

JERSEY TELECOM

SERVICE LEVEL AGREEMENT

The terms and conditions of this Agreement and any Schedule(s) are incorporated in, and form part of, the Conditions and Product Description for the relevant Service or supply of Equipment and / or Goods (as applicable) subscribed for or acquired by the Customer.

The Definitions in the Conditions for the subscribed or acquired Service, Equipment and / or Goods (as applicable) will apply to this Agreement (unless the context otherwise requires) in addition to those terms defined below. Where there is conflict between the Conditions and this Agreement, the terms and conditions of this Agreement shall take precedence, unless specifically expressly stated otherwise.

1. DEFINITIONS

In this Agreement (including the introduction) the following terms shall have the following meanings unless expressly stated otherwise:-

- 1.1. "this Agreement" means this agreement and any Schedule(s), including any amendments, variations or additions thereto from time to time.
- 1.2. "Business Day" means Monday to Friday inclusive between the hours of 0830 and 1700 excluding public holidays in England or Jersey.
- 1.3. "Jersey Telecom" means Jersey Telecom Limited having its office at P.O. Box 53, 1 The Forum, Grenville Street, St Helier, Jersey, JE4 8PB, its successors or assigns.
- 1.4. "Jersey Telecom Support Centre" means the customer support centre provided by Jersey Telecom to deal with Customer telephone queries or to report a fault.
- 1.5. "Maintenance Contract" means the Contract signed by the Customer for supplementary support of the Service.
- 1.6. "Schedule(s)" means all or any schedules appended to this Agreement, as amended, varied or added to from time to time
- 1.7. "Service Affecting Fault" means a fault which causes or results in a continuous and total loss of the ability to use the Service, Equipment and / or Goods (as applicable).
- 1.8. "Service Interrupting Fault" means a fault which degrades the level of the Service or quality of the functionality or operation of the Equipment and / or Goods (as applicable) but does not prevent the use of the Service, Equipment and / or Goods (as applicable).
- 1.9. "Service Option" means the level or type of service (for example, but not limited to Ultimate, Superior or Enhanced Care or Response 8, 4 or 2) applicable to each Service and / or item of Equipment or Goods selected by the Customer in the Application Form or ordered by telephone and / or as specified in any schedules to the relevant Conditions and / or Product Description.

2. SERVICE

- 2.1. In the provision by Jersey Telecom of the Service(s) and/or the supply of Equipment or Goods (as applicable) under the terms of the relevant Conditions, Jersey Telecom will provide such services (including, without limitation, any support services) to the Customer in compliance with relevant level of service and, in particular, the appropriate response and / or repair times for such level of service, as are detailed and specified in the Schedule(s) and, otherwise, in accordance with the terms and conditions of this Agreement.
- 2.2. The level of service will vary depending on any Service Option selected by the Customer in the Application Form or when ordering by telephone and, where no Service Option is selected or ordered by the Customer, the level of service will be determined by the standard level of service specified or set out in this Agreement, the Product Description and / or the Conditions for the relevant Service, Equipment and / or Goods.

3. SERVICE AVAILABILITY

- 3.1. For the purposes of this Agreement, the following events or circumstances are not considered to constitute Service unavailability or a fault :
 - 3.1.1. scheduled upgrade, repair or replacement of network equipment. Five Business Days' notice of scheduled work will be provided to the Customer wherever possible or practicable;

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- 3.1.2. suspension of the Service, including suspension for non-payment of Service Charges;
 - 3.1.3. any hardware, software or network failures or lack of availability that is beyond the control of Jersey Telecom;
 - 3.1.4. any failure of any statistical monitoring devices used to measure the performance of the Service against the standards set by this Agreement where the Service is itself unaffected by the failure of the statistical monitoring device(s);
 - 3.1.5. any matters beyond Jersey Telecom's reasonable control (force majeure);
 - 3.1.6. faults caused by any act or omission, negligence, damage or mis-operation of the Service on the part of the Customer;
 - 3.1.7. failure of the Customer to observe and perform the Conditions;
 - 3.1.8. inability to gain access to the Customer's Premises;
 - 3.1.9. operation of the Service, Equipment and /or Goods within the manufacturer's specifications, including inter-manufacturer operability problems and / or issues arising through the use or upgrade of manufacturer-provided software problems;
 - 3.1.10. faults otherwise excluded from the normal operation of the Service, Equipment and / or Goods as described in the relevant Conditions, Product Description or elsewhere.
- 3.2. A fault will be considered to have been cleared and resolved by Jersey Telecom if the fault has been corrected by Jersey Telecom such that all or any element of the fault that causes or results in a Service Affecting Fault or Service Interrupting Fault has been eliminated and the main functionality of the Service, Equipment and / or Goods (as applicable) is restored and available in Jersey Telecom's sole opinion. For the avoidance of doubt, a fault may be cleared and resolved by the temporary provision of loan equipment or an alternative service until such time as the Service, Equipment and / or Goods (as applicable) has been repaired.
- 3.3. Unless otherwise specifically stated or agreed in writing, Jersey Telecom shall not be responsible for or required to correct or resolve any fault whatsoever and howsoever arising, other than a Service Affecting Fault or Service Interrupting Fault.

4. NOTIFICATION OF FAULTS

- 4.1. Business Customers reporting service interruption events, faults or outages of any kind or requesting compensation payments must contact the Jersey Telecom Support Centre on 0800 735 2154, or any other specific number as may be provided to the Customer from time to time.
- 4.2. Residential Customers reporting service interruption events, faults or outages of any kind or requesting compensation payments must contact the Jersey Telecom Support Centre on 0800 735 2151.
- 4.3. Customers must report service performance failures to Jersey Telecom Support Centre by way of the telephone number provided or by email at fault.reporting@jerseytelecom.com
- 4.4. Customers must request compensation payments within one (1) calendar month of the restoration of full availability of the Service or repair of the Equipment and / or Goods (as applicable). The Customer will forfeit its right to receive a credit where the Customer fails to comply with this requirement. A Jersey Telecom representative will contact the Customer to review the status of the credit request and to determine the applicable credit, if any, due to the Customer.

5. COMPENSATION

Subject to Jersey Telecom being satisfied in its sole discretion that the Customer has a valid and legitimate claim or complaint, if Jersey Telecom fails to provide the support service specified in clause 2.1 in accordance with the terms and conditions of this Agreement, Jersey Telecom will, where the Customer requests to be compensated, pay compensation by way of a credit or credits to the Customer's relevant account(s) with Jersey Telecom, as determined and paid on the following basis:

- 5.1. Compensation Requests

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The Customer must notify Jersey Telecom Customer Service complying with the procedures as set out in Clause 4 of this Agreement in order to be entitled to receive any compensation.

5.2. Compensation Process

- 5.2.1. On receiving valid notification of a request for compensation under this Agreement, Jersey Telecom will, within 1 month from notification, investigate the reported outage, fault or event and any remedial action taken by Jersey Telecom and confirm to the Customer whether or not the Customer's compensation claim has been accepted;
- 5.2.2. if the Customer appeals against or disputes any decision to reject any compensation claim or as to the amount of any compensation calculated as being payable by Jersey Telecom, the Customer must advise Jersey Telecom, in writing, within 5 Business Days from the initial date of notification of compensation payable; and
- 5.2.3. any appeals pursuant to clause 5.2.2 in respect of any disputed compensation claims (whether for a rejected compensation claim or the amount of compensation payable) will be investigated by Jersey Telecom, and a final decision will be made at Jersey Telecom's sole discretion.

5.3. Calculation of Credits

- 5.3.1. Credits will be calculated as set out in the relevant Schedule(s).
- 5.3.2. In the case of Service Affecting Faults, Jersey Telecom will pay compensation up to a maximum level stated in the relevant Schedule(s).
- 5.3.3. In the case of Service Interrupting Faults, compensation payments or credits will not be made unless otherwise stated in the relevant Schedule(s).
- 5.3.4. For the purposes of calculating credits a "day" and "daily" is deemed to be the time between 00:00 hrs and 23:59 hrs.

5.4. Credit Payment

- 5.4.1. Credits, when payable, will be provided at the end of the next calendar month following the month in which the credits were accrued and shall be applied to the Customer's relevant Jersey Telecom account(s). However, the Customer shall not be eligible to receive any credits for periods in which the Customer benefited from the use of any Service, Equipment and / or Goods (as applicable) free of charge.
- 5.4.2. Jersey Telecom may set off all or part of any credit payments against any outstanding and undisputed sums owed by the Customer on any of the Customer's Jersey Telecom accounts.

6. VARIATION

- 6.1. Jersey Telecom may from time to time amend, vary or make additions to the terms and conditions of this Agreement and / or any terms and details set out in any applicable Schedule(s) and will as soon as practicable and in any event not less than one calendar month before any such amendment, variation or addition is to take effect, give notice of such variation On-line and / or at Jersey Telecom's office.
- 6.2. Other than as stated above any amendments, variations or additions to this Agreement and / or any Schedule(s) shall be made in writing by Jersey Telecom and signed by a duly authorised officer of the same.
- 6.3. Save as herein expressly provided no servant or agent of Jersey Telecom shall have the authority to agree any amendment, variation or addition to this Agreement. Any representation, warranty or agreement so made is of no force or effect unless made in accordance with this clause.

7. EXCLUSION AND LIMITATION OF LIABILITY

- 7.1. The following provisions set out Jersey Telecom's entire liability (including any liability for the acts and omissions of its employees agents and sub-contractors) to the Customer in respect of any breach of contract, warranty, misrepresentation, tortious act or omission including negligence or otherwise arising under or in connection with the provision of the service(s) under this Agreement. **The Customer's attention is in particular drawn to these provisions.**

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- 7.2. Jersey Telecom does not exclude or restrict liability for death or personal injury resulting from its own negligence.
- 7.3. Except to the extent provided in this Agreement and / or any Schedule(s) or any other document or agreement and except as otherwise expressly agreed in writing, Jersey Telecom shall not be liable to the Customer or to any other person for any loss or damage whatsoever and howsoever caused arising directly or indirectly in connection with the provision of the service(s) under this Agreement or breach of the terms and conditions of this Agreement. Whilst Jersey Telecom will use its reasonable endeavours to maintain the quality and level of service specified in this Agreement and / or any Schedules and to ensure that the service(s) contemplated by this Agreement is or are available at all times, it makes no representation or warranty in relation thereto.
- 7.4. Without prejudice to the generality of 7.2 or 7.3, Jersey Telecom shall not be liable to the Customer or to any other person for:
- 7.4.1. any defect in, poor quality of, unavailability, interruption or discontinuance of the Service or any website or e-mail address (and without prejudice to the generality of the foregoing and 7.3), Jersey Telecom shall in no circumstances be liable for any defect in, poor quality of, unavailability or interruption lasting less than 3 (three) days); and / or
 - 7.4.2. any loss of profits, business revenue, goodwill or anticipated savings, or any type of special, indirect or consequential loss (including but not limited to loss or damage to data, equipment or property even if in the care, custody or control of Jersey Telecom) whether direct, indirect, foreseeable or unforeseeable.
 - 7.4.3. any use of any service, equipment and / or goods by or activities of the Customer, in particular but not limited to any acts which under the laws of any jurisdiction infringe any third party's intellectual property rights (including the use of any domain name) infringe obscenity laws, constitute threats, are in any way defamatory or are illegal or give rise to any liability in any way.
- 7.5. Jersey Telecom is not responsible for maintaining any insurance cover of any nature to cover any loss by the Customer or any other party whatsoever and howsoever arising whether as a result of any breach of this Agreement or otherwise.
- 7.6. If any exclusion or limitation of liability contained in this clause is invalid and Jersey Telecom becomes liable for any loss or damage, the Customer (acknowledging that Jersey Telecom is not able to evaluate any potential loss to the Customer) agrees that Jersey Telecom's liability shall in any event be limited to the Service Charges payable by the Customer for the Minimum Contract Period or the Price (where applicable) for any one event or series of events.
- 7.7. Each provision of this clause shall operate independently of each other provision of this clause.

8. FORCE MAJEURE

Jersey Telecom shall not be liable in respect of any breach of this Agreement due to any cause beyond its reasonable control including (but without limitation): act of God, inclement weather, lightning, flood or fire; industrial action or lockouts; the act or omission of Government, highway authorities, or any other competent authority; war or armed conflict, military operations, vandalism or riot; the act or omission of any other party (including any other party that provides any part of the Service or upon which Jersey Telecom relies in order to provide any part of the Service) and national and / or civil emergencies.

9. ENTIRE AGREEMENT

This Agreement and the relevant Conditions supersede all prior oral or written communications regarding the subject matter of this Agreement and contain the whole agreement between the parties relating to the subject matter of this Agreement, unless otherwise specifically stated or agreed in writing.

10. NOTICES

- 10.1. Unless otherwise provided in clause 4 of this Agreement, any notice or other communication required to be given or served for the purposes of the Contract except where otherwise provided shall be in writing and shall be deemed to have been duly given and served if sent by post, facsimile or delivered by hand. Notices shall be deemed received 48 hours after posting or transmitting.

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- 10.2. The Customer's address for correspondence shall be the contact address as specified in the Application Form or communicated by the Customer when the order by telephone was made or an address notified to Jersey Telecom by the Customer in writing as an address to which bills may be sent or the Customer's usual or last known place of abode or business or if the Customer is a limited company its registered office.
- 10.3. Jersey Telecom's address for correspondence shall be P.O. Box 53, 1 The Forum, Grenville Street, St Helier, Jersey JE4 8PB and Jersey Telecom's facsimile number for notice by facsimile (with confirmation by post or delivery) shall be 01534 882883.

11. SEVERANCE

If any provision of this Agreement is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of this Agreement and the remainder of the provisions in question shall not be affected.

12. GOVERNING LAW

This Agreement shall be governed by and construed and interpreted in accordance with the laws of the Island of Jersey and the parties hereby submit to the exclusive jurisdiction of the Royal Court of Jersey.