

**SOUTHERN COMMUNICATIONS LIMITED
MAINTENANCE AND TECHNICAL SUPPORT**

Please read these Terms in conjunction with our Privacy Notice which can be found on our website

1. DEFINITIONS AND INTERPRETATION

1.1. In these terms and conditions (**Terms**) the following definitions apply:

Agreement	the agreement between the Customer and the Company for the supply of the Services in accordance with these Terms.
Charges	the charges set out in the equipment Order and / or maintenance order form and payable by the Customer to the Company for the Services.
Company, We, Us, Our	Southern Communications Limited (Company Number: 01328040) whose Registered Office is at Glebe Farm, Down Street, Dummer RG25 2AD.
Customer, you	the individual, company, entity, organisation or business that purchases the Services from the Company.
Data Protection Legislation	up to but excluding 25 May 2018, the Data Protection Act 1998 and thereafter (i) unless and until the GDPR is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.
Enhanced Support Services	the: <ul style="list-style-type: none"> (i) Enhanced support services; or (ii) Enhanced Plus support services, for the Customer's telephone system(s) supplied to the Customer in accordance with these Terms and Clause 3.16.
Enhanced Support Services Commencement Date	the date the Company starts providing the Enhanced Support Services to the Customer.
Enhanced Support Services Extended Term	as defined in Clause 3.16.5.
Enhanced Support Services Initial Term	one (1) year from the Enhanced Support Services Commencement Date.
Enhanced Support Services Service Levels	the service levels for the Enhanced Support Services as set out in Schedule 2.
Equipment	the equipment as set out in the equipment Order form supported by the Company under the Agreement.
Fault	a systems malfunction or a service affecting issue as defined in Paragraph 2 of Schedule 1 and Schedule 2.
GDPR	General Data Protection Regulation ((EU) 2016/679).

Initial Term	means twelve (12) months (or such other initial term set out in the Order) from the Commencement Date.
Installation Address	the site(s) of the Customer as set out in the Order.
Maintenance Level	the Standard, Enhanced or Enhanced Plus level of support for the Customer's telephone system(s) selected by the Customer and as set out in the maintenance Order form.
Order	the Customer's order for Services as set out in the equipment order form and / or maintenance contract form.
Services	the maintenance and support services for the Equipment and / or the Customer's telephone system as set out in the Order that the Company agrees to supply to the Customer.
Standard Support Hours	the normal Working Hours standard support times as set out in Schedule 1 during which the Standard Support Services shall be performed.
Subsequent Term	a minimum of twelve (12) months (or such other period set out in the Order).
Working Day	as defined in Schedule 1.

1.2. In these Terms, the following rules apply:

1.2.1. A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.2.2. Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.2.3. A reference to **writing** or **written** includes faxes and emails.

2. **ORDERS**

2.1. The Order constitutes an offer by the Customer to purchase the Services in accordance with these Terms.

2.2. Subject to Clause 2.3, the Order shall only be deemed to be accepted when the Company issues written acceptance of the Order or, if earlier, provides the Services to the Customer at which point and on which date the Agreement shall come into existence (**Commencement Date**).

2.3. The supply and Orders for Enhanced Support Services is as set out in Clause 3.16.

2.4. We may accept or reject an Order at Our sole discretion.

2.5. Once an Order has been accepted by the Company, the Customer may not cancel the Order.

2.6. The Agreement constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Company which is not set out in the Agreement.

2.7. These Terms apply to the Agreement to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

- 2.8. Any quotation given by Us shall not constitute an offer, and is only valid for a period of 30 days from its date of issue.
- 2.9. Any samples, drawings, descriptive matter or advertising issued by the Company, and any descriptions contained in the Company's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Agreement or have any contractual force.

3. **SUPPLY OF THE MAINTENANCE SERVICES AND PROGRAMMING**

- 3.1. We shall supply the Services:
 - 3.1.1. at the Installation Address;
 - 3.1.2. in accordance with these Terms.
- 3.2. The Customer acknowledges that it has limited rights to terminate the Agreement during any Initial Term or Subsequent Term (as the case may be). These rights are set out in:

- 3.2.1. Clause 3.16 - in the case of Enhanced Support Services; and

- 3.2.2. Clause 6.1.

- If upon the expiry of the Initial Term or Subsequent Term (as the case may be) the Customer has not given notice to the Company in accordance with Clause 6.1, We will continue to supply the Services to the Customer for the Subsequent Term unless the Customer terminates the Agreement as set out in Clause 6.1.

- 3.3. The Company warrants to the Customer that the Services will be provided using reasonable care and skill.
- 3.4. We shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and We shall notify the Customer in any such event.
- 3.5. The Support Hours for the Services shall depend on the Maintenance Level selected by the Customer. The Services may comprise:
 - 3.5.1. a technical response from a telephony engineer who will raise a support ticket on the Company helpdesk system;
 - 3.5.2. remote connection for diagnosis;
 - 3.5.3. a site visit by the Company's service engineer if the Fault is not resolved (or work around not implemented) remotely in accordance with Clause 3.5.2.
- 3.6. Where the telephone system Maintenance Level selected by the Customer includes 24 x 7 emergency support, the Customer shall:
 - 3.6.1. follow the out of hours fault reporting procedure set out in Schedule 2; and
 - 3.6.2. verify that its Maintenance Level includes 24 x7 emergency support by entering its PIN number when prompted.
- 3.7. Once the Customer's account has been validated in accordance with Clause 3.6.2, the Customer's call will be routed to the on-call engineer who will log the details of the issue and perform the Services in accordance with Clauses 3.5.1 to 3.5.3 (inclusive) or escalate accordingly. The Customer shall ensure that the 24 x 7 emergency support contact number and PIN number provided by the Company:

- 3.7.1. is not available for general use by its employees and that only a selected number of its employees, who have a thorough understanding of the Services and the out of hours fault reporting procedure, will have access to the number; and
- 3.7.2. will only be used for emergencies which fall into the Major Fault or Minor Fault category as outlined in Schedule 1.
- 3.8. If the Customer misuses or uses the 24 x 7 emergency support contact number for any issues other than a Major Fault category as outlined in Schedule 2, the Company:
 - 3.8.1. will apply a call out charge to the Customer's account and the reported issue will only be dealt with during Standard Support Hours;
 - 3.8.2. may withdraw the 24 x 7 emergency support contact number; and
 - 3.8.3. reserve the right to apply engineer call out and hourly charges if the issue reported is found to be the result of end user error, or misuse of the solution.
- 3.9. The Customer acknowledges that remote programming:
 - 3.9.1. may only be reported by the Customer during Standard Support Hours; and
 - 3.9.2. will be prioritised lower than a Fault; and
 - 3.9.3. is not subject to any services level.

We shall use Our reasonable endeavours to complete any programming within 5 Working Days of any request by the Customer, but any such time is an estimate only and time shall not be of the essence for performance of any programming.
- 3.10. Any and all alterations to the Equipment may only be carried out by the Company or an agent appointed by the Company. In the event that any work is carried out a third party, We shall be entitled to terminate the Agreement with immediate effect.
- 3.11. The Customer acknowledges that:
 - 3.11.1. the Company's ability to perform its obligations under the Agreement is dependent upon the Customer's full and timely cooperation with the Company as well as the accuracy and completeness of any information the Customer provides to the Company. We shall not be responsible or liable for any delay in providing the Services which arises directly out of the Customer or Customer's failure to perform its obligations hereunder or to cooperate with the Company or to provide complete and accurate Customer Information, all in a timely manner; and
 - 3.11.2. unless otherwise agreed by the Company in writing, the Services have not been developed to meet its individual requirements and that it is therefore the Customer's responsibility to ensure that the Services meets its requirements.
- 3.12. We shall have no obligation to provide the Services where Faults arise from:
 - 3.12.1. misuse, incorrect use of or damage to the Equipment caused by the Customer, its employees, agents or subcontractors or causes other than ordinary use; or
 - 3.12.2. repairs, adjustments, tampering or alterations to the Equipment caused by the Customer, its employees, agents, subcontractors or causes other than ordinary use; or
 - 3.12.3. failure to maintain the necessary environmental conditions for use of the Equipment including without limitation maintaining the location where the Equipment is installed at normal room temperature and in a well ventilated area; or

- 3.12.4. relocation or installation of the Equipment by any person other than the Company or a person acting under the Company's instructions; or
 - 3.12.5. any surge of electrical power; or
 - 3.12.6. any fault, failure or change in the electricity supply service and/or host telephone systems;
 - 3.12.7. exposure of the Equipment to adverse weather conditions; or
 - 3.12.8. use of the Equipment in combination with any equipment not provided by the Company, or any Fault in any such equipment; or
 - 3.12.9. any breach of the Customer's obligations under this Agreement.
- 3.13. We shall not be liable for costs of making good defects in the overhead and underground cables from any associated wiring.
- 3.14. Any service calls carried out by the Company for an event set out in Clauses 3.12 or 3.13 shall be an additional service. We may charge the Customer for such work at Our applicable man-hour rate.

Enhanced Support Services:

- 3.15. The Company offers three levels of support Services for the Customer's telephone system:

- 3.15.1. Standard;
- 3.15.2. Enhanced; or
- 3.15.3. Enhanced Plus.

The service options applicable to each level are set out in Schedule 2.

- 3.16. Where, as part of the Services, we provide:

- 3.16.1. Enhanced; or
- 3.16.2. Enhanced Plus,

support services (the **Enhanced Support Services**), these Terms and the additional terms set out in this Clause 3.16 shall apply. You are only eligible for the Enhanced Support Services if you have a chargeable telephone system maintenance contract in place with the Company. See Clauses 3.16.9 and 3.16.10 for further detail on eligibility requirements for the Enhanced Support Services.

In relation to the Enhanced Support Services:

3.16.3. For New Customers Only:

- 3.16.3.1. Where requested, the Enhanced Support Service selected by you shall commence on the Enhanced Support Services Commencement Date and continue for the Enhanced Hosted Services Initial Term.
- 3.16.3.2. The Customer acknowledges that it has limited rights to terminate the Enhanced Support Services during the Enhanced Support Services Initial Term or Enhanced Support Services Extended Term (as the case may be). These rights are set out in this Clause 3.16.6 or until the Agreement is otherwise terminated pursuant to these Terms.

3.16.4. For Existing Customers Only:

- 3.16.4.1. Unless you notify us otherwise, the Enhanced Support Services will be automatically applied to your invoice and will be provided free of charge for two (2) months (the **Trial Period**).
- 3.16.4.2. You may cancel the Enhanced Support Services at any time during the Trial Period by emailing us at customerexperience@southern-comms.co.uk or contacting us on 01256 391046 and we will cancel the Enhanced Support Services by the end of the Trial Period.
- 3.16.4.3. If you wish to continue with the Enhanced Support Services after the Trial Period, then you do not need to inform us. In this case:
 - 3.16.4.3.1. We will automatically continue to provide the Enhanced Support Services for the remaining ten (10) months of the Enhanced Hosted Services Initial Term until you terminate the Agreement in accordance with Clause 3.16.6 or until the Agreement is otherwise terminated pursuant to these Terms; and
 - 3.16.4.3.2. the price per month shall apply.
- 3.16.4.4. If you do not cancel the Enhanced Support Services during or by the end of the Trial Period:
 - 3.16.4.4.1. we will automatically continue to provide the Enhanced Support Services for the remaining ten (10) months of the Enhanced Hosted Services Initial Term until you terminate the Agreement in accordance with this Clause 3.16.6 or until the Agreement is otherwise terminated pursuant to these Terms; and
 - 3.16.4.4.2. the price per month shall apply.
- 3.16.4.5. For the avoidance, if the Customer cancels the Enhanced Support Services during or at the end of the Trial Period and subsequently orders the Enhanced Support Services, We shall provide the Enhanced Hosted Services for the Enhanced Hosted Services Initial Term.

3.16.5. Upon expiry of the Enhanced Support Services Initial Term, unless terminated in accordance with Clause 3.16.6, the Company shall automatically continue to provide the Enhanced Support Services at the then current service option level for one (1) year (the **Enhanced Support Services Extended Term**) at the end of the Enhanced Support Services Initial Term and at the end of each Enhanced Support Services Extended Term, as the case may be.

3.16.6. The Customer may give written notice to the Company, not later than thirty (30) days before the end of the Enhanced Support Services Initial Term or the relevant Enhanced Support Services Extended Term, to terminate the Enhanced Support Services at the end of the Enhanced Support Services Initial Term or the relevant Enhanced Support Services Extended Term, as the case may be.

For the avoidance of doubt, if the Customer terminates their telephone maintenance contract then the Enhanced or Enhanced Plus services shall cease. If the Customer terminates their Enhanced or Enhanced Plus services the telephone maintenance contract shall continue until terminated and the Customer shall receive Standard support.

3.16.7. The Customer may upgrade the service option level during the Enhanced Support Services Initial Term or the Enhanced Support Services Extended Term and the Company shall provide the upgraded service option level for the remainder of the

Enhanced Support Services Initial Term or the Enhanced Support Services Extended Term, as the case may be.

- 3.16.8. The Customer may not downgrade the service option level during the Enhanced Support Services Initial Term or any Enhanced Support Services Extended Term.
- 3.16.9. The Enhanced Support Services apply to each telephone system maintenance contract. Please contact us if you are not sure if your maintenance contract qualifies for the Enhanced Support Services.
- 3.16.10. The price for the Enhanced Support Services applies per telephone OR system maintenance contract and not per customer. By way of illustration, if the Customer has 2 systems with 2 separate maintenance contracts, you will be billed for each system. If the Customer has 2 systems under 1 telephone OR system maintenance contract you will be billed under 1 contract.

The Customer will be charged monthly in arrears.

- 3.16.11. **24/7 Remote Support:** Where the Customer has elected for Enhanced or Enhanced Plus which includes 24/7 remote support, this covers:

- 3.16.11.1. P1 and P2 faults only (in the case of Enhanced level); and

- 3.16.11.2. all faults, including programming to resolve faults.

In the case of Enhanced level remote support, support does not include certain add ons, move's and changes including but not limited to time of day routing changes, hunt group changes, extension programming or auto attendant changes. We will notify you at the time of your request for remote support if your request is not covered and what additional charges will apply.

Where you have selected the Enhanced service option, any changes shall be made during a Working Day only.

The Company does not monitor emails or its CRM system out of hours. Any request by the Customer for remote support out of hours must be made by telephone. Any requests or reports made by email out of hours will not be actioned until the next Working Day.

All remote programming, moves and changes are dependent on us having remote access to the Customers telephone systems. You acknowledge that, in the event that we do not have such remote access or are unable at the time to remotely access the Customer's telephone system(s), we will notify you that we are unable to complete the work and a site visit would be required. Following such notification:

- 3.16.11.3. the response times set out in the Enhanced Support Services Service Levels shall not apply; and

- 3.16.11.4. within 8 hours of such notification, we will contact you to arrange a mutually agreed site visit time with you.

- 3.16.12. **Site Visits:** Where the service option includes site visits:

- 3.16.12.1. this is subject to a maximum of 4 separate visits to the Customer's site per annum. We will track this on our appointments module and notify you at the time of your request for a site visit if you have reached your maximum number of site visits and what additional charges will apply;

- 3.16.12.2. any site visits made out of hours these will be limited to P1 and P2 faults ONLY;

3.16.12.3. any site visit made during the Working Day must be fault related and cannot be used for new sales orders or changes.

3.16.13. **Training:** Where the service option includes training refreshers this includes:

3.16.13.1. **Remote Training:** Remote training will be limited to a maximum of 1 hour time slots and subject to fair usage (see Clause 3.16.17 below). If we believe that excessive training requirements are being requested then We will notify you at the time of your request for remote training and what additional charges will apply.

3.16.13.2. **On Site Training:** On site training will be limited to a maximum of one (1) visit of three (3) hours per annum. We will track this on our appointments module and notify you at the time of your request for on-site training if you have reached your maximum number of on-site training and what additional charges will apply.

For the avoidance of doubt, remote and on-site training shall only be provided during a Working Day and is not subject to the Enhanced Support Services Service Levels or any other SLA. The Company shall not have any liability to the Customer if it fails to provide or is delayed in providing the remote and / or on site training and such failure or delay shall not entitle the Customer to any service credit or other sums.

3.16.14. **Voice Recordings:** All voice recordings will be made by employees of the Company. If:

3.16.14.1. you wish to use your own employees for any voice recording, no charges shall apply;

3.16.14.2. you wish for the Company to arrange for your voice recordings to be professionally recorded by a third party, additional charges will apply and we will notify you of these at the time of your request.

3.16.15. The exclusions and exceptions set out in paragraph 7 of Schedule 1 shall apply to the measurement and calculation of the Services. Service credits will not be available to the Customer to the extent that the Company fails to meet any service levels as a result of such exclusions and exceptions.

3.16.16. At your cost, you shall ensure that We shall have such remote and other access to the systems and infrastructure of the Customer as We shall require to provide the Enhanced Support Services.

3.16.17. In the event that We are required to engage with BT or other supplier to perform the Enhanced Support Services We shall not be liable for any failure to meet the Enhanced Support Services Service Levels.

3.16.18. Any change which is part of a new sales order, is excluded from the Standard; and Enhanced service option. Enhanced is for active services that are already live.

3.16.19. **Fair Usage:** The Enhanced Support Services including but not limited to configuration or programming requests are subject to fair usage. The Customer should be able to use the Enhanced Support Services service in an appropriate manner to meet its needs but if your configuration or programming requests are over and above fair usage, We will inform you and provide you with a quotation to perform the request. We would not proceed with any request until we receive your acceptance of any charges in writing.

3.16.20. **Changes / Programming Requests:** Subject to Clause 3.16.16, where you have selected the Enhanced Support Services you are entitled to unlimited changes and programming requests. Where you have not selected the Enhanced Support Services, any changes and programming requests shall be subject to fair usage. If your changes

or programming requests are over and above fair usage, We will inform you and provide you with a quotation to perform the request. We would not proceed with any request until we receive your acceptance of any charges in writing.

4. THE CUSTOMER'S OBLIGATIONS

- 4.1. The Customer shall:
 - 4.1.1. ensure that the terms of the Order are complete and accurate;
 - 4.1.2. co-operate with the Company in all matters relating to the Services;
 - 4.1.3. provide the Company, its employees, agents, consultants and subcontractors, with access to the Installation Address and other facilities as reasonably required by the Company;
 - 4.1.4. provide the Company with such information and materials as We may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
 - 4.1.5. keep and maintain all materials, equipment, documents and other the Company property (**the Company Materials**) at the Installation Address in safe custody at its own risk, maintain the Company Materials in good condition until returned to the Company, and not dispose of or use the Company Materials other than in accordance with the Company's written instructions or authorisation; and
 - 4.1.6. where the Customer does not have any manufacturer software support in place, pay for any manufacturer software support required to rectify a Fault.
- 4.2. If the Equipment is to be connected to third party telecoms apparatus, the Customer shall at the Customer's expense arrange for and maintain the provision of any third party apparatus specifically required for the Customer's use of the Equipment.
- 4.3. The Customer shall nominate a manager to be available to liaise with, and respond to queries from, the Company (for example, as to the resolution of conflicting priorities between two or more items of support or maintenance).
- 4.4. The Customer shall report all Faults or details of any required Services and support promptly to the Company. Any Faults reported verbally by the Customer should be confirmed in writing.
- 4.5. If the Company's performance of any of its obligations under the Agreement is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
 - 4.5.1. We shall without limiting Our other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Company's performance of any of its obligations;
 - 4.5.2. We shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Company's failure or delay to perform any of its obligations as set out in this Clause 4.5; and
 - 4.5.3. the Customer shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Customer Default.

5. CHARGES AND PAYMENT

- 5.1. Unless otherwise stated in these Terms, We will invoice the Customer monthly or annually in advance and the Customer shall pay the Charges in pounds sterling without set-off or deduction.
- 5.2. The Customer shall pay each invoice submitted by the Company:
- 5.2.1. within 30 days of the date of the invoice; and
- 5.2.2. in full and in cleared funds to a bank account nominated in writing by the Company, and time for payment shall be of the essence of the Agreement.
- 5.3. The Charges are exclusive of Value Added Tax, which shall be payable by the Customer in addition to the Charges at the rate applicable from time to time.
- 5.4. If the Customer fails to make payment in full by the due date We may:
- 5.4.1. suspend the Services; and
- 5.4.2. charge interest at the rate of 4% per annum above the base rate of the Bank of England on any amounts outstanding from the due date for payment until payment is made in full.
- 5.5. We will give the customer as much prior notice as practicable of any alteration to the charges and in any event not less than 1 month's prior notice of such change. This notice may be included in an invoice to the Customer. If, during the Minimum Term, the Company increases the Charges by **more than** the Retail Price Index, the Customer may terminate the Agreement during the Minimum Term on written notice to the Company within thirty (30) days of receipt of the notice of increase, without the obligation to pay the Early Termination Fee.

For the avoidance of doubt, any increase to the Charges that would not have increased the Customer's immediately previous monthly total bill for that specific Service (if the increase(s) had applied for the whole of that month) by more than the RPI annual inflation rate at the date We notify the Customer of the applicable increase in the Charges shall not entitle the Customer to terminate the Agreement under this Clause 5.5.

- 5.6. In the event that the Company incurs additional costs and/or charges in supplying the Services to the Customer the Customer will pay such additional costs when it is due to pay for the Services.
- 5.7. All sums payable to the Company under the Agreement shall become due immediately on its termination, despite any other provision of the Agreement. This Clause 7 is without prejudice to any right to claim for interest under the law or any right under the Agreement.

6. SUSPENSION AND TERMINATION

- 6.1. The Agreement shall commence on the Commencement Date. Unless terminated earlier in accordance with:
- 6.1.1. Clause 3.16.6 (in the case of the Enhanced Support Services only);
- 6.1.2. Clause 6.2 or
- 6.1.3. this Clause 6.1,

the Agreement shall continue for the Initial Term and shall automatically extend for the Subsequent Term at the end of the Initial Term and at the end of each Subsequent Term. Either party may give written notice to the other party, not later than three (3) months before the end of the Initial Term or the relevant Subsequent Term, to terminate the

Agreement at the end of the Initial Term or the relevant Subsequent Term, as the case may be.

- 6.2. Without limiting its other rights or remedies, either party may terminate the Agreement with immediate effect by giving written notice to the other party if:
- 6.2.1. the other party commits a material breach of any term of the Agreement and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
 - 6.2.2. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
 - 6.2.3. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - 6.2.4. the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Agreement has been placed in jeopardy.
- 6.3. Without limiting Our other rights or remedies, We may (at our option) terminate the Agreement or suspend or vary the Services with immediate effect by giving written notice to the Customer if:
- 6.3.1. the Customer fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than seven (7) days after being notified in writing to make such payment; or
 - 6.3.2. there is a change of Control of the Customer.
 - 6.3.3. if the Company reasonably believe the Customer has provided false or misleading Customer Information;
 - 6.3.4. the Company needs to modify, expand, improve, maintain or repair the Services;
 - 6.3.5. the Customer's credit rating decreases at any time, and the Customer fails to supply reasonable security in response to a request from the Company; or
 - 6.3.6. the Company considers that there is a significant credit risk;
 - 6.3.7. the Company considers that there is a fraud risk;
 - 6.3.8. the Company's contract with its Authorised Provider to the Services is suspended, varied or terminated.
- 6.4. The re-instatement of suspended Services shall be at the Company's sole discretion and the Customer shall nevertheless be responsible for payment of the Charges during any period where the Services are suspended pursuant to clause 6.3.1, clause 6.3.2 and clause 6.3.4.

Planned Engineering Works

- 6.5. We will provide a minimum of 3 Working Days' notice of all scheduled outages which may impact availability of the Services.

7. EFFECTS OF TERMINATION

- 7.1. On termination of the Agreement for any reason:

- 7.1.1. the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, We shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- 7.1.2. the Customer shall return all of the Company Materials. If the Customer fails to do so, then We may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Agreement; and
- 7.1.3. Clauses which expressly or by implication survive termination shall continue in full force and effect.

8. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

- 8.1. This Clause 8 sets out the Company's entire liability (including any liability for acts or omissions of the Company's employees, agents or subcontractors) in respect of any breach of the Agreement and any representation, statement or tortious act or omission arising out of or in connection with the Agreement.
- 8.2. Except as set out in these Terms, the Company provides no warranties, conditions or guarantees as to the description or quality of the Services, and all warranties, conditions or guarantees implied by or expressly incorporated as a result of custom and practice, statute, common law or otherwise are hereby expressly excluded so far as permitted by law.
- 8.3. Subject to Clause 8.5, the Company's aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement shall not exceed £1,000,000 (one million pounds sterling).
- 8.4. Subject to Clause 8.5, We shall not be liable to the Customer whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise the Agreement, for:
 - 8.4.1. loss of profits; or
 - 8.4.2. loss of revenue;
 - 8.4.3. loss of income or business;
 - 8.4.4. depletion or loss of goodwill, reputation or similar losses;
 - 8.4.5. loss of anticipated savings;
 - 8.4.6. loss of or corruption of data or information;
 - 8.4.7. loss of use;
 - 8.4.8. loss of contract;
 - 8.4.9. any indirect or consequential or special loss or damage or pure economic loss, costs, damages, charges or expenses whatsoever and howsoever caused.
- 8.5. Nothing in these Terms shall exclude or limit the liability of the Company for:
 - 8.5.1. death or personal injury resulting from the Company's negligence; or
 - 8.5.2. for fraud or fraudulent misrepresentation; or

8.5.3. for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability.

8.6. This Clause 8 shall survive termination of the Agreement.

9. DATA PROTECTION

9.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This Clause 9 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

9.2. The Company's Privacy Notice which can be found on our website sets out the scope, nature and purpose of processing by the Company, the duration of the processing and the types of personal data (where **Personal Data** has the meanings as defined in the Data Protection Legislation) and the Company collects.

9.3. Without prejudice to the generality of Clause 9.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data (as defined in the Data Protection Legislation) to the Company for the duration and purposes of the Agreement.

10. NOTICES

10.1. Any notice or other communication given to a party under or in connection with the Agreement shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this Clause, and shall be delivered personally, sent by pre-paid first class post or other next Working Day delivery service, commercial courier, fax or e-mail.

10.2. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 9.1; if sent by pre-paid first class post or other next Working Day delivery service, at 9.00 am on the second Working Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Working Day after transmission.

11. GENERAL

11.1. For the purposes of the Agreement, **Force Majeure Event** means an event beyond the reasonable control of the Company including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

11.2. We will not be liable to the Customer for any failure or delay in performing Our obligations under the Agreement or supplying the Services:

11.2.1. as a result of a Force Majeure Event;

11.2.2. if another supplier delays or refuses the supply of an electronic communications service to the Company or any of the Company's suppliers and no alternative service is available at reasonable cost; or

11.2.3. if legal or regulatory restrictions are imposed upon the Company or any of the Company's suppliers that prevent the Company or any of the Company's suppliers from supplying the Service.

- 11.3. If the Force Majeure Event prevents the Company from providing any of the Services for more than 12 weeks, We shall, without limiting its other rights or remedies, have the right to terminate the Agreement immediately by giving written notice to the Customer.
- 11.4. **Confidentiality.**
- 11.4.1. Each party undertakes that it shall not at any time during the Agreement, and for a period of one year after termination of the Agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Clause 11.4.2.
- 11.4.2. Each party may disclose the other party's confidential information:
- 11.4.2.1. to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Agreement. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this Clause 11.1; and
- 11.4.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 11.4.3. Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Agreement.
- 11.5. **Assignment and other dealings.**
- 11.5.1. We may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of Our rights under the Agreement and may subcontract or delegate in any manner any or all of Our obligations under the Agreement to any Authorised Party, third party or agent.
- 11.5.2. The Customer shall not, without the prior written consent of the Company, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Agreement.
- 11.6. **Variation.** Except as set out in these Terms, no variation of the Agreement, including the introduction of any additional terms and conditions, shall be effective unless it is agreed by the Company in writing and signed by an authorised representative of the Company.
- 11.7. **Severance.** Each of the Clauses of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining Clauses will remain in full force and effect.
- 11.8. **Waiver.** Any failure by either party to exercise or enforce its right under the Agreement shall not be a waiver of that right, nor prevent such party from exercising or enforcing such right at a later time.
- 11.9. **Third parties.** No one other than a party to the Agreement shall have any right to enforce any of its terms.
- 11.10. **Governing law.** The Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.
- 11.11. **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

Schedule 1**SERVICE LEVELS**

The following Enhanced Support Services Service Levels will apply to the Standard Support Services:

1. DEFINITIONS

Working Day	A day other than Saturday, Sunday or public holiday in England.
Working Hour	A period between Monday to Friday 0900 hours to 1730 hours, unless otherwise specified by the level of cover
Major Fault - Complete System Failure	<ol style="list-style-type: none"> 1. Inability to originate or receive any voice communications 2. Attendant console and/or night answer position failure 3. >20% of the trunk-side ports out of service 4. >20% of the extension-side stations and/or ports out of service 5. Any other failure that is mutually agreed is a major system failure
Minor Fault - Minor Problem	Any failure or malfunction other than a Complete System Failure.
Equipment	All hardware itemised in the equipment order form.

2. PRIORITY CLASSIFICATION

Fault Tickets are logged, classified, and assigned a priority with our ticketing system.

Priority	Description	Target Response
1	A Complete System Failure	1 Working Hour
2	Part of a major application or business unit is non-operational	2 Working Hours
3	A Minor Problem has occurred which is not a Complete System Failure	8 Working Hours

4	Information/Programming (Change Requests)	Up to 5 Working Days
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3. TARGET RESPONSE

3.1. Response times will be measured as the time between a ticket being received by the Technical Support Team and the initial response received by a qualified telephony engineer which is deemed to have occurred, without limitation:

3.1.1. telephone consultation with Customer's representative working toward issue resolution, or

3.1.2. remote diagnostics and remote work to correct the problem, or

3.1.3. dispatch of technician(s) to Customer's premises.

4. CHANGE REQUESTS

4.1. Change Requests are not subject to any service level agreement however we understand that on occasions, customers require programming to be completed sooner.

Standard Change Request

4.2. Target Response: Estimated up to 5 days to complete the change

4.3. Cost: FREE OF CHARGE

Priority Change Request

4.4. Target Response: Estimated to be completed on the same day if requested before 1pm or the next day if requested after 1pm

4.5. Cost: £50.00 per change

4.6. Please note that any priority change request will only be completed remotely if we have remote access to your telephone system. We cannot guarantee a priority change if a site visit is required to complete the change.

5. CUSTOMER REPORTING

5.1. When reporting an issue, the Customer shall provide the Company with:

5.1.1. the date and time at which the problem occurred;

- 5.1.2. the Services which the problem affected;
 - 5.1.3. the impact of the problem on the Services including a detailed description of the issue, including:
 - 5.1.3.1. the components involved, and
 - 5.1.3.2. the activity ID involved in the issue
- and any other information that We may reasonably require.

6. **SUPPORT BOUNDARY**

- 6.1. For the avoidance of doubt, the Company is not responsible for:
 - 6.1.1. the Customers:
 - 6.1.1.1. PC or Server Hardware; or
 - 6.1.1.2. Operations Systems or Third-party software;
 - 6.1.2. the Customers site network configuration;
 - 6.1.3. solution administration and configuration including but not limited to creating/maintaining campaigns, users, groups, routing strategies;
 - 6.1.4. dialler management and configuration;
 - 6.1.5. the Customers workstation software replacement, installation or modifications;
 - 6.1.6. access to third party client portals or software;
 - 6.1.7. software not provided by the Company including but not limited to OS, Virus Scanner, Backup Tools etc. Such software is outside the Service Management Boundary; or
 - 6.1.8. the Customers telephone system(s) or internal telephony or data connectivity and circuits UNLESS such telephone system(s), internal telephony or data connectivity and circuits have been supplied by and are managed and / or maintained by Us at the date the report is issued.

7. EXCLUSIONS AND EXCEPTIONS

- 7.1. The following exclusions and exceptions apply to the measurement and calculation of the Service Levels:
- 7.1.1. incidents on the Customer's equipment outside of the service boundary;
 - 7.1.2. incidents on BT Applications and / or network and application equipment due to acts or omission of the Customer;
 - 7.1.3. incidents reported by the Customer not observed/confirmed by the Company or its Authorised Provider;
 - 7.1.4. disruptions occurring within pre-notified engineering works window;
 - 7.1.5. failure of access from suspension of the Services pursuant to Clause 6.3 of the Terms;
 - 7.1.6. outages due to scheduled maintenance are excluded from service level calculations;
 - 7.1.7. outages due to unscheduled upgrades, requested by the Customer that cannot be performed during the regularly scheduled maintenance windows;
 - 7.1.8. outages due to applicable national laws, customs, or regulations;
 - 7.1.9. outages due to incidents of Force Majeure Events;
 - 7.1.10. any failure caused by the Customer to (i) action, (ii) inaction, (iii) unavailability of Customer personnel in order to determine and/or isolate the problem including "Customer Pending Status", or (iv) the Customer's delay in installations, or (v) failure caused by the Customer's applications, equipment or supplier;
 - 7.1.11. outages whereby the Company or its Authorised Provider is unable to gain access to the Customer's site, for reasons attributable to the Customer, to carry out necessary repair work; or
 - 7.1.12. unavailability of the BT Application and / or Network as a result of problems with environmental conditions including but not limited to power, climate, housing, switch off at the Customer's premises, the Customer's failure to follow agreed procedures, the introduction of unauthorised changes to supplier CPE (if applicable) or failure of the Customer's equipment.

Schedule 2**LEVELS OF SERVICE AND SERVICE CREDITS****1. Service Level Definitions****Levels of Service:**

	Standard	Enhanced	Enhanced Plus
<ul style="list-style-type: none"> ▪ Telephone support with 4-hour response on major faults. ▪ 1 day response on minor faults and no SLA on change requests. <ul style="list-style-type: none"> ▪ Programming that requires a site visit are chargeable. <ul style="list-style-type: none"> ▪ Changes are subject to fair usage. 	✓		
2-hour response on major faults		✓	✓
4-hour response on minor faults		✓	✓
20-hour completion on change requests		✓	✓
Inclusive recordings of announcements for your business including auto attendant, training and on hold.		✓	✓
Unlimited adds, moves and changes		✓	✓
Inclusive site visits (please refer to clause 3.19)		✓	✓
Inclusive training refreshers (please refer to clause 3.19)		✓	✓
24/7 remote support on Major Faults (excluding Bank Holidays)		✓	✓
24/7 remote support on Major Faults (Including Bank Holidays)			✓

2. **Service Credits**

- 2.1. The Customer shall be responsible for claiming any service credit in accordance with the applicable service level agreement. Where a valid claim is made and the Customer becomes entitled to a service credit, We will issue a credit note to the Customer for an amount equal to the applicable service credit.
- 2.2. In order to receive an available service credit, the Customer must give notice to the Company, within 15 days of the end of the calendar month for which the service credit is claimed. If the Customer fails to claim the service credit to which it is entitled, the Customer shall be deemed to have waived its right to claim the service credit.
- 2.3. Service credits shall be calculated based upon the service hours offline divided the total amount of service hours available, multiplied by monthly spend.