

**VOICE 2 VOICE LTD
MAINTENANCE AND TECHNICAL SUPPORT**

1. DEFINITIONS AND INTERPRETATION

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

1.2. In these Terms, the following rules apply:

<i>Agreement</i>	<i>the agreement between the Customer and V2V for the supply of the Services in accordance with these Terms.</i>
<i>Charges</i>	<i>the charges set out in the equipment Order and maintenance contract form and payable by the Customer to V2V for the Services.</i>
<i>Customer, you</i>	<i>the individual, company, entity, organisation or business that purchases the Services from V2V.</i>
<i>Equipment</i>	<i>the equipment as set out in the equipment Order and maintenance contract form supported by V2V under the Agreement.</i>
<i>Extended Support Hours</i>	<i>the out of normal working hours extended support times as set out in the Maintenance Schedule during which the Services shall be performed.</i>
<i>Fault</i>	<i>a systems malfunction or a service affecting issue as defined in the Maintenance Schedule.</i>
<i>Initial Term</i>	<i>means twelve (12) months (or such other initial term set out in the Order) from the Commencement Date.</i>
<i>Installation Address</i>	<i>the site(s) of the Customer as set out in the Order.</i>
<i>Maintenance Level</i>	<i>the bronze, silver, gold or platinum level of maintenance selected by the Customer as set out in the Maintenance Schedule.</i>
<i>Maintenance Schedule</i>	<i>the Maintenance Level of cover, Target Response Times, conditions of use, fault reporting procedure and out of ours fault reporting procedure, Standard Support Hours and Extended Support Hours for the Services as provided in writing by V2V to the Customer.</i>
<i>Order</i>	<i>the Customer's order for Services as set out in the equipment order and maintenance contract form.</i>
<i>Target Response Times</i>	<i>the target response times set out in the Maintenance Schedule.</i>
<i>V2V, We</i>	<i>VOICE 2 VOICE LTD(Company Number: 4785166) whose Registered Office is at Suite 9, Lakhpur Court, Staffordshire Technology Park, Stafford, Staffordshire, ST18 0FX;</i>
<i>Services</i>	<i>the telephone system maintenance and support services set out in the Maintenance Schedule.</i>
<i>Standard Support Hours</i>	<i>the normal working hours standard support times as set out in the Maintenance Schedule during which the Services shall be performed.</i>
<i>Subsequent Term</i>	<i>a minimum of twelve (12) months (or such other period set out in the Order).</i>

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. The Order shall only be deemed to be accepted when V2V 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. V2V may accept or reject an Order at its sole discretion.

2.4. Once an Order has been accepted by V2V, the Customer may not cancel the Order.

2.5. 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 V2V which is not set out in the Agreement.

2.6. 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.

2.7. Any quotation given by V2V shall not constitute an offer, and is only valid for a period of 30 days from its date of issue.

2.8. Any samples, drawings, descriptive matter or advertising issued by V2V, and any descriptions contained in V2V'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. V2V shall supply the Services:

3.1.1. at the Installation Address;

3.1.2. in accordance with the Maintenance Schedule, during the Initial Term and any Subsequent Term.

3.2. The Customer acknowledges that it has limited rights to terminate the Agreement during the Initial Term or Subsequent Term (as the case may be). These rights are set out in 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 V2V in accordance with Clause 6.1, V2V 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. V2V warrants to the Customer that the Services will be provided using reasonable care

and skill.

3.4. V2V 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 V2V shall notify the Customer in any such event.

3.5. The Services shall be provided during the Standard Support Hours and, depending on the Maintenance Level selected by the Customer, during the Extended Support Hours. The Services shall comprise:

3.5.1. a technical response from a telephony engineer who will raise a support ticket on the V2V helpdesk system;

3.5.2. remote connection for diagnosis;

3.5.3. a site visit by V2V'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 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 the Maintenance Schedule; 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 V2V:

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 P1 or P2 fault category as outlined in the Maintenance Schedule, outside of Standard Support Hours.

3.8. If the Customer misuses or uses the 24 x 7 emergency support contact number for any issues other than a P1 or P2 fault category as outlined in the Maintenance Schedule, V2V:

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. is excluded from the Extended Support Hours and 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. V2V shall use its 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 V2V or an agent appointed by V2V. In the event that any work is carried out a third party, V2V shall be entitled to terminate the Agreement with immediate effect.*

3.11. *The Customer acknowledges that:*

3.11.1. *V2V's ability to perform its obligations under the Agreement is dependent upon the Customer's full and timely cooperation with V2V as well as the accuracy and completeness of any information the Customer provides to V2V. V2V 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 co-operate with V2V or to provide complete and accurate Customer Information, all in a timely manner; and*

3.11.2. *unless otherwise agreed by V2V 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. *V2V 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 V2V or a person acting under V2V'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 PBX 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 V2V, or any Fault in any such equipment; or*

3.12.9. *any breach of the Customer's obligations under this Agreement.*

3.13. *V2V 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 V2V for an event set out in Clauses 3.12 or 3.13 shall be an additional service. V2V may charge the Customer for such work at its applicable man-hour rate.

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 V2V in all matters relating to the Services;

4.1.3. provide V2V, its employees, agents, consultants and subcontractors, with access to the Installation Address and other facilities as reasonably required by V2V;

4.1.4. provide V2V with such information and materials as V2V 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 V2V property (V2V Materials) at the Installation Address in safe custody at its own risk, maintain the V2V Materials in good condition until returned to V2V, and not dispose of or use the V2V Materials other than in accordance with V2V'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, V2V (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 V2V. Any Faults reported verbally by the Customer should be confirmed in writing.

4.5. If V2V'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. V2V shall without limiting its 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 V2V's performance of any of its obligations;

4.5.2. V2V shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from V2V'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 V2V on written demand for any costs or losses sustained or incurred by V2V arising directly or indirectly from the Customer Default.

5. CHARGES AND PAYMENT

5.1. V2V 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 V2V:

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 V2V, 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 V2V 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 National Westminster Bank plc on any amounts outstanding from the due date for payment until payment is made in full.

5.5. V2V 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.

5.6. In the event that V2V 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 V2V 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. TERMINATION

6.1. The Agreement shall commence on the Commencement Date. Unless terminated earlier in accordance with clause 6.2 or this clause, 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 28 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 its other rights or remedies, V2V may terminate the Agreement 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.*

7. EFFECTS OF TERMINATION

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

7.1.1. *the Customer shall immediately pay to V2V all of V2V's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, V2V shall submit an invoice, which shall be payable by the Customer immediately on receipt;*

7.1.2. *the Customer shall return all of V2V Materials. If the Customer fails to do so, then V2V 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. LIABILITY

8.1. *Nothing in the Agreement shall limit or exclude V2V's liability for:*

8.1.1. *death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;*

8.1.2. *fraud or fraudulent misrepresentation; or*

8.1.3. *breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.*

8.2. *Subject to Clause 8.1, V2V's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Agreement shall be limited to one hundred per cent (100%) of the total Charges paid under the Agreement.*

8.3. *Subject to Clause 8.1, V2V shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Agreement for:*

8.3.1. *loss of profits;*

8.3.2. *loss of sales or business;*

8.3.3. *loss of agreements or contracts;*

8.3.4. *loss of anticipated savings;*

8.3.5. *loss of use or corruption of software, data or information;*

8.3.6. *loss of damage to goodwill; and*

8.3.7. *any indirect or consequential loss.*

8.4. *The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Agreement.*

8.5. *This Clause 8 shall survive termination of the Agreement.*

9. DATA PROTECTION

9.1. *If V2V processes any Personal Data on the Customer's behalf when providing the Services, the parties record their intention that the Customer shall be the data controller (as defined in the GDPR) and V2V shall be a data processor (as defined in the GDPR) and in any such case the Customer and V2V shall comply with their respective obligations under the GDPR:*

9.1.1. *the Customer shall ensure that it is entitled to transfer the relevant Personal Data to V2V so that V2V may lawfully use, process and transfer the Personal Data in accordance with this Agreement on the Customer's behalf within the EC;*

9.1.2. *each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing or disclosure of the Personal Data or its accidental loss, destruction or damage.*

9.2. *Notwithstanding Clause 9.1, V2V may collect and process the following data about the Customer:*

9.2.1. *information which V2V collects or which the Customer submits to V2V during any sales, ordering or registration process;*

9.2.2. *information the Customer provides when filling in forms or by corresponding with V2V by phone, e-mail or otherwise. This includes information the Customer provides when it requests the Services. The information the Customer gives to V2V may include names, addresses, e-mail addresses and phone numbers of users of the Services and of the Customer and financial and credit card information.*

9.3. *The Customer agrees that V2V may use information held about the Customer and users of the Services in the following ways:*

9.3.1. *to deliver products and services ordered by the Customer, for security and emergency service support, for credit checking and fraud prevention, and for product analysis;*

9.3.2. *to carry out V2V's obligations arising from any contracts entered into between the Customer and V2V and to provide the Customer with the information, products and services that it requests from V2V;*

9.3.3. to notify the Customer about changes to the Services.

9.4. The Customer agrees that V2V may share information and data provided by the Customer including any Personal Data of users of the Services to any member of V2V's group, which means V2V's subsidiaries, ultimate holding company and its subsidiaries, as defined in section 1159 of the UK Companies Act 2006.

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. Force Majeure. Neither party shall be liable for any failure or delay in performing its obligations under the Agreement to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

11.2. Confidentiality.

11.2.1. 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 11.2.2.

11.2.2. Each party may disclose the other party's confidential information:

11.2.2.1. 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 11.2; and

11.2.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

11.2.3. Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Agreement.

11.3. Assignment and other dealings.

11.3.1. V2V may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Agreement and may subcontract or delegate in any manner any or all of its obligations under the Agreement to any Authorised Party, third party or agent.

11.3.2. The Customer shall not, without the prior written consent of V2V, 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.

11.4. 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.

11.5. 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.

11.6. Third parties. No one other than a party to the Agreement shall have any right to enforce any of its terms.

11.7. 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.

11.8. 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).