**1. DEFINITIONS**

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| Company | - Voice Connect Limited (company number 2689638); |
| Customer | - the customer named on the Order Form; |
| Contract | - the contract between the Company and the Customer for the supply of the Product; |
| Equipment | - the hardware and third party software specified on the Order Form; |
| Maintenance | - the contract between the Company and the Customer for the maintenance of the Contract Equipment by the Company; |
| Installation | - the Company’s installation of the Product at the Customer's premises; |
| Order Form | - the order form to be completed by the Customer; |
| Product | - the combination of Equipment and Software; |
| Software | - the Company's software specified on the Order Form; |
| Terms | - the terms and conditions of the Contract; |
| Total Price | - the relevant sum specified on the Order Form. |

**2. TERMS**

The Company will sell and the Customer will buy the Product subject to these Terms, which shall govern the Contract to the exclusion of any other terms subject to which the order is made, or purported to be made, by the Customer.

**3. ACCEPTANCE OF ORDER**

The Company will only be bound by the order shown on the Order Form after the Customer signs it and the Company accepts it in writing.

Once an order has been accepted by the Company it may not be cancelled by the Customer except with the written agreement of the Company and subject to the Customer indemnifying the Company in full against any and all losses, costs, damages, charges and expenses incurred by the Company as a result of the cancellation.

**4. PRICE AND PAYMENT**

4.1 The Customer must pay 50% of the Total Price + VAT with the order and then pay 50% of the Total Price + VAT not later than 7 days after Installation.

4.2 If the Customer does not pay the outstanding balance (after Installation) by the due date, the Company may charge interest on it at the rate of 4% per year above the base rate of Barclays Bank Limited. The interest will accrue daily until the date of actual payment, both after and before any judgment.

4.3 The Company reserves the right to by giving the Customer notice at any time before delivery to increase the price of the Product to reflect any increase in the cost to the Company which is due to any factor beyond the Company’s control (including, without limitation, an increase in the costs of materials or components), any change in the delivery date, quantity or specification for the Product requested by the Customer or any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate information or instructions or to provide appropriate access to the premises, or to provide the Company with reasonable assistance required by the Company for the purposes of the Installation.

4.4 Capital Cost includes first year maintenance and licence fees, second year costs comprise 50% licence and 50% maintenance

**5. PAYMENT THROUGH LEASING**

The Company agrees that payment of the Total Price may be offset through a leasing arrangement to be entered into by the Customer. In this event ownership will transfer to the leasing company and be subject to their terms and conditions. The Customer must pay annual maintenance payments directly to the Company on the due dates specified, unless this is also included in the lease.

**6. SPECIFICATION**

The Company will supply the Product generally in accordance with the specification on the Order Form.

The Company reserves the right to change the Product without notice as part of its continuous development of its products or in order to comply with any legal requirement relating to the Product. The Customer is responsible for ensuring the accuracy of the specification and for giving the Company any information necessary in relation to the Product within sufficient time to enable the Company to perform the Contract.

**7. INSTALLATION**

7.1 Once the Customer’s order is accepted, the Company will do the Installation at an address and on a date to be agreed with the Customer after the Company accepts the order.

7.2 At the Customer's expense, the Customer will make reasonable arrangements and offer reasonable assistance to enable the Company, or its representatives, to do the Installation. The Company shall not be liable for any delay or failure in Installation resulting from the Customer’s failure to do so. The Company shall not be liable for any delay in delivering the Product to the Customer, however caused.

7.3 It shall be the responsibility of the Customer to provide suitable assistance and /or infrastructure for the safe installation of the equipment by the Company’s engineer.

**8. ABORTED INSTALLATION**

The Company reserves the right to charge the Customer for an aborted Installation if an engineer travels to the Customer's premises on the understanding that the pre-installation work is complete and discovers on arrival that the work is not complete or the site is not safe or appropriate assistance is not available.. The charge shall be the standard engineers daily rate or a minimum of at least £500 + VAT whichever is the higher.

**9. RISK AND OWNERSHIP**

9.1 Risk in the Equipment will pass to the Customer on Installation.

9.2 Notwithstanding Installation and the passing of risk, legal and equitable ownership of the Equipment will not pass to the Customer until the Total Price is paid in full. Until ownership passes, the Customer must keep the Equipment properly protected and insured and marked as the Company’s property.

9.3 If the Customer does not pay the Total Price in full, in accordance with Clause 4, the Company may require the Customer to immediately return the Equipment to the Company. If the Customer does not comply with this requirement, the Company will be entitled to repossess all or some of the Equipment, The Customer agrees that in this situation, the Company, or its representatives, are entitled to enter at anytime, any premises of the Customer, with any appropriate vehicular transport, to repossess the Equipment. The Customer also agrees to make reasonable arrangements and offer reasonable assistance, to enable the Company, or its representatives, to repossess the Equipment.

**10. WARRANTY**

10.1 The Company warrants that Equipment assembled by the Company and (subject to clause 11 below) the Software supplied by it will be free from defects in material and workmanship and reasonably fit for their intended purpose for a period of 12 months from the date of the Installation.

The Company shall not be liable under this warranty in respect of any defect caused by wear and tear, misuse, willful damage or any tampering, repair or modification which is not authorised by the Company, or if the Total Price has not been paid by the date due for payment. The Customer must notify the Company's Technical Support Department, either by telephone or email, of any faults within a reasonable period of time of becoming aware of the defect. The warranty does not include additional training in the use of the Equipment following satisfactory Installation, which must be paid for at the Company’s standard rates.

10.2 Where a valid claim in respect of the Equipment or the Software based on a defect in their quality or fitness for purpose which is notified to the Company in accordance with this clause, the Company may replace or repair the Equipment or Software (as applicable) or, at the Seller’s sole discretion, refund the Total Price (or a proportionate part of it), in which case the Company shall have no further liability to the Customer.

10.3 Any Equipment, or any software which is a component of the Equipment, which is manufactured by a third party is subject to the third party’s terms and conditions. The Customer shall only be entitled to the benefit of any warranty or guarantee as is given by the manufacturer to the Company.

10.4 The Company will not provide or install Antivirus or 3rd party Firewall software as part of the installation of the Equipment.

**11. SOFTWARE**

The title to any copyright or other industrial property rights of any Software that is a component part of the Product does not pass to the Customer, whose sole right in respect of the Software is to use the Software in conjunction with the Equipment. The Customer shall not be entitled to use the Software for any other purpose or, to amend, modify, copy or reproduce the Software or to disclose or reveal Software to any third party. The Company cannot guarantee that the Software is completely free of error or that it can correct all defects.

**12. CUSTOMER SUPPLIED PCs**

The Company will not accept responsibility for any hardware or software problems caused by any incompatibility between the Software or third party software supplied by the Company and the Customer’s PCs.

**13. COMPANY SUPPLIED PCs**

The Company will not accept responsibility for the interaction of any software that it does not supply or install, unless the Company agrees to this in writing before Installation.

**14. THIRD PARTY REGULATIONS**

The Customer must install, maintain and pay for, any third party equipment or services that the Equipment requires. The Customer must also comply with all associated third party terms and conditions, and legal requirements.

**15. LIABILITY**

The Company does not provide any guarantees or warranties in addition to those specified in Clause 10 and all other warranties, whether express or implied statutory or otherwise, are expressly excluded to the fullest extent permitted by law .

The Company shall not be liable to the Customer in tort contract negligence breach of statutory duty or otherwise for any indirect or consequential or economic loss whatsoever, including but not limited to loss of business data loss of equipment or other facilities, profits, future contracts or anticipated savings. In no circumstances shall the Company have any obligation or duty or liability in contract, tort, negligence, breach of statutory duty or otherwise beyond that of a duty to exercise reasonable skill and care. Except where otherwise provided in this agreement the Company shall be under no liability whatever except where caused by the negligence or willful default of the Company’s employees, agents contractors and/or subcontractors. The Company’s total liability in contract, tort, negligence, breach of statutory duty or otherwise arising out or in connection with this agreement shall be limited to the lower of one million pounds or the Total Price whichever may be, in respect of any one event or series of events notified to the Company in any period of 12 months.

16. EVENTS AND INFLUENCES BEYOND THE COMPANY'S CONTROL

The Company will not be liable to the Customer if ii cannot comply with any obligation, as a direct or indirect consequence of a natural disaster, any Government restriction or prohibition, failure by a supplier, agent or sub-contractor, an industrial dispute or any other circumstances beyond the Company's control.

**Maintenance Contract: Terms and Conditions**

**1. THE COMPANY AGREES:**

1.1 to maintain the Equipment at the installation address (or another address agreed in writing by the Company) in efficient working order during the period of the Maintenance Contract. The Company will repair and/or replace the Equipment or any component parts, due to fair wear and tear and/or faulty assembly and/or faulty components. The Company will provide this maintenance service between the hours of 9.00am and 5.00pm Monday to Friday, excluding public holidays.

1.2 at the expense of the Customer, to provide service where failure of the Equipment is subsequently found to be due to one or more of the following:

1.2.1 failure of any third party service provider's equipment and/or host PBX systems;

1.2.2 failure of the electricity supply service;

1.2.3 incorrect operation of the Equipment; or

1.2.4 a person, not authorised by the Company, tampers with the Equipment.

1.2.5 at the request and expense of the Customer, to move the Equipment to alternative premises where, in the opinion of the Company, suitable service and reception facilities exist, provided that the Equipment does not pass out of the possession or control of the Customer.

**2. THE CUSTOMER AGREES:**

2.1 to pay the maintenance charges, in accordance with the Maintenance Contract;

2.2 if the Customer requires the Equipment to be connected to another apparatus, the Customer, at the Customer's expense, must pay for and supply this apparatus and comply with all applicable third party conditions of contract and legal requirements;

2.3 to immediately notify the Company by phone or in person of any fault in the Equipment or any necessary repair. The Customer must provide the Company with access to the Equipment at all reasonable times, to enable the Company to maintain the Equipment under the terms of this contract;

2.4 not to maintain, service, repair, adjust, tamper with or alter the equipment without Company’s authority. The Customer must inform the Company if it requires any alterations to the Equipment.

The Company is entitled to request that the Customer notifies the Company in writing at least 14 days before the Customer requires the alterations. The Company may request written notification if it considers that the required alterations are substantial, for example due to the installation of a new telephone system. If any party not appointed by the Company services, repairs, adjusts, tampers with or alters the Equipment, the Customer must allow the Company to inspect the work. If the Company decides that the work is unsatisfactory, the Customer must remedy the defect(s) within 90 days of the inspection or pay the Company's charges to rectify the defect(s). If the Customer breaches any part of this condition, the Company is entitled to immediately terminate this Maintenance Contract;

2.5 to pay the Company's charge for reprogramming and/or service visits as a result of a programming error effected by the Customer or his agent;

2.6 not to assign the benefit of the Maintenance Contract without prior written consent from the Company.

**3. MAINTENANCE (50%) AND INTEGRATION LICENCE (50%) CHARGE AND PAYMENT**

3.1 This annual fee covers all hardware and software and is supported remotely when required on site. It also covers all standard software upgrades and the annual licence fee. The cost of the first year MAINTENANCE AND INTEGRATION LICENCE will be included in the Total Price. Thereafter the Customer will pay the MAINTENANCE AND INTEGRATION LICENCE charge annually in advance within 30 days of the date of the Company’s invoice. If at any time the Customer does not pay any of the charges and remains in arrears for more than 30 days, the Company is entitled to suspend all services covered by this MAINTENANCE AND INTEGRATION LICENCE Contract, until the Customer pays the arrears in full.

3.2 The Company is entitled to change the MAINTENANCE AND INTEGRATION LICENCE charge by written notice to the Customer. The change will take effect no less than one year after the start of (the current period of) the Contract and one year after any prior change.

3.3 All charges under this Contract are subject to Value Added Tax. This Contract is not a V.A.T invoice. V.A.T invoices will be sent to the Customer for all payments under this Contact.

3.4 The Company reserves the right to charge the Customer if an engineer attends the Customer’s premises and the Customer is in breach of its duties under clause 5.4.5 at the Company’s standard engineers daily rate.

**4. DURATION OF THE MAINTENANCE CONTRACT**

The Maintenance Contract will be for an initial period of one year from its commencement date and will be renewed annually until either party wishes to end it. If either party wishes to terminate the Maintenance Contract, it must give to the other at least three months’ written notice, effective at the end of an annual maintenance period. If the Customer breaches this Contract and does not remedy the breach, at the request of the Company, and within the period required by the Company, the Company is entitled to immediately terminate this Contract by notice to the Customer at the Customer's last known address.

Clauses 2.4 and 3.1 specify the periods for two types of breach of the contract.

**5. SERVICE LEVELS**

5.1 For the purpose of this clause 5 the following definitions shall apply.

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| Application | -a software item provided by the Company in order to facilitate the required services; |
| Data | -all configuration and system files that are required by the equipment in order to provide the required services; |
| Equipment | -the system(s) running the purchased application(s); |
| Remote Access | -the agreed method by which the Company can remotely access the equipment; |
| Response | -make initial assessment of the reported problem; |
| Request For Change | -requests by the Customer to change any element of the purchased application(s); |
| Site Visit | -attendance by an appointed engineer to the Customer’s premises; |

5.2 COMPANY RESPONSIBILITIES

The Company will do the following.

5.2.1 Ensure that the Voice Connect Helpdesk is open from 9.00am to 5.00pm, Monday to Friday (excluding bank holidays and exceptional circumstances). There may be occasions when the helpdesk is temporarily closed for a short period in order to facilitate staff training. These instances are infrequent and are kept to a minimum but are arranged with the benefit of the customers and our engineers in mind.

Give every incident raised a unique reference number in order to track its status through the system.

Prioritise all faults accordingly upon receipt, and make every attempt to exceed the expectations set out in the response times section of this document.

Always attempt to contact the person who reported the incident prior to commencing our investigation.

Make every attempt to contact the Customer before closing a resolved incident. In the first instance the Company will attempt to make contact with the person who reported the incident, if that is not possible the Company will contact the primary site contact or a designated alternative. Following resolution any customer is welcome to contact the engineer concerned to discuss the matter further.

Aim to provide the highest level of Customer Service, therefore as part of the Company quality procedures the Customer may receive a call from either the Company’s Customer Service Manager or your Account Manager following an incident.

In the event of a site visit, ensure all engineers will be identifiable and announce their arrival and departure, and will leave the premises in a safe and tidy condition. Please contact the Company if you have any doubts over the identity of an individual claiming to be an engineer.

Ensure that all employees of the Company acknowledge and adhere to the Customer’s Security and/or Health and Safety Procedures.

Ensure that all equipment has its Operating System patched to the current Microsoft level prior to leaving our offices.

Not make any changes to this agreement without prior agreement of the parties involved. All elements within this agreement are subject to the Company’s Change Control Procedures.

5.3 CUSTOMER RESPONSIBILITIES

The Customer will do the following:-

make employees of the Company aware of any Security and/or Health and Safety Procedures;

situate the equipment in a clean, safe and secure location, in a suitably temperature controlled environment, with all appropriate services and utilities, including power and ventilation. The Customer will provide free and unimpeded access to the equipment;

provide and maintain a mains electricity supply point, or points, as indicated by the Company;

care for and operate the equipment in accordance with the Company’s instructions and use it only for the purpose for which it is intended;

permit the Company remote access to the equipment via the agreed method and ensure the relevant connectivity is available at ALL times; and

5.3.6 advise the Company prior to the following: -

5.3.6.1 any relevant infrastructure, physical or other related changes to the environment where the equipment is located that could affect the services being provided to the Customer;

5.3.6.2 any Antivirus or other security related applications that are to be installed on the equipment prior to installation. There are necessary exclusions that need to be applied in order to ensure unaffected operation of the equipment. For the avoidance of doubt the Company shall not be responsible for the installation of Antivirus, Firewall or Windows update software;

any requirement to install Windows Updates or other related patches automatically. The Company advises that all patches are manually installed to avoid any unnecessary service outages during peak times.

5.4 ADDITIONAL RESPONSIBILITIES OF THE CUSTOMER

In addition to the above items the Company also asks that the Customer makes every effort to do the following: -

ensure that there is a fall back procedure in place in the event of a total system failure, that the Customer is aware of this process, and it is tested periodically in order to avoid any unnecessary inconvenience to users;

before reporting an incident, check that the equipment is plugged in correctly and that the system is turned on;

5.4.3 that there is a nominated person available for us to contact regarding an incident and/or for remote access should prior approval or special arrangements be required;

have someone available to reboot the equipment if requested to do so;

make suitable parking available for visiting engineers, in the event of a site visit and provide suitable support and assistance to the Engineer to carry out the maintenance in a safe manner and in compliance with all relevant health and safety legislation;

hold a data backup remotely from the equipment and make the backup available in the event of total system failure. Although internal backups take place to increase the level of protection of the Customer’s data, if there is a total system failure, and no data is retrievable, an external backup source may be required in order to fully restore the configuration of the equipment. It should be noted that equipment leave the Company’s premises with a default set of data loaded, any changes that are made to that data set are not covered by this Maintenance and Supply Contract.

5.5 RESPONSE TIMES

5.5.1 Response time commences at the point the incident is reported to the Voice Connect Helpdesk.

5.5.2 Site visit response time commences at the point where a site visit is deemed necessary in order to achieve a resolution to, or to progress the investigation of, a reported incident.

5.5.3 For the avoidance of doubt no site visit is included in the Telephone Support level of cover.

5.6 ESCALATION

5.6.1 The Company.

In all instances we ask that incidents are reported to our helpdesk. However, should you need to escalate your incident please follow the guidelines detailed in the Specifics. It is the responsibility of the Company to forward any changes in these details to the Customer.

5.6.2 The Customer.

Should the person who reported an incident not be available for any reason, the Customer is to provide the Company with suitable alternate contacts that we may contact during the course of an investigation, as detailed in the Specifics.

It is the responsibility of the Customer to forward any changes in these details to the Company.

5.6.3 There are occasions where an incident will need to be escalated internally. This could happen for several reasons, for example, the investigation has identified a possible software issue, the Customer has expressed a level of unhappiness with the Company’s service, or in order to progress the investigation a test environment must be set up. If this occurs, and the incident requires involvement from other areas within the Company, regular updates will be given to the Customer throughout to ensure that the issue is resolved adequately and in a timely manner.

5.7 REQUEST FOR CHANGE (RFC)

An RFC is categorised as a request to make a change to the system configuration rather than resolve a fault with the configuration. For example, reset a password, change an announcement, upgrade an application or provide information relating to the configuration.

An RFC is subject to approval and/or quotation by your Account Manager.

If the RFC results in a requirement to write a software change, the Company will regularly inform the Customer of progress throughout the course of the development work.

An RFC is not bound by the terms of this document. However, we aim to achieve the following.

to pass all requests to the Customer’s Account Manager the same day.

your Account Manager will endeavour to make contact with you within 24 hours, although this may not always be possible;

to pass all requests to the Voice Connect Helpdesk immediately after assessment, in order that the request can be actioned, if it is deemed that a request should be carried out free of charge or to be in touch with you as soon as possible after assessment with a quotation for the work, if it is deemed that a request will be chargeable;

to provide adequate timescales upon receipt of a Purchase Order number to ensure that a request may be actioned in a timely fashion. Dependant on the nature of the request this could be same day, or if there is a large amount of development work required it could be several weeks. Clarification will be provided during discussions regarding the request; and

within reason and provided that the Customers timescale is realistic to take all reasonable steps to ensure that any specific deadline the Customer requires us to work towards will be planned into our schedule.

5.8 EXCLUSIONS

The terms of this document do not apply in the following situations: -

the incident is classified as a Request for Change. Please see above for specific details relating to an RFC;

remote access is unavailable for any reason, except where it is unavailable due to a fault with the equipment;

a fault is caused by the installation, update or removal of any Windows Update, Antivirus or security related applications, except where prior written approval has been obtained from the Company;

access to the Customer’s premises cannot be gained upon an engineer’s arrival or the Customer is otherwise in breach of the terms of Clause 5.4.5; or

the fault has been caused by a third party: for example, a cable has been damaged during the course of other works elsewhere. Instances such as this will be treated as an RFC and could therefore be chargeable. We will, however, do our utmost to restore service in line with the guidelines set out in ‘Response Times’.

**6. EXCLUSIONS**

6.1 The Company will not be liable for the delay of any installation, repair, replacement, alteration or removal work on or to the Equipment howsoever caused when not carried out by the Company.