2save.com Group, from and against all liabilities, penalties, damages, claims, actions, proceedings, costs and expenses (including legal costs on a full indemnity basis) suffered or incurred by e2save.com or another member of the e2save.com Group which may be made by the relevant authorities or any Agent in respect of any Contributions or similar payments relating to the provision of the Services by the Affiliate and/ or any Agent.

21.2 Without prejudice to clause 14, nothing in this Agreement shall be deemed to imply that the relationship between e2save.com and the Affiliate or between e2save and any Agent is that of employer and employee or worker;

21.3 Neither party intends that either this Agreement or the termination thereof shall operate so as to transfer the contracts of employment of any employee from one party to the other. However, should the TUPE Regulations apply in respect of the provisions of this Agreement and/or the Services, then the Affiliate shall, or where the Affiliate is not the employer, it shall use its best endeavours to procure that, full and accurate details of each of the employees to whom the TUPE Regulations apply (the “**Transferring Employees**”) and any other information which e2save.com may reasonably require relating to the Transferring Employees, is provided to e2save.com either by the Affiliate or by the employer of the Transferring Employees as appropriate.

21.4 In the event that the contracts of employment or any liability arising in respect of any Transferring Employees shall be transferred from the Affiliate to e2save.com whether by operation of law or otherwise, then the Affiliate shall indemnify (and keep indemnified) e2save.com against all damages, claims (including without limitation claims for redundancy, unfair and wrongful dismissal) costs, awards, penalties, fines, (including without limitation any liability to tax) and expenses which e2save may suffer, sustain, incur, pay or be put to by reason or on account of or arising from the transfer of such Transferring Employees from the Affiliate (or any other employee) which by virtue of the TUPE Regulations is deemed to be as a result of an act or omission of either party or any claim or other legal recourse by all or any of the Transferring Employees (or any other employee) in respect of any fact or matter concerning or arising from their employment whether arising under common law, statute or otherwise including but not limited to all payments and benefits accrued due to the Transferring Employees during any period provided that and subject to e2save making any claim pursuant to this clause within 1 year of the date of termination of this Agreement.

22 Costs

22.1 Each party shall bear its own costs and expenses in connection with the negotiation, signing and completion of this Agreement.

23 Entire Agreement

23.1 This Agreement embodies and sets forth the entire agreement and understanding of the parties and supersedes all prior oral or written agreements, understandings or arrangements relating to the subject matter of this Agreement.

23.2 Neither party shall be entitled to rely on any agreement, understanding or arrangement which is not expressly set forth on this Agreement. For avoidance of doubt save as specified in this Agreement, the terms of this Agreement shall have precedence over any printed condition appearing on the reverse of any purchase order, or any purchase order acceptance, delivery form or other documents or letter emanating from either party at any time.

24 Law

This Agreement shall be governed by and construed in accordance with English law and the parties hereto agree to submit to the exclusive jurisdiction of the courts of England and Wales.

THE CARPHONE WAREHOUSE LIMITED – TERMS AND CONDITIONS

**Schedule
Commission**

Description:	Monthly Confirmed Purchases:	Unit commission:
Contract Mobile Phone (all networks)	1-34	£25
Contract Mobile Phone (all networks)	35+	£35
Pay as You Go	All	£2.50
Pay monthly SIM only	All	£7
USB Modem Contract	All	£15
Accessories		£2

Commissions are retrospective for example if 40 contract mobile connections are made in a month then all 40 connections shall attract the £35 commission.