

Telefonix Voice & DataFull Terms & Conditions

Thank you for choosing Systems Supported Limited t/a Telefonix Voice & Data (“Telefonix”, “we”, “us” etc) to provide you with Communications Solutions. These General Conditions apply to all orders you (“Customer”) place with us to supply the specific Communications Solutions (“Service”) set out in the proposal we have submitted to you (“Proposal”). Please note these are the only terms and conditions which apply to the Service and all other terms and conditions (including any other terms or conditions you refer to when you place your order) are expressly excluded unless they have been set out in Special Terms. By placing an order with us or using the Service, you agree to be bound by these General Conditions. For the avoidance of doubt, our Proposal, these General Conditions and your order shall form the agreement between us for the supply of the Service (“Agreement”). In the event of any conflict, the Proposal takes precedence over these General Conditions and these General Conditions take precedence over your order. Capitalised Terms, which are not defined above, are explained in Clause 11.

- 1. Term of the Agreement** The Agreement will commence on the Commencement Date and (unless terminated earlier in accordance with these General Conditions) shall continue for the Initial Term. Thereafter, the Agreement will automatically renew for subsequent periods of twelve (12) months, unless either party gives the other at least 30 days’ written notice prior to expiry of the Initial Term or renewal term that renewal should not take place. Your agreement with us starts on the date on the signed Service Agreement or signed quotation and your contract commencement date (the “Contract Commencement Date”) will be the date on the signed Service Agreement, quotation or the date each Service is first made available to you for use, whichever is the latest. You accept that this may mean you will have multiple Contract Commencement Dates however each Contract Commencement Date will be subject to the Minimum Term.
- 2. The Service**
  - 2.1 We undertake to deliver you with the Service in accordance with the Agreement.
  - 2.2 To enable us to deliver the Service, you agree that you will:
    - 2.2.1 ensure that all Customer Equipment complies with any technical requirements stated in our Proposal (if required);
    - 2.2.2 obtain all necessary consents, licences and permissions, including (without limitation) consents for any necessary alterations to buildings;
    - 2.2.3 provide the access and assistance set out in clause 2.4;
    - 2.2.4 be and remain responsible for Our Equipment once it is delivered to the Premises and will not interfere with it in any way nor permit any third party to do so;
    - 2.2.5 bear the cost of any loss or damage to Our

Equipment other than fair wear and tear or any loss or damage caused by our own employees or subcontractors. 2.3 You undertake to use the Service in accordance with the Act, and any licence granted thereunder. You further undertake not to use the Service: 2.3.1 as a means of communication for a purpose other than that for which the Service is provided; or 2.3.2 for the transmission of any material which is defamatory, offensive or of an abusive or obscene or menacing character or is of a nature which if transmitted would constitute a criminal offence or which infringes the rights of any third party including but not limited to contractual rights and intellectual property rights; or 2.3.3 for any purpose which we may notify to you from time to time is prohibited by reason of any relevant legislation which comes into force. 2.4 To enable us to perform our obligations under the Agreement: 2.4.1 you shall permit us, our agents, employees and any other persons authorised by us to have access to the Premises and shall provide such reasonable assistance and information as we shall request from time to time; 2.4.2 we will normally carry out work by appointment and during normal working hours, but may request that you provide us access to the Premises at other times but such requests shall not oblige you to provide such access; 2.4.3 at your request, we may agree to work outside normal working hours and you shall pay our usual charges for complying with such a request; and 2.4.4 you shall permit us to request and manage as a whole any transactions to connect you to C.P.S. (carrier pre select) and sign on your behalf if necessary any forms that are to be submitted to British Telecom plc in that regard. 2.5 We shall use reasonable endeavours to meet any specific dates requested by you to carry out any installation or set up required as part of the Service. However, unless stated otherwise in the Proposal or the Special Terms, time shall not be of the essence with respect to any such date. 2.6 Our Equipment and Allocation of Telephone Numbers 2.6.1 Where we have supplied Our Equipment as part of the Service, it shall remain our property at all times and you agree not to remove, modify or obscure any proprietary notice attached to Our Equipment. You expressly acknowledge that we repair or exchange Our Equipment at our absolute discretion where this is required to ensure we can provide the Service in accordance with the Agreement. 2.7 Suspension of the Service 2.7.1 Our obligation to provide the Service is conditional on you making payment of all Charges on the due date(s) for payment and in all other respects complying with your obligations under the Agreement. Without prejudice to any other rights or remedies we may have, we shall be entitled to suspend provision of the Service in the event that:(a) any Charges are overdue by more than fourteen (14) days; or(b) in our reasonable opinion you are using the Service in any manner which breaches clause 2.2

or 2.3; or(c) we are otherwise entitled to terminate the Agreement; or(d) we are obliged to comply with an order, instruction or request of the UK Government, an emergency services organisation or other competent administrative or regulatory authority; or(e) we need to carry out any emergency works to the network or any of Our Equipment for the purpose of providing the Service. 2.7.2 We shall use reasonable endeavours to provide you at least forty-eight (48) hours' notice of any suspension, where it is lawful for us to do so. However, where any suspension of the Service is implemented as a consequence of your breach, fault or omission (but not otherwise), you shall reimburse us for all reasonable costs and expenses we incur as a result of the suspension and/or the recommencement of the provision of the Services, as appropriate. 2.7.3 Exercise of our right to suspend the Service shall be without prejudice to either party's right to terminate the Agreement which existed prior to the suspension. 2.7.4 You will be liable for reimbursing us for the costs we incur from our suppliers upon such cancellation. If you cancel an ordered Service or any part of it, notwithstanding that such order has only been provisionally accepted by us, you agree to reimburse us for any costs we have incurred in preparing to deliver the Service in addition to the standard cancellation charge, as may be applicable at the time. 2.8 Broadband Service; 2.8.1 If we consider that your bandwidth usage profile is abnormal or out of the ordinary (including without limitation extremely high levels of bandwidth use in a given period), we have the right to take such action as we deem appropriate which may include, without limitation, restricting or suspending your use of the broadband service. 2.8.2 We will make reasonable endeavours to inform you in advance if we impose any restrictions on your use of the broadband service. 2.8.3 Your use of the broadband service is entirely at your own risk. We will not be liable for any loss or damage arising from any virus, Trojan horse, spam or other malicious content that you may receive while using the broadband service notwithstanding that there may be a firewall contained in equipment supplied in connection with the broadband service.

3. **Charges** 3.1 The Charges for provision of the Service and Our Equipment, if applicable, including the due date(s) for payment of invoices, are as set out in the Proposal. 3.2 All Charges are payable within [30] days of invoice, unless otherwise stated in our Proposal. Without prejudice to any other rights or remedies, we will be entitled to charge interest on late payments at the maximum rate specified in the Late Payment of Commercial Debts (Interest) Act 1998. 3.3 All Charges exclude Value Added Tax ("VAT") at the prevailing rate, unless stated otherwise. 3.4 We reserve the right to levy additional charges at our

standard rates where we are unable to deliver the Service to you (including carrying out any installation work or training) due to your failure to comply with your obligations to provide access to the Premises, or prepare the Premises or the Customer Equipment for the installation, or otherwise to make available to us those of your employees and subcontractors you agreed would be made available to us for the purpose of delivering the Service. 3.5 We reserve the right to charge 50% of project costs upfront. This includes software, hardware and engineering costs. 3.6 You shall pay the price for the service as set out in our proposal. We shall be entitled to decrease our prices at any time, such decreases to apply to all Services provided after the date of the decrease and to be reflected in our next invoice. We shall be entitled to increase our charges at any time and shall give you 30 days' notice of any such increase; such increase will take effect after the expiry of such notice. Upon notification of any such increase you shall be entitled to cancel the Service immediately by giving to us notice in writing within 30 days of the date of our notice of the increase in the charge. 3.7 We will usually ask you to pay the rental in advance and your first invoice will include both one month's rental in advance and a charge for a part month's rental from the Contract Commencement Date up to the beginning of the first complete month, where appropriate, and then monthly in advance thereafter. Call and other charges will be invoiced in arrears. We will calculate the charges for Calls using the details recorded by our carrier's network.

4. **Warranties** We warrant that the Service will be provided with reasonable skill and care and that Our Equipment will conform to any specification set out in our Proposal for a period of twelve (12) months from installation. Save as aforesaid, all other warranties (whether implied or express) are excluded to the maximum extent permitted by law.
  
5. **Limitation of Liability** 5.1 Nothing in this Agreement shall exclude or limit either party's liability for death or personal injury resulting from the negligence of that party or their employees, agents or sub-contractors or for fraud. 5.2 Neither party shall be liable to the other for any economic losses (including any loss of profits, business, contracts, goodwill, revenue or anticipated savings) or for any special, indirect or consequential losses or any destruction of data arising out of or in connection with the Agreement or the supply of the Service. Without limiting the generality of the foregoing, in the event that the Service fails and your calls are diverted to another carrier, we shall not be obliged to pay any charges incurred by you with that carrier. 5.3 You acknowledge that you are solely responsible for the use of the Service (including by your employees, agents and permitted third parties)

and you shall indemnify us and keep us indemnified against all claims, liability, losses, damage, costs and expenses (including reasonable legal fees) arising from your use of the Service. 5.4 In no event shall our liability to you in connection with the Agreement or the performance or non-performance of the Service exceed (i) in respect to any particular claim or series of claims, the aggregate Fees we have received from you in the three (3) months preceding the occurrence of the matter giving rise to the claim or series of claims (or since the Commencement Date if less than three months earlier) and (ii) in any one calendar year, the aggregate Fees we have received (or are due to receive) from you in that calendar year under the Agreement.

6. **Matters beyond reasonable control** 6.1 If either party is unable to perform any obligation under the Agreement because of an event beyond that party's reasonable control, act of God, inclement weather, failure or shortage of power supplies, flood, drought, lightning, or fire strike, lock out or trade dispute or labour disturbance, any act or omission of Government, highways authorities, acts of terrorism, or other public disturbance, the party affected will have no liability to the other for that failure to perform. If any such event continues for more than twelve (12) weeks, either party may serve notice on the other terminating the Agreement. 6.2 Without prejudice to clause 6.1, you expressly acknowledge that Telefonix cannot and does not warrant that the Service will be free of interruptions or errors and that the Service may be affected by causes outside our control such as network capacity, atmospheric conditions and delays caused by third party suppliers.
7. **Termination** 7.1 You may terminate the Agreement at any time on thirty (30) days' written notice during the Initial Term or any renewal term provided you pay all Charges which would otherwise have accrued to us during the remainder of that term. This includes all fixed Charges as well as any variable Charges calculated on a monthly basis by reference to the monthly average of such Charges during the three months prior to the written notice. 7.1.1 Mobile network cease fees will apply if services are cancelled within 24 months. 7.2 Either party may at any time terminate the Agreement immediately on giving notice to the other if the other: 7.2.1 commits a material breach of the Agreement, which is capable of remedy, and fails to remedy the breach within 15 days of receiving a written notice to do so from the party not in breach (or 14 days in respect to an obligation to pay money). 7.2.2 commits a material breach of the Agreement, which cannot be remedied; 7.2.3 is the subject of a bankruptcy order, becomes insolvent, makes any

arrangement or composition with or assignment for the benefit of their creditors, goes into voluntary liquidation (otherwise than for reconstruction or amalgamation) or compulsory liquidation or has a receiver or administrator appointed over its assets. 7.3 Your right to use the Service shall terminate on the effective date of termination of the Agreement. 7.4 If either party delays in acting upon any breach of the Agreement by the other, that delay will not be regarded as a waiver of that breach.

8. **Confidentiality** 8.1 Each party will, throughout the Agreement and for one (1) year after its termination or expiry keep confidential any information (whether written or oral) of a confidential nature disclosed by the other in respect to the Agreement for the purpose of providing or receiving the Service and will not, without the prior written consent of the other party, disclose that information to any person (other than its employees or professional advisers who have a need to know that information for those purposes. The foregoing duty of confidentiality shall not apply to: 8.1.1 any information that has become public knowledge other than through a breach of the Agreement; 8.1.2 any information lawfully in the possession of the recipient prior to its disclosure; 8.1.3 any information obtained from a third party who is free to disclose it; and 8.1.4 any information required to be disclosed by law.
9. **Data Protection** 9.1 Each party shall comply with its respective obligations under the Data Protection Act 1998 and regulations and guidelines issued thereunder and shall obtain all required notifications and consents to process personal data in connection with the Service.
10. **Miscellaneous** 10.1 The Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, communications and representations whether oral or written, between them in respect of the subject matter of the Agreement. 10.2 No person who is not party to the Agreement has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term thereof. 10.3 If any provision of the Agreement (in part or in whole) is held by a court of competent jurisdiction to be invalid, the parties shall agree in good faith some valid substitute therefor but in any event all the remaining provisions of the Agreement (including the valid part of the provision in issue) shall remain in full force and effect. 10.4 A waiver of any breach of any provision of the Agreement will not constitute a waiver of any subsequent breach. 10.5 The Customer may not assign or otherwise transfer, by operation of law or otherwise, the Agreement or

any rights or obligations thereunder without the prior written consent of Telefonix. 10.6 Any notice, invoice or other document which may be given by one party to the other under these General Conditions shall be deemed to have been duly given if left at or sent by post to the other party's nominated address, invoices or other documents may be sent, or the other party's usual or last known place of abode or business and such notice shall be deemed to be served immediately if left at the above address for notice or seventy-two (72) hours after posting if posted as aforesaid 10.7 The Agreement is governed by and shall be construed and interpreted in accordance with the laws of England and Wales and the parties submit to the exclusive jurisdiction of the English courts.

**11. Interpretation** 11.1 The following terms have the following meanings: "Act" means the Telecommunications Act 1984 and any amendments, modifications, re-enactments or replacements of the Act that may be made from time to time "Charges" means the charges set out in our Proposal; "Commencement Date" means the date when the Service is activated and made available to the Customer at the Premises; "Communications Solutions" means any of the following products and services and/or the maintenance and upgrade of any of them, or such other solutions, as are detailed, in our Proposal: leased lines, EFM, GEA, broadband, ADSL/ADSL2+, MPLS, Point to Point (P2P), SIP trunking, hosted voice systems, Voice over IP systems, telecommunications equipment including handsets, telephone system training and mobiles. "Customer Equipment" means any of your telecommunications or computer apparatus or equipment which is to be connected to Our Equipment as part of the Service; "including" means including without limitation; "Initial Term" means the period of 36 months or such other period as is set out in the Proposal; "Our Equipment" means any apparatus or equipment to be provided by Telefonix or on our behalf at the Premises as part of the Service; "Premises" means the Customer's premises, if applicable, where the Service is to be received, as set out in the Proposal; "Telefonix" means Systems Supported Limited (registered in England and Wales under number 04351046) with its registered address is at Unit 1 Bourne Mill Business Park, Guildford Road, Farnham, Surrey, GU9 9PS; 11.2 Clause headings are for convenience only and shall not affect the interpretation of the clause. 11.3 Words denoting the singular number include the plural and vice versa and references to the masculine gender shall include the feminine and neuter genders and vice versa. 11.4 References to any statute or statutory provision includes a reference to the statute or statutory provision as from time to time amended, extended or re-enacted

and references to a “person” shall include an individual, firm, unincorporated association or body corporate. 11.5 References to either party includes a reference to that party’s permitted successors and assigns.

- 12. Changing the Agreement** 12.1 If you ask us to make any change to the Services or Rental Equipment we will ask you to confirm your request in writing. No action will be taken by us to carry out the change until we have received your written confirmation. If we agree to a change, this agreement will be changed when we confirm the change to you in writing. 12.2 We may change the terms and conditions of the Agreement (or any document comprising part of the Agreement, including the Tariff for any Service) at any time on giving you no less than one (1) month’s notice. We will notify you of any changes on your monthly invoice and will post any changes or new terms and conditions on [www.telefonix.co.uk/terms-and-conditions](http://www.telefonix.co.uk/terms-and-conditions). You agree that if you continue to use the Services following receipt of such notice you will be bound by the new/revised Conditions. We reserve the right to pass on any increase in our costs for the Services we provide to you at any time by no less than one (1) month’s notice.

## Systems & Infrastructure

DEFINITIONS 1.1 “Telefonix” means Systems Supported Limited 1.2 “Customer” means the person, firm or company placing an order with Telefonix; 1.3 “Equipment” means all those and materials which are the subject of the Customer’s order and which are to be supplied to the Customer by Telefonix under these Conditions of Sale; 1.4 “Contract” means the contract for the supply of Equipment formed by Telefonix’ acceptance (which, however made or communicated, shall be deemed made subject to these conditions) of the Customer’s order.

- 1. Acceptance** The Customer’s offer to purchase the equipment shall remain irrevocable for a period of 14 days from the date hereof. Telefonix shall be deemed to accept the terms and conditions of this agreement unless it notifies the customer in writing within 14 days hereof.
- 2. Price and Payment** 2 a) Prices stated overleaf are the prices in force on the date hereof. Prices payable will be those in force on the date of delivery to the customer. Telefonix reserves the right to adjust the prices to reflect any variations in the rate of exchange and

any duties at the date of dispatch of the equipment to the Purchaser. b) Interest is payable on overdue accounts at the rate of 5% above the base rate of Barclays Bank Plc calculated from the date of the invoice to the date payment is received by Telefonix. c) Telefonix reserve the right to charge 50% of project costs including hardware, software and engineering upon signature of the contract.

3. **Termination** a) Without prejudice to Telefonix other legal rights and remedies Telefonix shall be entitled to treat this agreement as repudiated by the Customer if the Customer fails to pay the full price when due or is in breach of any provision hereunder. Non-enforcement as above by Telefonix shall not be deemed as a waiver of its rights by Telefonix which may be enforced unless any breach is remedied by the Customer. b) Without prejudice to Telefonix's legal rights above, if the customer enters into liquidation, whether voluntary or compulsory, has receiver or administrator appointed over the whole or part of its assets or enters into any scheme of administration with its creditors, this agreement shall terminate automatically on the occurrence of any such event as aforesaid.
4. **Title** a) Title in any equipment supplied by Telefonix under this agreement shall remain in Telefonix whether or not possession has been passed to the customer until the purchase price has been paid by the customer in full and until such payment is received the customer shall hold such consignment on a fiduciary basis and as a Bailee for Telefonix (returning the same to Telefonix immediately on request) and the customer shall store the same at no cost to Telefonix in such a way that such consignment is closely identifiable as belonging to Telefonix b) The customer notwithstanding sub-clause 4a) above shall be entitled to sell any equipment supplied hereunder in its own name and in the usual and ordinary course of business provided that in the event of the customer failing to deliver the same up to Telefonix when requested or on the occurrence of any event referred to in clause 3 above. Telefonix is hereby irrevocably authorised to enter forthwith onto the customer's premises and repossess and remove such equipment consigned and the customer shall be responsible for the costs of Telefonix of so doing. c) Notwithstanding the above, any risk of damage or destruction to the equipment delivered to the customer shall be borne by the customer. Without prejudice to the foregoing, Telefonix shall have a general and particular lien over any equipment supplied under this agreement between the parties hereto where any of the purchase price remains unpaid.

5. **Installation.** The customer (at its own expense) shall be responsible for all proper accommodation and facilities including proper environmental conditions and the correct consistent supply of power as recommended by Telefonix for the operation of the equipment supplied hereunder.
6. **Delivery** a) There is no specified delivery date. The customer shall accept delivery hereunder within a reasonable period from the date hereof. Telefonix shall not be liable for non-delivery caused by circumstances beyond its reasonable control. b) This agreement is independent of any other agreement and the customer shall be bound by the terms hereof notwithstanding the non-performance or non-delivery of services or equipment by Telefonix, third parties or the customer necessary for the operation of the equipment supplied hereunder.
7. **Software** Any software supplied by Telefonix (or any of its current subsidiaries) to the customer for use with the equipment supplied hereunder shall be subject to the terms and conditions of Telefonix (or any of its current subsidiaries) current standard software support contract, the performance whereof shall not in any circumstances affect the liabilities of the customer hereunder.
8. **Accessories** a) Any accessories supplied by Telefonix (or any of its current subsidiaries) to the customer from time to time when available shall be supplied under Telefonix's (or such subsidiaries') terms and conditions and prices then prevailing and shall not form part of this agreement. b) Telefonix shall not be held responsible for the failure in the performance of any equipment sold hereunder whereby accessories used by the customer do not conform to Telefonix's specifications or where the equipment supplied hereunder is used in any manner other than recommended by Telefonix.
9. **Cancellation** If the customer purports to cancel this agreement, the customer shall be liable fully to compensate Telefonix for all actual, contingent or anticipated expenses and loss of profit incurred or to be incurred by Telefonix hereunder. If such amount should not have been agreed within one month of the customer's purported cancellation, the customer shall pay Telefonix 40% of the purchase price. In the case of labour provided on a sub-contractual basis, the customer will be liable to 50% of the purchase price if cancelled within 72 hours of the agreed commencement date.

10. **Leasing** a) If the customer enters into any financial arrangement with a third party whereby it is intended that the title of the equipment supplied hereunder shall pass to such third party, the customer shall, notwithstanding any arrangement to the contrary, remain liable to Telefonix under the terms and conditions of this agreement. The payment in full by any third party to Telefonix of the purchase price hereunder shall be a full discharge to the customer of its obligation to pay such purchase price to Telefonix. b) If for any reason whatsoever the customer's arrangements for financing the purchase of the equipment shall be frustrated, the terms and conditions hereof shall remain in full force and effect as between the customer and Telefonix.
11. **Liabilities** Telefonix liability hereunder shall be limited to death or physical injury caused by the negligence of Telefonix or its employees and Telefonix shall not be liable for any other direct or indirect loss of profits howsoever or when so ever caused and of whatsoever nature, save to the extent that any such losses cannot be excluded by law. No liabilities, obligations, warranties, conditions or undertakings, statutory or otherwise, implied or express, shall be deemed to be included in this agreement save those which cannot be excluded by law. Telefonix shall not be liable to in contract, tort or otherwise for direct or consequential loss or damage or injury in connection with or arising out of possession, operation, use, malfunction or modification or equipment or services supplied hereunder, save as provided herein and the customer shall indemnify Telefonix in respect of any claim for loss, damage or injury to any person or property or for any other loss directly or indirectly occasioned by or arising from the possession, operation or use of the equipment supplied hereunder or arising from the malfunction or modification of the equipment by the customer.
12. **Law** This agreement shall be governed by the laws of England and the parties hereto agree to submit to the jurisdiction of the English courts.
13. This agreement shall only be remedied by written agreement by the parties hereto.
14. The customer hereby accepts that any terms and conditions purported to be incorporated in this agreement set out on any of the customer's purchase order or other forms of shall not apply to this agreement save those supplied by Telefonix

15. Any notice required to be given to any party under the terms of this agreement shall be given by registered letter to the address set out overleaf and any such notice shall be deemed to be delivered within 2 days of such posting
16. The parties hereto agree that it is their joint intention not to violate any provisions of the laws of England or any laws of the EEC and that in the event that this agreement or any part thereof shall become unenforceable through any such violation then such terms or conditions shall be considered severed from this agreement, the remainder of which shall remain binding as foresaid on the parties.

### Maintenance Services

1. This part of the contract sets out all terms and conditions between Systems Supported Limited (referred to as Telefonix) and you the Customer named on the attached form of agreement (the Customer or you, or yourselves). No Statements (oral or written) not stated in this contract are to be included as a term, condition or warranty of the contract and the entire obligations of Telefonix to the Customer and the Customer to Telefonix are set out in this document.
2. The Terms and Conditions may not be altered unless the alteration is signed by a Director or secretary of Telefonix and a duly authorised person appointed by the Customer.
3. If, for any reason, a provision of this contract proves to be void or unenforceable, this will not affect the validity or enforceability of the remaining provisions of this contract which will remain in force and effect.
4. **Definitions:** a. The following words have the following meaning: "The Agreement" means these contracting terms and conditions and the Customer Order Form. "BT" means British Telecommunications Plc. "Customer" means the company, partnership, sole trader or other legal entity named in the Customer Order Form. "Customer Order Form" means the accompanying document titled Customer order Form containing details of the Customer and the Services. "Equipment" means any Equipment supplied by Telefonix to the Customer. "Line Rental" means rental of the Customer's ISDN or Analogue line(s) previously supplied by BT or supplied by BT. "Minimum Term" means the minimum term

in the Customer Order Form or, where applicable, the term specified in a particular section of these contracting terms and conditions. "Owner" means Telefonix "Preferred Commencement Date" means the preferred date on which that particular Service is due to commence. "Services" means the services requested by the Customer as particularised in the customer Order Form. "Site" means the place of business at which the Services and Equipment are to be provided as specified in this Agreement. "Software" means any computer programme that was on the Equipment when supplied or that the Customer received separately. d. Headings are inserted for ease of reference only and do not affect the interpretation of this Agreement.

5. **Annual Maintenance Charge** 1. This is the amount you must pay to Telefonix for us to comply with our obligations to you. If payment is not received then Telefonix have no duty to perform any obligation and we will be within our rights to refuse to perform our duties until we receive payment and may exercise our option to cancel this contract. 5.2 Telefonix has the right to increase the Annual Maintenance Charge but we will always comply with the following: a. The Annual Maintenance Charge will not be increased until one year has expired since the date of this contract. b. Telefonix will give you at least 30 days notice of the increase in the Annual charge. c. Telefonix agree not to increase the Annual Maintenance Charge more than once in any one completed year of this agreement. d. If the increase in the Maintenance Charge is more than 15% above the amount payable prior to the increase you have the right to terminate this agreement by giving 14 days notice. However, this notice must be received by Telefonix prior to the date upon which the increased charge comes into effect. If the increase is 15% or more and we do not receive a notice of cancellation, the agreement will continue in full force and effect. e. Any additional equipment purchased during the maintenance cover period, will incur a pro rata charge based on the duration of the contract left running to the anniversary of the "Annual" renewal date. This figure will be based upon the same calculation that the original contract was determined by. In the case of contracts signed for 13 months and above, the pro rata rate to cover additional equipment will be calculated to the next annual instalment following the same rules as those on a 12 month contract.
6. **Telefonix Obligations** to you Subject to the payment by you of all sums due to Telefonix under this contract Telefonix will: a. Where necessary, to enable the equipment to function correctly, Telefonix will provide maintenance, repair and adjustment to the

equipment during the continuance of this Agreement. b. Provide all necessary spare parts to the equipment required as a consequence of fair wear & tear. c. Our standard contract is a 16 hour response (2 working days) for small problems, 4 hour response in the event of a system crash. d. System Crashes are classified as a 50% or more failure of any part of the system and / or applications such as voicemail and Contact Centre Manager – where these applications are specifically included in the system maintenance contract. For example, if over half of the external trunk lines fail as a consequence of the system PRI modules, this is determined to be a system crash. Similarly, if over half of the phones ceased to operate then this would be responded to as a system crash. Alternatively if an IP Controller failed this would result in a complete failure of the system i.e. > 50% this is determined to be a system crash. e. For all bespoke maintenance packages such as 'remote only' support and 'head office only' support please refer to schedule 1. All other system faults can still be logged during office hours 09:00 – 18:00 Monday – Friday excluding bank holidays, but are subject to the appropriate SLA response to site by a Telefonix engineer.

7. **Your Obligations to Telefonix** You will pay Telefonix the Annual Maintenance charge referred to on the T&C's on this contract (or increased due to Telefonix's right in Clause 5 above) for the minimum term of this Agreement, and thereafter from year to year until this Agreement terminates. Payment will be made within 30 days of the date of the invoice and if payment is not received in this time you will pay to Telefonix interest on the amount due at the rate of 5% above the base rate of Barclays Bank Plc. calculated from the date of the invoice to the date payment is received by Telefonix. b. You will ensure the premises where the Equipment is to be installed are in a proper and clean condition. c. You will keep the equipment at the installation address and will not remove the Equipment without obtaining Telefonix's permission. Such permission will not be unreasonably withheld but Telefonix have the right to increase the Annual Maintenance Charge to cover additional travelling expenses and other costs which will be incurred by Telefonix in servicing the Equipment at the alternative address. Such an increase in the Annual Maintenance Charge, even if the amount exceeds 15% of the amount previously paid will not entitle you to terminate the agreement as mentioned in clause 5.d. You will use the equipment at all times in accordance with the instructions and recommendations of the manufacturer and/or Telefonix. e. You will not allow any person other than a representative of Telefonix to carry out any servicing, repair, maintenance, replacement or removal of any part of the equipment. f. You will pay to Telefonix at our current

charging rate for the work necessary as a consequence of: 1. Neglect or misuse of the equipment by you. 2. Service maintenance or repair as a consequence of work undertaken to the equipment by somebody who is not a representative of Telefonix. 3. Service necessary as you have used materials, supplies or parts not approved by Telefonix. 4. The cost of cables and other equipment required to connect the equipment to the telephone network. 5. Service requested out of hours 6. Interest on the charges mentioned in 1-5 above if payment is not received within 30 days of the date of the Telefonix invoice. Interest will be charged at the rate mentioned in 7a. 7. Damage resulting from Acts of God i.e., Lightning Strikes, Flooding, Civil unrest etc. – see 8e. “Force Majeure” below. g. All charges under this Agreement are exclusive of Value Added Tax which you will pay on all sums due at the prevailing rate.

8. **Termination of Agreement** This agreement will continue for a minimum term (except if terminated as mentioned below). Thereafter this agreement will continue from year to year until terminated. This agreement may only be terminated if one of the following events occurs:- a. By either yourselves or Telefonix by giving 30 days notice in writing to the other, such notice to expire on an anniversary of the commencement of this Contract but not prior to the expiry of the minimum term. b. By yourself, being an individual committing an act of Bankruptcy, having a receiving order made against you. Being a Company made insolvent, having winding up proceedings against you, or a Receiver appointed of all or part of your assets or on you making a composition or arrangement with your creditors. c. This Agreement may be terminated immediately by Telefonix if you are at any time in breach of any of the obligations upon you under this Agreement and fail to remedy this within 14 days of notice of the breach being given to you. d. If it is necessary for Telefonix to replace parts within the equipment which are not parts provided for in the Annual Maintenance Charge, we will provide to you an estimate of the cost of the replacement. If you decline to accept Telefonix’s estimate the Agreement will be terminated by Telefonix giving you 30 days notice in writing. e. Force Majeure Neither party will be obliged to carry out any obligation under the agreement where performance of such obligation is prevented due to any cause beyond the party’s reasonable control, including but not limited to any act of God, severe weather, failure or shortage of power supplies, flood, drought, lightning or fire, labour shortage or labour dispute, the act or omission of Government, highways authorities, other telecommunications operators or administrations or other competent authority, war, military operations, or riot, or difficulty, delay or failure in manufacture, production or supply by third parties of either the

Equipment or Services or both resulting from the same or a similar type of force majeure event.

9. If this contract is terminated for any reasons mentioned in b, c, or d, above then you shall be liable to pay the following. a. All arrears due under the terms of this contract including an appointment of charges due to Telefonix but not invoiced, calculated pro rata from the date to which you made your last payment until the date of termination. b. All payments which would have been due under the terms of this contract until the expiry of the minimum term had this agreement not been terminated. However these amounts will be discounted by Telefonix by 15% to reflect early payment.
10. In this agreement the following applies: a. Minimum term: this means the initial period of this agreement as stated in the maintenance Period section of the Contract. This contract will continue for this period of time and after this period has expired, the contract will continue until terminated by one of the methods stated in clause 8. The Equipment means the equipment stated in Appendix B which is the equipment to be serviced by Telefonix. b. Installation Address: this means the address stated in Appendix B where the equipment to be covered is permanently installed. c. Business Hours: this means the time between 09:00am and 18.00pm Monday to Friday excluding Public Holidays. d. Annual Maintenance: this means the annual sum payable by you to Telefonix as stated in Appendix A or such other sum as may be payable in Clause 5.

### **Maintenance: Additional Schedules & Time Related Charges**

#### **Time Related Charges: Additional Chargeable Maintenance Work**

Engineer call-out (Inc. 1 hour) – Monday-Friday=£125.00 Saturday=£275.00 Sunday=£395.00  
Bank Holiday=£395.00

Engineer subsequent hours – Monday-Friday=£90.00 Saturday=£125.00 Sunday=£150.00 Bank  
Holiday=£150.00

Remote support – Monday-Friday=£50.00 (per 20 minutes) Saturday=£125.00 Sunday=£175.00  
Bank Holiday=£175.00

Abortive visit – Monday-Friday=£125.00 Saturday=£275.00 Sunday=£395.00 Bank  
Holiday=£395.00