

Solution Service Plan Terms for On-Site Support (No Employees Transferring)



1. Interpretation

1.1 This Solution is provided in accordance with the Customer's Agreement with EE.

1.2	Solution Description	The 'On-Site Support Solution Description' forms part of these Solution Terms.
1.3	Statement of Requirements	A Statement of Requirements document is required for this Solution.

2. Definitions

EE Personnel	All those employees of EE or any Sub-contractor who are engaged in the provision of the On-Site Support Services (or relevant part of the On-Site Support Services) from time to time.
Effective Date	The Service Commencement Date as defined in the General Terms and Conditions for Business Customers.
Employee Emoluments	all salaries, wages, commissions, incentive payments, bonuses, all statutory contributions, holiday pay (including payment for accrued but untaken holiday), national insurance contributions, pension and employer insurance contributions made to or on behalf of an employee, taxation (including all income tax deductible under PAYE), expenses and all other emoluments, benefits and outgoings
Employee Liability Information	Such information as is specified in regulation 11(2) of TUPE.
Losses	Actions, proceedings, losses, damages, awards, orders, liabilities (including any liability to taxation), claims, costs, demands and expenses, including fines, penalties, reasonable legal and other professional fees and expenses.
Outgoing Employees	Those EE Personnel who are assigned to the provision of the On-Site Support Services (or relevant part of the On-Site Support Services) as at any Service Transfer Date.
Relevant Transfer Replacement Services	A relevant transfer for the purposes of TUPE. Any services which are identical or substantially similar to any of the On-Site Support Services and which the Customer receives in substitution for any of the On-Site Support Services whether those services are provided by the Customer internally or by any Replacement Supplier. Any reference in this Agreement to the "transfer" of On-Site Support Services is a reference to the termination of expiry of the On-Site Support Services (or any part of them) under this Agreement and the commencement of Replacement Services in their stead.
Replacement Supplier	Any third party supplier of Replacement Services appointed by the Customer from time to time.
Service Transfer Date	The date on which the On-Site Support Services (or any part of the On-Site Support Services), for whatever reason transfer from EE to the Customer or any Replacement Supplier.
On-Site Support Services	The supply of services as detailed in the Solution Description and Customer Expectation Document to the Customer and its Users in accordance with these Solution Terms
TUPE	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as may be amended from time to time).

3. On-Site Support – the Solution

3.1	Eligibility for On-Site Support	Eligibility for On-Site Support is detailed in the EE Price Guide for Large Business.
3.2	Third Party Network	Where the Customer requests EE to manage a part of the Customer's mobile fleet which is Connected to a network other than the EE Network (a "Third Party Network"), the Customer shall procure free access for EE to the Customer's account on the Third Party Network. If adequate access is not obtained, the On-Site Support Services cannot be provided with respect to any Connections on a Third Party Network. Connections on a Third Party Network will be subject to a bespoke level of management, to be defined by EE depending on the level of access to the relevant account(s) the Customer procures for EE, and management tools supported by the Third Party Network provider.
3.3	Third Party Network Connections	Third Party Network Connections will be exempt from any service levels agreed in relation to the On-Site Support Service. The total number of Connections on a Third Party Network managed by EE must not exceed 20% of the total number of the Customer's Connections on the EE Network. The calculation of the number of Connections managed to determine the price band payable for the On-site Support Service will include any Connections on a Third Party Network, which are managed by EE.

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3.4	Exclusions	EE shall not: (i) enter into negotiations with any Third Party Network provider regarding any commercial aspects of the Customer's account; or (ii) be responsible for any SLA or contract breaches, or other escalations relating to the Customer's account(s) with a Third Party Network provider.
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4. Charges

4.1	The Charge for On-Site Support	The Charge is levied on the Customer on a per month basis.
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5. Customer Obligations

5.1	Customer obligations	The Customer shall (and shall procure that its Users shall) meet the obligations set out in the Solution Description.
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6. Term and Termination

6.1	Term for On-Site Support	The Minimum Connection Period for On-Site Support is 24 months or longer as detailed in the Commercial Terms.
6.2	Termination Charges for On-Site Support	Customer shall pay EE the following Termination Charges in accordance with the Agreement upon early termination of the On-Site Support: (Subscription Charges x number of months remaining in the Minimum Connection Period for the Solution) – 5%.

7. Confidentiality and Data Protection

7.1	Confidentiality and Data Protection	Clauses 25 and 26 of the General Terms and Conditions apply to the provision of this Solution.
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8. Employment

8.1	Representation and warranty	The Customer warrants that there is no person whose contract of employment will, as a result of the provision of the On-Site Support Services by EE pursuant to the Agreement, have effect as if originally made between such person and EE pursuant to TUPE or otherwise.
8.2	Indemnity	The Customer will indemnify EE and any Sub-contractor and keep it indemnified from and against any Losses which it suffers or incurs arising from the transfer to EE of the contract of employment of any person in breach of the warranty given at clause 8.1 above including, without limitation, any Losses suffered or incurred in connection with: a. any Employee Emoluments due to any such person; and / or b. the employment or termination of employment (including any redundancy costs) of any such person prior to, on or after the Effective Date; and/or c. any failure to inform and consult under TUPE
8.3	EE Personnel	At all times throughout the provision of the On-Site Support Services EE shall ensure that: a. each of the EE Personnel is suitably qualified, adequately trained and capable of providing the applicable On-Site Support in respect of which they are engaged; b. there is an adequate number of EE Personnel to provide the On-Site Support properly, provided that EE shall have a grace period of one calendar month in which to ensure that any new EE Personnel, including any Incoming Employees, are so trained and capable.
8.4	Contracts of employment	The parties acknowledge that the full or partial transfer of the Total Resource Services from EE to the Customer or any Replacement Supplier may be a Relevant Transfer. Where a Relevant Transfer occurs, save where any Outgoing Employee has objected pursuant to regulation 4(7) of TUPE, the employment

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		<p>contracts of the Outgoing Employees shall have effect on and from the Service Transfer Date as if originally made between the Outgoing Employees and the Customer (or where appropriate the Replacement Supplier). Accordingly:</p> <ol style="list-style-type: none"> a. EE shall provide Employee Liability Information in respect of the Outgoing Employee in accordance with regulation 11 of TUPE. b. EE shall discharge the Employee Emoluments in respect of the Outgoing Employees up to the Service Transfer Date. The Customer (or, where appropriate, shall procure that any Replacement Supplier shall) discharge the Employee Emoluments in respect of the Outgoing Employees thereafter and all necessary apportionments shall be made. Each party shall indemnify the other (or where appropriate the Replacement Supplier) against all Losses arising from such party's failure to comply with its obligations under this clause. c. EE shall indemnify the Customer (or where appropriate any Replacement Supplier) from and against all Losses arising in connection with or as a result of any act or omission of EE relating to any Outgoing Employee's employment prior to the Service Transfer Date. d. The Customer shall indemnify EE and any Sub-contractor from and against all Losses arising in connection with or as a result of any act or omission of the Customer (or where appropriate any Replacement Supplier) relating to any Outgoing Employee's employment on or after the Service Transfer Date.
8.5	Contracts (Rights of Third Parties) Act 1999	The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to the extent necessary to ensure that any Replacement Supplier shall have the right to enforce the obligations owed to, and indemnities given to, the Replacement Supplier by EE under clause 8.4 of these Solution Terms in its own right pursuant to section 1(1) of the Contracts (Rights of Third Parties) Act 1999.
8.6	Non-solicitation	The Customer shall not, without the prior written consent of EE, at any time from the date of acceptance of these Solution Terms until the expiry of 12 months after the last date of supply of the On-Site Support, solicit or entice away from EE or employ or engage or attempt to employ or engage any person who is, or has been, engaged as an employee, consultant or Sub-contractor of EE in the provision of the On-Site Support. Any consent given by EE shall be subject to the Customer paying to EE a sum equivalent to 20% of the then current annual remuneration of EE's employee, consultant or Sub-contractor or, if higher, 20% of the annual remuneration to be paid by the Customer to that employee, consultant or Sub-contractor.