

Comms UK Limited's Terms and Conditions

Index

Definitions

Definitions that apply to these Terms and Conditions

Standard Terms and Conditions of Sale. (clauses 1 to 16)

Applies to - All Equipment sales.

Network Services Terms and Conditions. (clauses 17 to 36)

Applies to - Lines and Calls
Internet Connections;
Lease Lines
Broadband
Ethernet Connections
Hosted Telecom and IT services
Any other rented services

Telecoms/IT Equipment Support Contract Terms and Conditions. (clauses 37 to 48)

Applies to - Telephone systems on site/remote support
Hosted telephony on site/remote support
Managed Wi-Fi Installations
Managed Routers

IT Support Contract Terms and Conditions. (clauses 49 to 60)

Applies to - Standard IT support contracts
Managed IT support contracts
IT Equipment on site/remote support
Hosted IT solutions on site/remote support



DEFINITIONS

The Company	Comms UK Limited.
We	Comms UK Limited.
Us	Comms UK Limited.
Customer	The Customer as named on the Customer Order Form.
You	The Customer as detailed on the Customer Order Form.
Agreement	means the contract between the Customer and Us, which consists of these terms and conditions, the Customer Order Form and the Statement of Works and related documents referred to therein.
The Equipment	The goods and/or Services as detailed on the Customer Order Form, any previous Comms UK Limited paperwork or related documents.
Services	Any professional action or consultation provided by The Company or those companies that We act as a Reseller for, and chargeable to the Customer.
Reseller	As a company We purchase Services from authorised providers and Network Operators with the intention of reselling them on to Customers. We and the Customer in turn are bound by the authorised providers and network operator's Terms and Conditions.
Network Operators	Those providers detailed in clause 38.1 and other from time to time.
Commissioned	The date at which The Equipment becomes operational.
Purchase Price	Means the full price of The Equipment plus VAT charged at the rate appropriate at time of invoice.
In Writing	means where notice is being given by either You or Us "a letter sent by recorded delivery" or "email with full company heading and confirmation of delivery".
Suppliers	The companies from which The Company purchase Services and Equipment from and resell to the Customer.
Call	Means a signal, message or communication which is silent, spoken, or visual on each Line that We agree to provide to the Customer under this Agreement.
Dial Through Fraud	Is typically, but not exclusively, where a 3 rd party hacks into the telephone Equipment and uses it and its network connections to route Calls typically onto other, high cost destinations.
IP Hacking	Includes the unauthorised accessing via an Internet Protocol address, for example but not exclusively - computer Equipment and systems, routers, firewalls, IP telephone Lines.
Mobile Cloning	Where both the legitimate and the fraudulent cell phones have the same ESN/MIN identity. The cellular systems are unable to distinguish the cloned cell phone from the legitimate one.
Line	Means a connection to the network of our Suppliers, whether direct or indirect.
Tariff	Means the charges for the Services specified on the Customer Order Form and as varied from time to time.
RPI	Retail Price Index.
Statement of Works	The document forming part of this Agreement which sets out a detailed description of the agreed works to be carried out by the Company together with the agreed actions and inputs required from the Customer to ensure a successful installation of the Equipment.
Support Contract	means either a Telephone Systems/Telephony Support Contract and/or IT Support Contract the terms of which from part of the Agreement and are set out at clauses 37 to 60.

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STANDARD TERMS AND CONDITIONS OF SALE

1 APPLICATION OF TERMS

- 1.1 These Terms and Conditions together with Customer Order Form, (previously the Sales Contract), Statement of Works, and any other related documents, form the Agreement between Us and the Customer for the provision of Equipment and Services.
- 1.2 Your attention is drawn in particular to clause 4 'LIMITATION OF LIABILITY' and You acknowledge that You understand and agree, in particular, to the provisions of that clause.

2 WARRANTY

- 2.1 All Equipment supplied by The Company carries a return to manufacturer warranty of 12 months, unless specified otherwise. Following delivery of the Equipment to the Customer, unless our Agreement includes a Support Contract the Company will not be required to investigate any fault discovered in the Equipment, and/or handle a warranty claim on behalf of the Customer or assist You to obtain replacement Equipment until our charges for doing so have first been agreed In Writing.

3 INVOICE AND PAYMENT

- 3.1 Unless otherwise agreed In Writing, You will be invoiced the full Purchase Price of The Equipment on the date The Equipment is Commissioned. Full payment will become due in full 14 days from the date of the invoice unless it has been agreed to take payment by Direct Debit, or agreed different terms shown on the Customer Order Form.
- 3.2 All additions and or deductions to the Agreement must be confirmed by You and Us In Writing before The Equipment is Commissioned and invoiced.
- 3.3 Any deposit shown in the Agreement shall be paid upon the Customers signature on the Customer Order Form. You will be invoiced the full Purchase Price of The Equipment on the date The Equipment is Commissioned and the balance of the Purchase Price will become due in full 14 days from the date of the invoice unless different terms shown on the Customer Order Form have been agreed.
- 3.4 Failure to pay the full Purchase Price when due, shall entitle The Company to treat the Agreement as repudiated without prejudice to its legal rights and remedies for breach of the Agreement. Any indulgence by The Company in respect of this clause shall not be deemed a waiver and may be enforced at any time.
- 3.5 Unless agreed In Writing by The Company to vary, the completion, invoicing of the Agreement will be within 90 days of the Agreement date, or the Agreement will be deemed cancelled by the Customer. In these circumstances, or if the Customer cancels the Agreement In Writing it is agreed that The Company can immediately invoice up 100% of the Purchase Price, such invoice to be paid by the Customer within 30 days.

4 LIMITATION OF LIABILITY

- 4.1 Nothing in this clause 4 shall limit or exclude The Company's liability to You for death or personal injury, or fraud or fraudulent misrepresentation, or breach of any warranty implied by clause 2 of the Supply of Goods and Services Act 1982 or for any other loss or damage that cannot be excluded by law.
- 4.2 Subject to clause 4.1 The Company shall have no liability to the Customer for:
 - (i) any loss of profits or anticipated profits, loss of anticipated savings, loss of business opportunity or loss of goodwill or wasted management time which You may suffer, whether they arise directly or indirectly or are immediate or consequential and whether they arise in contract, tort (including negligence) or otherwise, or
 - (ii) any loss or damage to your data, howsoever caused.
 - (iii) Subject to clauses 4.2.i and 4.2.ii our total liability to You, whether in contract, tort (including negligence) or otherwise in connection with this Agreement, shall not exceed the total Purchase Price of The Equipment or 3 months rental of a service.

5 TITLE

- 5.1 Title in and ownership of The Equipment shall remain with The Company until all monies owed to The Company have been paid to The Company.
- 5.2 It is agreed that any payment to The Company arising under the Agreement shall become due immediately in the event of the Customer entering into Liquidation, Receivership or arrangements with creditors or any act of insolvency.
- 5.3 If payment becomes overdue by four weeks or more The Company shall be entitled to recover and resell The Equipment at its election for such sum if any that can reasonably be obtained for the Equipment and for such purposes the Customer agrees irrevocably to allow The Company and or its Agents to enter their premises and or upon land the Customer occupies or controls, for the purpose of the removal of The Equipment. The Company shall exercise reasonable care in the removal of Equipment but shall not otherwise be liable for any damage caused to the property of the Customer as a result of such removal.

6 RISK

- 6.1 Upon delivery to the Customer the risk of loss, damage or destruction of The Equipment shall pass to and be borne by the Customer whether title has passed to the Customer or not.

7 INSTALLATION

- 7.1 The Customer shall at all times and at its own expense provide the proper accommodation including environmental conditions for The Equipment as recommended by the manufacturer of The Equipment and any further recommendations (if any) by The Company.
- 7.2 Notwithstanding clause 7.1, where The Equipment is specifically requested by the Customer to be installed at premises where there is or may subsequently be an increased risk of explosion or flammable atmosphere it is the Customer's responsibility at the time The Equipment is Commissioned to check and thereafter monitor The Equipment provided is and continues to be safe and suitable for the risks prevailing at those premises from time to time.
- 7.3 Fire extinguishing schemes related to the central Equipment must be and remain the type approved by the network providers supplying service to your premises, including British Telecom.
- 7.4 Where the law or the Customer's site rules at the premises or other circumstances reasonably require it, the Customer agrees at its cost to supply a suitable member of its staff or suitably qualified and authorised agent to accompany the employees or agents of The Company during the installation of The Equipment.

8 DELIVERY

- 8.1 Once received the Company will arrange for delivery of The Equipment to the Customer's premises specified in the Customer Order Form as soon as reasonably practical according to the nature of the Equipment but shall not be liable for delay in delivery to the Customer which is outside its direct control.
- 8.2 Every reasonable effort will be made by The Company to effect delivery by the dates shown on the Customer Order Form but The Company will not be liable unless an express guarantee In Writing has been given by a Director of The Company to effect delivery on or by a specific date.
- 8.3 In the event of short delivery of Equipment or receipt of damaged Equipment. The Company and the carriers (if applicable) must be notified by the Customer In Writing within 24 hours of delivery to the Customer or no claim will be considered by the Company.

9 ACCESSORIES

- 9.1 The Company is not liable for the failure of performance of The Equipment if accessories used by the Customer do not conform to The Company's or the manufacturers technical specifications or if The Equipment is used in a manner other than that recommended by The Company or the manufacturer.

10 LEASING, HIRE PURCHASE, ETC.

- 10.1 In the event of the Customer entering into a financial arrangement with a third party whereby it is intended that title to any of The Equipment shall pass to the third party, the Customer shall remain fully liable under the terms of this Agreement notwithstanding that The Company may agree following receipt of payment of the full Purchase Price to The Company to transfer title to The Equipment to the third party.
- 10.2 If, for any reason the Customer's intention to finance payment for The Equipment by a third party is frustrated, all the terms of this Agreement shall remain in full force and effect as between the Customer and The Company.

11 TELEPHONE SYSTEM

- 11.1 The Company will supply the telephone system as set out in the Customer Order Form strictly on condition that the Customer cooperates with The Company and complies fully with the Statement of Works. The Customer agrees that if it fails to fulfil its obligations described in the Statement of Works or otherwise cooperate with The Company or causes delay by obstructing The Company from implementing the Statement of Works which results in delay or any other increase in cost or prevents The Company from commissioning the system, or some of its features, that the Customer will be liable for the additional cost incurred by The Company and such additional cost will be added to the Purchase Price.

12 LAW AND INTERPRETATION

- 12.1 The Agreement shall be governed by the Laws of England and Wales and may only be modified or otherwise amended by written agreement by the parties subsequent to the signing hereof.
- 12.2 The Customer accepts that the terms and conditions of the Agreement take precedence over any purchase order containing the Customer's own terms and conditions and not withstanding anything to the contrary contained in any documentation supplied by the Customer to The Company.
- 12.3 Both parties hereby agree that it is the intention of neither party to violate any public policy, statutory or Common Law, that if any sentence, paragraph, clause of combination is in violation of any national or EEC law, the same shall not be of effect but shall be divisible from the remainder of this Agreement which shall remain binding on the parties.

13 VAT

- 13.1 All sums payable under this Agreement unless otherwise stated are exclusive of VAT and other duties or taxes and VAT will be added where applicable at the rate prevailing from time to time.

14 CALL RECORDING

- 14.1 We may record telephone conversations between You and Us, for the purposes of training and Customer service improvement, including handling complaints.

15 VARIATIONS TO AGREEMENT

- 15.1 This Agreement constitutes the entire Agreement between the parties and the parties agree that there are no other agreements or understandings between the parties other than those set out herein.
- 15.2 Variations to this Agreement may be made from time to time and We will notify You In Writing that this Agreement has been updated. The amended terms and conditions will be assumed as accepted by You unless You notify Us In Writing within 60 days of the notification.
- 15.3 As a Reseller, the Agreement between You and The Company incorporates the terms and conditions of The Company's Suppliers and the parties agree and acknowledge that the terms and conditions of this Agreement between You and the Company may be varied from time to time without notice to incorporate changes to the terms and conditions between The Company and its Suppliers whenever varied or amended from time to time.

16 ASSIGNMENT

- 16.1 The Customer shall not assign the benefit of this Agreement without the previous written consent of The Company.

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NETWORK SERVICES TERMS AND CONDITIONS

17 APPLICATION OF TERMS

- 17.1 These terms and conditions together with the Customer Order Form, (previously the Services Agreement Form and Customer Survey Form), Statement of Works and any other related documents, form the contract between Us and You for the provision of Equipment and Services.
- 17.2 Your attention is drawn in particular to clause 21 'LIMITATION OF LIABILITY' and You acknowledge that You understand and agree, in particular, to the provisions of that clause.

18 RESELLER

- 18.1 The Company act as a Reseller of network Services on behalf of but not restricted to;

BT Openreach Ltd.	Gamma Limited.
TalkTalk Business.	VoiceHost Ltd.
Nominet	OpenSRS
CentralNIC	O2
Inty	Vodafone
BT Wholesale Limited	Daisy Wholesale Limited
Interoute	Ruckus

All terms and conditions and service level agreements imposed upon The Company by its Suppliers are in turn included as part of The Company's Agreement with You. (Copies of these terms and conditions are available on request)

19 CANCELLATION

- 19.1 Subject to any minimum term specified in the Customer Order Form, (previously the Services Agreement Form and Customer Survey Form), Statement of Works and other related documents either party can cancel this Agreement by giving at least 30 days notice in writing, itemising each service to be cancelled.
- 19.2 You may cancel Services ordered before they are provided but You must pay for any work We have done and/or costs We have incurred.

20 INVOICE AND PAYMENT

- 20.1 Unless agreed otherwise In Writing We will invoice You for Call charges monthly in arrears and any other Services monthly in advance, at or near the beginning of any month. Unless agreed otherwise In Writing You agree to pay those charges by Direct Debit as stated on the invoice no later than 10 working days after the date of the invoice.
- 20.2 Failure to pay invoices by the due date means We may;
- (i) Cancel this Agreement and suspend or cease the Services with immediate effect.
 - (ii) Charge a £50 + VAT late payment administration fee plus interest and compensation payable in the amount and at the rate payable under the Late Payment of Commercial Debts (Interest) Act 1988 on any overdue sum until receipt of the outstanding amount is in our bank.
- 20.3 The Company make every effort to issue correct monthly invoices. The customer is responsible to check the invoices and report any discrepancies. In the event of a billing error the Company will credit no more than the previous 6 months overcharges.

21 LIMITATION OF LIABILITY

- 21.1 We offer to resell the Services from our Suppliers to You subject to the same limitations including limitations as to liability and service levels as our Suppliers have to US as varied time to time. In this regard the Agreement between You and The Company incorporates and is subject to our Suppliers terms and conditions as amended from time to time and relevant parts of our Suppliers terms and conditions can be supplied on request; notwithstanding this clause 21.1 the limitation at clause 21.2 and 21.3 also apply to the Agreement
- 21.2 Nothing in this clause 21 shall limit or exclude The Company's liability to You for death or personal injury, or fraud or fraudulent misrepresentation, or breach of any warranty implied by clause 2 of the Supply of Goods and Services Act 1982 or for any other loss or damage that cannot be excluded by law.
- 21.3 Subject to clause 21.2 The Company shall have no liability to the Customer for:
- (i) any loss of profits or anticipated profits, loss of anticipated savings, loss of business opportunity or loss of goodwill or wasted management time which You may suffer, whether they arise directly or indirectly or are immediate or consequential and whether they arise in contract, tort (including negligence) or otherwise, or
 - (ii) any loss or damage to your data, howsoever caused.
 - (iii) Subject to clauses 21.3.i and 21.3.ii our total liability to You, whether in contract, tort (including negligence) or otherwise in connection with this Agreement, shall not exceed the total Purchase Price of The Equipment paid for by You or 6 months rental of a service or Equipment by You from The Company whichever is the less.

22 RENTED EQUIPMENT

- 22.1 The Equipment and Services We supply to You will include those detailed on the Customer Order Form, (previously the Services Agreement Form / Customer Survey Form), Statement of Works and any other related documents plus any subsequently added by written order from You.

- 22.2 Any Equipment supplied under the Agreement remains the property of The Company and will be returned to Us at the contract end by the Customer in good clean working condition. Any damage will be the responsibility of You and the repair or replacement of such equipment will be chargeable to You.
- 22.3 In the event that the rented equipment is returned to Us before the end of the minimum period all outstanding rental payments up until the minimum period will become due.
- 23 CHANGES AND INTERRUPTIONS TO THE SERVICES**
- 23.1 Sometimes these Services may fail without notice or have to be interrupted to maintain for example the quality of the service, for emergency, operational, health or safety or geographical or other reasons.
In the event of failure or interruption of the service, our Suppliers (including the service providers and / or the Network Operators) terms and conditions together with their SLA's (Service Level Agreement) will apply.
- 24 TELEPHONE NUMBERS**
- 24.1 You have no right to sell and agree not to transfer or try to transfer the number(s) provided to You for use with the Services.
- 25 TELEPHONE BOOKS AND DIRECTORY ENQUIRIES**
- 25.1 We may put your name, address and telephone number(s) for the Services in the phone book published by BT for your area and make these phone numbers available to BT's directory enquiries database, unless You ask Us not to In Writing.
- 26 USE OF YOUR INFORMATION**
- 26.1 We will use your details to market products from Us to You unless You tell Us not to but will not disclose your details to anyone outside The Company for marketing purposes.
- 27 COMMENCEMENT OF THE SERVICES**
- 27.1 We will use all reasonable endeavours to provide You with The Equipment and Services by the date We agree with You. However The Company gives no warranty and We will not be liable for any compensation for the loss howsoever arising should the Services not commence on the agreed date or should they be subsequently interrupted from time to time.
- 28 REPAIRING FAULTS**
- 28.1 We do not guarantee that the Services will never be faulty. We will work to get any fault which has been reported to Us in accordance with our fault procedures, resolved by our Suppliers as soon as possible and in line with the service levels laid down by our Suppliers (copies available on request). If a fault is found to be caused by You, your contractors or other parties or your equipment We may charge You for work carried out to diagnose and/or repair the fault.
- 29 YOUR OBLIGATIONS**
- 29.1 You must pay Us the charges for the Services according to the agreed Tariff whether You or someone else uses the Services, with or without your consent. By way of example, but not limited to, rogue diallers or unbarred premium rate Calls.
- 29.2 In the event of but not restricted to Dial Through Fraud, IP Hacking of routing Equipment, Mobile Cloning, a Computer Virus or Malware by 3rd parties, You will be liable for the Call costs incurred on the network, but The Company will charge on at its' cost prices only.
- 29.3 You are responsible for ensuring that all passwords are secure and changed regularly, and any antivirus software and firewall protection is up to date and active.
- 29.4 You will enable entry to your premises by our engineers or Suppliers within normal working hours. We or our supplier's staff will meet your reasonable health and safety requirements as notified to Us.
- 29.5 If someone else's permission is required to cross their premises or site to access our Equipment, then You will obtain that permission.
- 29.6 Where law or Customer site rules or other circumstances require it, the Customer agrees to supply a suitable member of staff or suitably qualified and authorised agent to accompany any employees or agents of The Company.
- 29.7 Nobody must use the Services;
- (i) To make abusive, defamatory, obscene, indecent, menacing, nuisance or hoax Calls.
 - (ii) To send or knowingly receive, upload/download material which is abusive, defamatory, obscene, indecent or in breach of copyright or privacy.
 - (iii) Fraudulently or in connection with a criminal offence or in a way that does not comply with the terms of any legislation.
- 29.8 If You use the Services for business purposes You must indemnify Us and keep Us indemnified against any claims from anyone (other than You) made against Us for any reason including without limitation because the Services are faulty or alleged to be faulty because they cannot use them.
- 29.9 When We provide your Line rentals, The Company will route your Calls via our Supplier. No other service provider may route these Calls or attempt to, and if they do so, We reserve the right to bar these Calls.
- 29.10 It is your responsibility to give notice In Writing when cancelling or ceasing any Services provided by The Company.
- 30 MATTERS BEYOND OUR CONTROL**
- 30.1 Notwithstanding clause 21, We will not be liable for any matters beyond our reasonable control such as lightning, flood, exceptionally severe weather, fire, explosion, civil commotion, war, military operations, local or nation emergency or anything done by government or competent authority.
- 31 BREACH OF THE AGREEMENT**
- 31.1 We may terminate and cease providing the Services and/or end the Agreement immediately without telling You if –

- (i) You break this Agreement or fail to remedy any breach of the Agreement within a reasonable time of being asked to do so.
- (ii) We believe the Services are being used in a way forbidden by paragraph 29.7 above.
- (iii) Bankruptcy or insolvency proceedings are brought against You or if You go into liquidation.
- (iv) If You fail to pay Us within the terms in 20.1.

31.2 Without prejudice to our remedies for breach of contract in any of the above events You will pay for the Calls up until the date of cessation and the Line rentals till the end of the month of cessation.

32 MINIMUM PERIODS

32.1 Some Services will attract a minimum term contract from our Suppliers. If so We will quote the minimum period before You order those Services and any cancellation before the minimum period expiry will result in You being charged for the balance of the minimum term, including rentals and average Call charges for previous 4 months if applicable.

33 VAT

33.1 All sums payable under this Agreement unless otherwise stated are exclusive of VAT and other duties or taxes. VAT will be added to our charges where applicable at the rate prevailing from time to time.

34 CALL RECORDING

34.1 We may record telephone conversations between You and Us, for the purposes of training and Customer service improvement, including handling complaints.

35 VARIATIONS TO THE AGREEMENT

35.1 This Agreement constitutes the entire Agreement between the parties and the parties agree that there are no other agreements or understandings between the parties other than those set out herein.

35.2 Variations to this Agreement may be made from time to time and We will notify You In Writing that this Agreement has been updated. The amended terms and conditions will be assumed as accepted by You unless You notify Us In Writing within 60 days of the notification.

35.3 As a Reseller, the Agreement between You and The Company incorporates the terms and conditions of The Company's Suppliers and the parties agree and acknowledge that the terms and conditions of this Agreement between You and the Company may be varied from time to time without notice to incorporate changes to the terms and conditions between The Company and its Suppliers whenever varied or amended from time to time.

36 ASSIGNMENT

36.1 The Customer shall not assign the benefit of this Agreement without the previous consent In Writing of The Company.

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TELECOMS/IT EQUIPMENT SUPPORT CONTRACT TERMS AND CONDITIONS

37 APPLICATION OF TERMS

- 37.1 These terms and conditions together the Customer Order Form, (previously the Telephone Equipment Maintenance Contract or Support Contract), Statement of Works, and any other related documents, form the Agreement between Us and You for the provision of The Equipment and Services.
- 37.2 Your attention is drawn in particular to clause 41 'LIMITATION OF LIABILITY' and You acknowledge that You understand and agree, in particular, to the provisions of that clause.

38 RESELLER

- 38.1 The Company act as a Reseller of network Services on behalf of but not restricted to;

BT Openreach Ltd.	Gamma Limited.
TalkTalk Business.	VoiceHost Ltd.
Nominet	OpenSRS
CentralNIC	O2
Inty	Vodafone
BT Wholesale Limited	Daisy Wholesale Limited
Interoute	Ruckus

All Terms and Conditions and Service Level Agreements imposed upon The Company by its Suppliers are in turn included as part of The Company's Agreement with You. (Copies of these Terms and Conditions are available on request)

39 COMMENCEMENT AND TERMINATION

- 39.1 This Agreement shall commence on the date that the Equipment is commissioned by Us and will continue for a minimum of 1 year unless otherwise agreed In Writing and thereafter from year to year. This Agreement may be terminated after the initial minimum period, by notice In Writing given by either party to the other, such notice to be a minimum of 30 days and to take effect on the next anniversary of the commencement of the Agreement.

40 INVOICE AND PAYMENT

- 40.1 Payment will be in advance for the minimum period and thereafter annually, in advance if not otherwise agreed In Writing.

41 LIMITATION OF LIABILITY

- 41.1 The Company will only indemnify the Customer wherever and in so far as the United Kingdom Unfair Contract Terms Act 1977 cannot be excluded contractually for liability for personal injury or death directly attributable to the negligence of The Company in connection with its maintenance of The Equipment.
- 41.2 The Company's total liability to the Customer, except under the indemnities contained in paragraph 41.1, shall not exceed the annual maintenance charge for one or more related claims arising in any one 12 month period.
- 41.3 The Company shall not be liable to the Customer for any loss, expense or damage of any kind (direct, indirect or consequential) and whether arising from negligence or otherwise in connection with The Company's maintenance of The Equipment or otherwise.
- 41.4 The Customer acknowledges that it is its responsibility to effect insurance cover in respect of all risks relating to the maintenance or The Equipment not covered by the indemnity in paragraph 41.1.

42 CHARGES

- 42.1 The support charge for the initial period shall be specified in the Customer Order Form (previously the Telephone Equipment Maintenance Contract or Support Contract) and for subsequent years, according to The Company's charges applicable for the type and quantity of Equipment or users at the beginning of each year. No premium for the same Equipment/user numbers will rise by more than RPI.

43 CUSTOMER OBLIGATIONS

- 43.1 To pay the support charges for the initial and any subsequent years within the time and in the manner specified on the invoices or by Direct Debit.
- 43.2 To provide and maintain a suitable environment for the proper operation of The Equipment.
- 43.3 To notify Us immediately of any fault or defect in The Equipment.

- 43.4 To give The Company's staff or authorised agent's unhindered access to The Equipment.
- 43.5 Not to allow The Equipment to be moved or tampered with in any way. The Company may, at its discretion, rectify any resulting damage or fault at the Customer's expense.
- 43.6 To pay The Company reasonable charges for remedying faults caused by interference with (including reprogramming of) The Equipment by a third party.
- 43.7 To pay The Company reasonable charges for remedying faults in The Equipment caused by accident, lightning, transportation, misuse, failure of electrical power or causes other than normal use.
- 43.8 If the Customer fails to observe the provisions of this Agreement, The Company may terminate it with immediate effect by giving notice In Writing and may retain the support charge paid or due from the Customer.
- 43.9 Additions/alterations to The Equipment shall only be carried out by installers authorised by The Company.
- 43.10 Where law or Customer site rules or circumstances require it, the Customer agrees to supply a suitable member of staff or suitably qualified and authorised agent to accompany any employees or agents of The Company.
- 43.11 It is your responsibility to In Writing give Us 30 days' notice to the renewal date when cancelling or ceasing any Services provided by The Company.
- 43.12 Any scheduled Services cancelled or postponed without at least 2 working days notice, this includes failure to give access to the site and site conditions and obstructions preventing completion of the scheduled work, will be charged in full.

44 THE COMPANY'S OBLIGATIONS

- 44.1 During the period of this Agreement and as soon as is reasonably practical after notification in accordance with 43.3 above, We shall by telephone, remote link or physical visit make our best endeavour to maintain The Equipment in efficient working order and to carry out without charge all repairs and replacements to The Equipment made necessary by normal wear and tear. This service shall be carried out during normal business hours Monday – Friday 9am – 5pm, unless otherwise stated in the Customer Order Form (previously the Telephone Equipment Maintenance Contract or Support Contract). Under normal circumstances the response time between Customers fault reported and an engineer on site (if required) shall be a maximum of 16 working hours.
- 44.2 Where stipulated on the Customer Order Form (previously the Telephone Equipment Maintenance Contract or Support Contract) Equipment located outside The Company's geographical maintenance operating area will be replaced by post/courier.
- 44.3 To provide service, at the Customers expense, where failure of The Equipment is subsequently found to be caused by a 3rd party, including but not limited to IT network, Lines, broadband/ethernet connections and routers.
- 44.4 In the event of an analogue telephone handset being diagnosed as faulty, a standard business class telephone handset will be provided as free replacement to a value of £25 + VAT. The Customer may request an alternative higher priced handset for the difference in price.
- 44.5 In the event of Comms UK supplied equipment not covered for replacement under the contract becoming faulty, We will investigate remotely or on site to diagnose the fault, but not immediately replace faulty equipment. The subsequent replacement equipment will either be replaced via the manufacturer's warranty or charged for and supplied by Us. The replacement on site visit will be included if by warranty and chargeable if not.

45 VAT

- 45.1 All sums payable under this Agreement unless otherwise stated are exclusive of VAT and other duties or taxes. VAT will be added where applicable at the rate prevailing from time to time.

46 CALL RECORDING

- 46.1 We may record telephone conversations between You and Us, for the purposes of training and Customer service improvement, including handling complaints.

47 VARIATIONS TO THE AGREEMENT

- 47.1 This Agreement constitutes the entire Agreement between the parties and the parties agree that there are no other agreements or understandings between the parties other than those set out herein.
- 47.2 Variations to this Agreement may be made from time to time and We will notify You In Writing that this Agreement has been updated. The amended terms and conditions will be assumed as accepted by You unless You notify Us In Writing within 60 days of the notification.
- 47.3 As a Reseller, the Agreement between You and The Company incorporates the terms and conditions of The Company's Suppliers and the parties agree and acknowledge that the terms and conditions of this Agreement between You and the Company may be varied from time to time without notice to incorporate changes to the terms and conditions between The Company and its Suppliers whenever varied or amended from time to time.

48 ASSIGNMENT

- 48.1 The Customer shall not assign the benefit of this Agreement without the previous written consent of The Company.

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IT SUPPORT CONTRACT TERMS AND CONDITIONS

49 APPLICATION OF TERMS

- 49.1 These Terms and Conditions together with the Customer Order Form, (previously the Support Contract), Statement of Works, and any other related documents, form the Agreement between Us and You for the provision of The Equipment and Services.
- 49.2 Your attention is drawn in particular to clause 53 'LIMITATION OF LIABILITY' and You acknowledge that You understand and agree, in particular, to the provisions of that clause.

50 RESELLER

50.1 The Company act as a Reseller of network Services on behalf of but not restricted to;

BT Openreach Ltd.	Gamma Limited.
TalkTalk Business.	VoiceHost Ltd.
Nominet	OpenSRS
CentralNIC	O2
Inty	Vodafone
BT Wholesale Limited	Daisy Wholesale Limited
Interoute	Ruckus

All Terms and Conditions and Service Level Agreements imposed upon The Company by its Suppliers are in turn included as part of The Company's Agreement with You. (Copies of these Terms and Conditions are available on request)

51 CANCELLATION

- 51.1 This Agreement may be terminated by notice In Writing given by either party to the other, such notice to be a minimum of 30 days and to take effect on the next anniversary of the commencement of the Agreement, subject to any minimum term shown on the Customer Order Form, (previously the Support Contract)

52 INVOICE AND PAYMENT

- 52.1 Unless otherwise agreed In Writing, We will invoice You monthly in advance, at or near the beginning of any month. You agree to pay these charges by Direct Debit as on the invoice no later than 10 working days after the date of the invoice.
- 52.2 Failure to pay invoices by the due date means We may;
- (i) Cancel this Agreement and suspend or cease the Services with immediate effect.
 - (ii) Charge a £50 + VAT late payment administration fee plus interest and compensation payable in the amount and at the rate payable under the Late Payment of Commercial Debts (Interest) Act 1988 on any overdue sum until receipt of the outstanding amount is in our bank.
- 52.3 Additions to the Agreement must be confirmed In Writing before the end of a month to be in force from the first of the following month.
- 52.4 Deductions to the Agreement must be confirmed In Writing and will be in force from the next annual renewal date or before if the Company agrees.

53 LIMITATION TO LIABILITY

- 53.1 Nothing in this clause 53 shall limit or exclude The Company's liability to You for death or personal injury, or fraud or fraudulent misrepresentation, or breach of any warranty implied by clause 2 of the Supply of Goods and Services Act 1982 or for any other loss or damage that cannot be excluded by law.
- 53.2 Subject to clause 53.1 The Company shall have no liability to the Customer for:
- (i) any loss of profits or anticipated profits, loss of anticipated savings, loss of business opportunity or are immediate or consequential and whether they arise in contract, tort (including negligence) or otherwise, or
 - (ii) any loss or damage to your data, howsoever caused.
 - (iii) Subject to clauses 53.2.i and 53.2.ii our total liability to You, whether in contract, tort (including negligence) or otherwise in connection with this Agreement, shall not exceed the total purchase value of Equipment or one month's premium.

54 DURATION OF CONTRACT AND AUTOMATIC RENEWAL

- 54.1 This Agreement shall commence on the date specified on the Customer Order Form (previously the Support Contract) and shall adjust in month one to calendar monthly rolling for a minimum of 1 year unless otherwise agreed In Writing and thereafter from year to year. This Agreement may be terminated after the initial minimum period, by notice In Writing

given by either party to the other, such notice to be a minimum of 30 days and to take effect on the next anniversary of the commencement of the Agreement.

55 CUSTOMER OBLIGATIONS

- 55.1 You agree to pay all invoiced charges on time by Direct Debit unless agreed otherwise In Writing.
- 55.2 To provide a suitable environment for the proper operation of The Equipment covered.
- 55.3 To notify Us immediately of any fault.
- 55.4 To provide The Company's staff or authorised agents unhindered access to The Equipment.
- 55.5 Not to allow The Equipment to be moved or tampered with in any way that may cause fault. We may rectify at our discretion, any fault at the Customers expense.
- 55.6 To pay Us reasonable charges when a third party has caused a fault.
- 55.7 To pay Us reasonable charges to investigate faults caused by accident, lightning, transportation, misuse, electrical spike/failure or such causes and further charges to rectify the fault.
- 55.8 If the Customer fails to pay on time or fails to observe the provisions of this Agreement We may terminate it with immediate effect and take full payment for that month without prejudice to our contractual remedies.
- 55.9 Where law or Customer site rules or circumstances require it, the Customer agrees to supply a suitable member of staff or suitably qualified and authorised agent to accompany any employees or agents of The Company.
- 55.10 It is your responsibility to give notice In Writing when cancelling or ceasing any Services provided by The Company.
- 55.11 Any Services cancelled or postponed without at least 2 working days notice, this includes failure to access the site and site conditions preventing completion of the scheduled work, will be charged in full.

56 THE COMPANY'S OBLIGATIONS

- 56.1 Subject to The Company's Support Offerings Schedule of Service Levels (copy available upon request), after receiving notification of a fault, We will make our best endeavour by telephone, remote link, or by engineering site visit to diagnose the cause of the fault and then to continue our efforts to rectify the fault or pass diagnosis to the Customer so that they may inform any third party Suppliers who are responsible for rectifying the fault.
- 56.2 In the event of Comms UK supplied equipment not covered for replacement under the contract becoming faulty, We will investigate remotely or on site to diagnose the fault, but not immediately replace faulty equipment. The subsequent replacement equipment will either be replaced via the manufacturer's warranty or charged for and supplied by Us. The replacement on site visit will be included if by warranty and chargeable if not.

57 VAT

- 57.1 All sums payable under this Agreement unless otherwise stated are exclusive of VAT and other duties or taxes. VAT where applicable will be added at the rate prevailing from time to time.

58 CALL RECORDING

- 58.1 We may record telephone conversations between You and us, for the purposes of training and Customer service improvement, including handling complaints.

59 VARIATIONS TO THE AGREEMENT

- 59.1 This Agreement constitutes the entire Agreement between the parties and the parties agree that there are no other agreements or understandings between the parties other than those set out herein.
- 59.2 Variations to this Agreement may be made from time to time and We will notify You In Writing that this Agreement has been updated. The amended terms and conditions will be assumed as accepted by You unless You notify Us In Writing within 60 days of the notification.
- 59.3 As a Reseller, the Agreement between You and The Company incorporates the terms and conditions of The Company's Suppliers and the parties agree and acknowledge that the terms and conditions of this Agreement between You and the Company may be varied from time to time without notice to incorporate changes to the terms and conditions between The Company and its Suppliers whenever varied or amended from time to time.

60 ASSIGNMENT

- 60.1 The Customer shall not assign the benefit of this Agreement without the previous written consent of Comms UK Ltd.

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