

Terms and Conditions for Participation in the Community Appeal Buy-Back Programme

These Terms and Conditions (the “**Terms**”) govern your (“**you**” or “**your**”) agreement to use of the Community Appeal Buy-Back Programme whereby we will buy your used mobile devices from you for credit (the “**Programme**”) with ERS Europe Limited (“**we**” or “**us**”) a company registered in England and Wales with company number 6100316 whose registered office is at D1 Longmead Business Centre, Felstead Road, Epsom, Surrey KT19 9QG. We will evaluate the Buy-Back credit available to you in accordance with these Terms. By agreeing to the Quotation below, you agree to be bound by these Terms. Defined terms in this paragraph have the same meaning as set out below.

1. How the contract is formed between you and us

1.1 We will deliver to you a quotation based on the number of used devices you inform us that you intend to recycle through the Programme (the “**Quotation**”). The Quotation will specify:

1.1.1 the estimated value of the used devices to be recycled through the Programme (the “**Buy-Back Value**”);

The Quotation will be valid for 30 calendar days.

1.2 To qualify for the full Buy-Back Value of a used device:

1.2.1 you must accurately state to us the condition of it and we must have accepted the description;

1.2.2 Used devices must meet our standards as set out in clause 5.1.

1.2.3 The Programme is not valid on stolen property and any such property will be dealt with in accordance with these Terms. Used devices may not qualify for the Programme or recycling if:

1.2.4 the model of the used device is not eligible; or

1.2.5 the device is not in an acceptable working condition as determined under clause 5;

1.3 If you inform us that you accept the Quotation at that time a contract will come into existence between you and us incorporating these Terms (the “**Contract**”) subject to amendment in accordance with clauses 4.4 and 5.3 and you acknowledge that:

1.3.1 you understand you will be selling the used devices for the Final Total Payment unless the used devices are returned in accordance with clauses 2 and 4;

1.3.2 you are giving up full ownership rights to the used devices;

1.3.3 you agree that the used devices will not be eligible for return except in accordance with these Terms;

1.3.4 you have been advised of any return policy regarding the purchase of any used device; and

1.3.5 you are responsible for deactivating the used devices and ensuring you retrieve any outstanding balance associated with them.

- 1.4 By entering into the Contract with us you warrant and represent that:
- 1.4.1 you are the legal owner of and have good and marketable title to the used devices;
- 1.5 The Contract will relate only to those used devices collected by us in accordance with these Terms and any other terms and conditions referred to by you at any time shall have no effect. Except in accordance with clauses 4.4 and 5.3, no variation to the Contract or to these Terms will have any effect unless agreed by us in writing.
- 1.6 Our decision in relation to all Buy-Back transactions are final and except in accordance with these Terms, after you send us your used device, you cannot get it back.

2. Preparing the Used Devices for Buy-Back

- 2.1 To receive your Buy-Back Value, you must provide the used devices.
- 2.2 You are responsible for packaging your used devices carefully, as we are not responsible for any damage suffered prior to collection of the used devices. Failure to package the used devices carefully may affect your Final Total Payment under clause 5.3.

3. Removal of Personal Data from the Used Devices

- 3.1 The Total Payment, Revised Total Payment or Final Total Payment of your used devices will not under any circumstances include the acquisition of a SIM card or any other information from you. It is a condition that before you send in your used devices you remove and retain all SIM cards and memory cards (or other media) and all other personal details and data including but not limited to, all names, phone numbers, SMS and email messages, browsing history, photos, games, songs, video and all other data from your used devices notwithstanding that the data is to be erased from the used devices in accordance with clause 5.
- 3.2 Subject to clause 8.3 we do not accept liability for any loss, damage or costs which you incur if you send with your used devices any SIM card, memory card or other media or if any data personal or otherwise remains on your used devices including but not limited to, any charges which you incur as a result of use of your used devices by any person, whether incurred before or after our receipt of the used devices. We will not be in any way responsible for the security, confidentiality, protection, use or disclosure of any personal data which you fail to remove prior to collection or any losses or costs which arise as a result. If you leave a SIM card, memory card or personal details on any of the used devices prior to collection in error or in breach of this clause 3, we will not be able to return them to you and we shall have no responsibility in respect of them. If you send personal data to us in error, we shall not be deemed to be holding, processing or otherwise using the data on your behalf in any way.

4. Collection of the Used Devices

- 4.1 Once a Contract has come into existence you must inform us of the locations from where we may collect the used devices within 10 working days of the formation of the Contract in accordance with clause 1.2.2.
- 4.2 We will collect the used devices within 10 working days of your confirmation of the total number of the Collection Locations.
- 4.3 Title and risk in the used devices shall pass to us on collection of the used devices in accordance with clause 4.2.

- 4.4 When all the used devices have been collected from the Collection Locations we will check these against the Quotation. Where more or less used devices were collected than was specified in the Quotation we will inform you of any amendment to the Total Payment (the “**Revised Total Payment**”). You will be deemed to accept the Revised Total Payment unless the difference decreases the Total Payment by more than 30% of the Quotation. In such circumstances you may request the return of your used devices. If you do not respond to our communication setting out the Revised Total Payment within 1 working day you will be deemed to have accepted it.
- 4.5 In accordance with clause 4.4, should you request that your used devices are returned to you we will return them to one of the Collection Locations at our absolute discretion.
- 4.6 Each used device we collect in accordance with these Terms is processed separately although the Quotation is for multiple used devices.

5. Testing of the used devices

- 5.1 The used devices must, to our satisfaction, power up and be fully functional without liquid or mechanical damage or any other kind of damage and without any missing parts.
- 5.2 The used devices will be inspected, tested and restored to factory settings.
- 5.3 Any used devices that do not meet our required specification or are red flagged in accordance with clause 6 will not receive their full Buy-Back Value and we will inform you of any amendment to the Revised Total Payment (the “**Final Total Payment**”). You will be deemed to accept the Final Total Payment unless such payment is zero, or you inform us within one working day that such amount is not accepted, whereupon the devices will either be disposed of or returned to you in accordance with clause 4.4. You acknowledge and accept that if the devices are returned to you in accordance with these terms we will not be liable to you for any loss you may suffer caused by the wiping of the device in accordance with clause 5.2 subject to the limitations set out under clause 8.2.

6. Red Flagged Phones

- 6.1 We will check the status of your used devices against the National CheckMEND database. If any of your used devices are found to have a red flag due to it having been registered as lost, stolen or barred/blocked by CheckMEND, it will be retained for 28 days whilst its status is reviewed.
- 6.2 If we advise you that any of your used devices has a red flag against it you must contact CheckMEND in order to review the status of such a device. We will advise you by email of any procedure that you need to comply with for us.
- 6.3 The purpose of the retention period is to allow the rightful owner of the device the opportunity to have the red flag removed in order that the used devices can be processed appropriately.
- 6.4 If, during the retention period, the red flag is removed your used devices will be processed in accordance with these Terms. However, if after the retention period has expired the red flag has not been removed we will dispose of the used devices and you will not receive any Buy-Back Value in respect of the relevant Contract.

7. Payment

- 7.1 The Buy-Back Value of the used devices will be as set out in the Quotation, subject to the updates at clauses 4.4 and 5.3.

- 7.2 Prices displayed on our website for used devices are indicative only and liable to change at any time, but changes will not affect the Quotation provided under clause 1.1.
- 7.3 It is always possible that, despite our best efforts, some of the values for devices listed on our site may be incorrectly priced. We will verify prices as part of the Quotation.
- 7.4 Upon confirmation of the Final Total Payment in accordance with clause 5.3 you will deliver to us a VAT invoice and we will deliver payment either to the account specified on the invoice by BACS or by dispatching a cheque to you. Subject to compliance with these Terms payment will be made within 6 to 8 weeks from collection of the used devices
- 7.5 Under no circumstances will any Buy-Back Value be dispatched before we receive your used device.

8. Our Liability

- 8.1 Subject to clause 8.3, if we fail to comply with these Terms, we shall only be liable to you for the Buy-Back Value set out in the Quotation.
- 8.2 Subject to clause 8.3, we will not be liable for losses that result from our failure to comply with these Terms that fall into the following categories even if such losses result from our deliberate breach:
- 8.2.1 loss of income or revenue;
 - 8.2.2 loss of business;
 - 8.2.3 loss of profits;
 - 8.2.4 loss of any indirect or consequential loss;
 - 8.2.5 loss of anticipated savings; or
 - 8.2.6 loss of data.
- 8.3 Nothing in this agreement excludes or limits our liability for:
- 8.3.1 death or personal injury caused by our negligence;
 - 8.3.2 fraud or fraudulent misrepresentation;
 - 8.3.3 any breach of the obligations implied by section 12 of the Sale of Goods Act 1979;
 - 8.3.4 any other matter for which it would be illegal for us to exclude or attempt to exclude our liability.

9. Written Communications

When using our site, you accept that communication with us will be mainly electronic. We will contact you by e-mail or provide you with information by posting notices on our website. For contractual purposes, you agree to this electronic means of communication and you acknowledge that all contracts, notices, information and other communications that we provide to you electronically comply with any legal requirement that such communications be in writing.

10. Notices

All notices given by you to us must be given to us at our email address. We may give notice to you at either the e-mail or postal address you provide to us when placing an order, or in any of the ways specified in clause 9 above. Notice will be deemed received and properly served immediately when posted on our website, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

11. Transfer of Rights and Obligations

- 11.1 The contract between you and us is binding on you and us and on our respective successors and assignees.
- 11.2 You may not transfer, assign, charge or otherwise dispose of a Contract, or any of your rights or obligations arising under it, without our prior written consent.
- 11.3 We may transfer, assign, charge, sub-contract or otherwise dispose of a Contract, or any of our rights or obligations arising under it, at any time during the term of the Contract.

12. Events outside our Control

- 12.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under a Contract that is caused by events outside our reasonable control ("**Force Majeure Event**").
- 12.2 A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following:
 - 12.2.1 strikes, lock-outs or other industrial action;
 - 12.2.2 civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
 - 12.2.3 fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster;
 - 12.2.4 impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
 - 12.2.5 impossibility of the use of public or private telecommunications networks;
 - 12.2.6 the acts, decrees, legislation, regulations or restrictions of any government; and
 - 12.2.7 pandemic or epidemic.
- 12.3 Our performance under any Contract is deemed to be suspended for the period that the Force Majeure Event continues, and we will have an extension of time for performance for the duration of that period. We will use our reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which our obligations under the Contract may be performed despite the Force Majeure Event.

13. Waiver

- 13.1 If we fail, at any time during the term of a Contract, to insist upon strict performance of any of your obligations under the Contract or any of these Terms, or if we fail to exercise any of the rights or remedies to which we are entitled under the Contract, this will not

constitute a waiver of such rights or remedies and will not relieve you from compliance with such obligations.

13.2 A waiver by us of any default will not constitute a waiver of any subsequent default.

13.3 No waiver by us of any of these Terms will be effective unless it is expressly stated to be a waiver and is communicated to you in writing in accordance with clause 9 above.

14. Severability

If any court or competent authority decides that any of the provisions of these Terms or any provisions of a Contract are invalid, unlawful or unenforceable to any extent, the term will, to that extent only, be severed from the remaining terms, which will continue to be valid to the fullest extent permitted by law.

15. Entire Agreement

15.1 These Terms and any document expressly referred to in them constitute the whole agreement between us and supersede all previous discussions, correspondence, negotiations, previous arrangement, understanding or agreement between us relating to the subject matter of any Contract.

15.2 We each acknowledge that, in entering into a Contract, neither of us relies on, or will have any remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in these Terms or the documents referred to in them.

15.3 Each of us agrees that our only liability in respect of those representations and warranties that are set out in this agreement (whether made innocently or negligently) will be for breach of contract.

15.4 Nothing in this clause limits or excludes any liability for fraud.

16. Our Right to vary these Terms

16.1 We have the right to revise and amend these Terms from time to time. You agree that we, in our sole discretion, may terminate or restrict your use or access to the Programme (or any part thereof) or the Tool for any reason, including, without limitation, if we believe you have violated or acted inconsistently with these Terms or with any other agreement between you or us.

16.2 You will be subject to the policies and Terms in force at the time that you order products from us, unless any change to those policies or these Terms is required to be made by law or governmental authority (in which case it will apply to orders previously placed by you), or if we notify you of the change to those policies or these Terms before we send you the Receipt (in which case we have the right to assume that you have accepted the change to the Terms, unless you notify us to the contrary within seven working days of receipt by you of the Products).

17. Third Party Rights

A person who is not party to these Terms or a Contract shall not have any rights under or in connection with them under the Contracts (Rights of Third Parties) Act 1999.

18. Law and Jurisdiction

Contracts for the purchase of Products through our site and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) will be governed by English law. Any dispute or claim arising out of or in connection with such Contracts or their formation (including non-contractual disputes or claims) will be subject to the exclusive jurisdiction of the courts of England and Wales.