

Active Support Contract Framework Terms

Publish Date: January 2017

Version: 2.2



unified
communications
means **freedom**

Contents

- Active Support Contract Framework Terms..... 2
- 1. Agreement Structure..... 2
- 2. Interpretation..... 2
- 3. Commencement & Term..... 3
- 4. Supply of Services..... 3
- 5. Orders..... 3
- 6. Re-signs 3
- 7. Service Levels 3
- 8. Staff & Governance 3
- 9. Customer Group..... 4
- 10. Disputes..... 4
- 11. Variations 5
- 12. Suspension 5
- 13. Termination..... 5
- 14. Consequences of Termination 6
- 15. Liability 6
- 16. Charges & Payment..... 7
- 17. Confidentiality..... 7
- 18. Data Protection 7
- 19. Intellectual Property 7
- 20. Software 8
- 21. General Terms..... 9
- Definitions 10
- Document Control..... 12

➤ Active Support Contract Framework Terms

➤ 1. Agreement Structure

- 1.1 This Agreement sets out the terms and establishes a "framework" under which Freedom has agreed it will provide Unified Communications goods and services to the Customer.
- 1.2 This Agreement comes into existence on the Commencement Date shown in the Active Support Contract as signed by the Customer.
- 1.3 Unless otherwise agreed in writing, each order that is made by the Customer on the Active Support Order form in respect of each type of goods and/or services which the Customer may from time to time purchase from Freedom will create a "Contract" for that order which will be subject to and will incorporate the terms set out in this Agreement and will apply in respect of that order.
- 1.4 The Contract in respect of each Active Support Order will incorporate the following and the expression "this Agreement" shall mean:
 - a) the terms of this Agreement;
 - b) the Active Support Order form;
 - c) where applicable in respect of support services, the Service Schedule Terms;
 - d) any contract change note; addendum; or notice served by Freedom under Clause 11 of this Agreement; and,
 - e) any other document that expressly incorporates this Agreement or which is made pursuant to it.
- 1.5 In the event of conflict between the terms contained in the following applicable documents, then the terms that shall prevail shall be in the following descending order of priority
 - a) Contract change note; addendum; or notice served by Freedom under Clause 11;
 - a) Service Schedule Terms;
 - b) Active Support Order form;
 - c) these Framework Terms; and
 - d) Any other document that expressly incorporates this Agreement or which is made pursuant to it.

➤ 2. Interpretation

- 2.1 Any reference to (a) the plural includes the singular and vice versa, (b) any party includes its successors in title and permitted assigns, and (c) a "person" includes any individual, firm, body corporate, association or partnership, government or state (whether or not having a separate personality).
- 2.2 Any reference to a statutory or regulatory requirement will (a) include any relevant Act of Parliament, subordinate legislation or other enforceable right and (b) be construed as a reference to that requirement as may be amended, replaced extended or consolidated from time to time.
- 2.3 General words will not be given a restrictive meaning where they follow one or more specific terms indicating a particular category of act, matter or thing or where they are followed by examples. The words "including" and "in particular" (or similar) will not limit the generality of any preceding words.
- 2.4 Headings are inserted for convenience only and shall not affect the interpretation of these Active Support Contract Framework Terms.
- 2.5 References to a "party" or to the "parties" should be taken as being to the parties to these Active Support Contract Framework Terms.

➤ 3. Commencement & Term

- 3.1 This Agreement shall commence on the Commencement Date and shall continue for its Minimum Term (unless terminated at an earlier date under Clause 13 - Termination) until terminated by either party giving to the other party not less than 3 (three) months advanced written notice of termination expiring on, or any anniversary of, the Expiry Date.
- 3.2 This Agreement will regulate dealings between the Customer and Freedom in respect of the purchase of Services and/or Equipment from Freedom effected by way of Active Support Orders from time to time.
- 3.3 Each order for Services and/or Equipment shall be made by the Customer on Freedom's Active Support Order form. Each Active Support Order shall commence or shall be deemed to have commenced on the Order Effective Date and shall continue for the Minimum Connection Period.

➤ 4. Supply of Services

- 4.1 Freedom agrees to supply, and the Customer agree to receive, the Services and Equipment subject to the provisions of this Agreement.
- 4.2 The Customer agrees that it is procuring Services and Equipment for its own use and for its users benefit, as authorised by and in accordance with this Agreement and the Customer will not re-sell, re-supply or otherwise distribute the Services and Equipment or allow its Users to do so.

➤ 5. Orders

- 5.1 The Customer may place orders at any time during the term of this Agreement, subject to acceptance by Freedom at Freedom's sole discretion. Each order shall become effective upon Freedom's explicit acceptance of an Active Support Order, provided that the order:
 - a) uses the current standard Freedom Active Support Order format;
 - b) is completed in full; and,
 - c) the Active Support Order shall not incorporate or be subject to any additional terms incorporated by the Customer and any such terms attached or purported to be incorporated by the Customer shall not apply.

➤ 6. Re-signs

- 6.1 Existing services which are re-signed under this Agreement shall be governed by this Agreement and no other. Existing services not re-signed under this Agreement shall be governed by the original contract unless agreed otherwise.

➤ 7. Service Levels

- 7.1 Freedom will provide the Services and Equipment in accordance with the relevant Service Levels as listed against each Service and/or product in each Active Support Order.
- 7.2 The Service Levels set out in a specific Active Support Order apply solely to the Services and Equipment covered under that Active Support Order form and no other Services or Equipment provided for under this Agreement.
- 7.3 In the event that a fixed level of compensation is provided for in relation to a failure to meet a Service Level, such fixed level of compensation will be the sole and exclusive remedy available to the Customer and Freedom's sole liability for any failure to meet such Service Level. Where Freedom has provided a Service Level target only and there is no compensation entitlement specified for a failure to meet the Service Level, Freedom will use reasonable endeavours to comply with such Service Levels but such Service Levels are targets only and Freedom has no contractual liability for any failure to meet such Service Levels.

➤ 8. Staff & Governance

- 8.1 The parties shall each appoint an Appointed Representative and continue to deploy the same to act as a point of contact for the other in respect of issues arising

under this Agreement for the duration of this Agreement. Should an Appointed Representative's employment with a party be terminated, or should they be unable to perform the role of an appointed representative the party which engages them shall promptly replace such Authorised Representative with a suitably skilled and knowledgeable replacement and shall notify the other of that individual's name, job title and full contact details. Each party shall, with reasonable cause, be entitled to request that the other party replaces its Authorised Representative following the requirements of this clause.

- 8.2 Freedom shall appoint a person to act as the Customer's Account Manager who will be responsible for the overall provision of the Services under this Agreement and who will be the principal point of contact between the Customer and Freedom. Freedom may need to change the Customer's account manager from time to time, but will use reasonable endeavours to maintain the same personnel where reasonably practicable.
- 8.3 The Customer's Account Manager will be available for, and will pro-actively arrange, periodic review meetings to discuss Freedom's performance, the Customer's future requirements and to promote new technologies.
- 8.4 In accordance with the Active Support Order form, Service Levels and Service Schedule Terms, Freedom will provide the Customer with regular performance reports of the Services where necessary.
- 8.5 The Customer may, by written notice to Freedom, require Freedom to undertake a Benchmark Review on any service which is outside of its Minimum Connection Period on, and only on, each anniversary of this Agreement. Where Freedom is able to provide a Like-for-Like Service that shall not result in any increase to the Charges or any decrease in the performance of the Services or Service Level targets, Freedom shall implement the changes set out in the Benchmark Review as soon as reasonably practicable within a timescale agreed in writing with the Customer by way of a Contract change note. Where such Contract change note may be of material detriment to the Customer, clause 11.2 shall apply.

➤ 9. Customer Group

- 9.1 Subject to Clause 9.2, the Customer may permit another member of the Customer Group as notified to Freedom from time to time to place orders under this Agreement and use the Services and Equipment supplied by Freedom under this Agreement, provided that any act or omission of such members of the Customer Group shall for the purposes of this Agreement be deemed to be the act or omission of the Customer.
- 9.2 The Customer shall procure that such Customer Group members fully comply with the terms of this Agreement. The relevant member of the Customer Group may, on request, be billed separately for the Charges incurred by that member, provided that the Customer shall ultimately remain liable to pay all the Charges in respect of the Services and/or Equipment by other members of the Customer Group.

➤ 10. Disputes

- 10.1 Any disputes, controversies or claims arising out of this Agreement shall first be referred to the respective parties' Appointed Representatives. The Appointed Representatives will review the nature of the dispute together within thirty (30) days of the dispute arising and if they cannot reach agreement on the dispute within such thirty (30) day period, the matter shall be referred to the Chief Executive Officer or Managing Director of that part of the relevant Party's business which is responsible for performing the obligations of that Party under this Agreement. If the Chief Executive Officer or Managing Director are themselves unable to resolve the matter within thirty (30) days of the first request for them to do so, the Parties shall be free to pursue the matter in accordance with Clause 10.2.
- 10.2 Any dispute, controversy or claim which remains unresolved following escalation in accordance with Clause 10.1 shall be resolved in accordance with the Communications Providers ADR Service or such other mediation service as the Parties may agree.
- 10.3 Nothing in this Agreement prevents either party from seeking a legal remedy through the Courts at any time.

➤ 11. Variations

- 11.1 Freedom may by issue of a notice to the Customer (sent by post or e-mail) to vary the provisions of this Agreement where such variation is required as a result of:
 - a) a written request from the Customer that has been approved in writing by an authorised representative of Freedom;
 - b) any legislation, statutory instrument, government regulation, regulatory requirement or licence;
 - c) changes imposed by third party manufacturers or suppliers; or
 - d) a change to Freedom's operations provided such change is also implemented in relation to the majority of Freedom's business customers.
- 11.2 Where any variation by Freedom to this Agreement will be of material detriment to the Customer, Freedom will give the Customer at least one month's written notice of the variation (save where this is not practicable due to a change imposed by a legal or regulatory body) and the Customer will have the right to terminate the relevant Service and/or Equipment in accordance with Clause 13 (Termination).

➤ 12. Suspension

- 12.1 Freedom may, without liability to the Customer, suspend or restrict use of any Services or Equipment if:
 - a) a written request the emergency services tell Freedom to, or a law or regulation is passed which means Freedom need to do so;
 - b) Freedom believe the Customer is using the Services or Equipment in an illegal, fraudulent or unauthorised way;
 - c) the Customer become subject to an Insolvency Event; or
 - d) during any technical failure, modification or maintenance of any supporting network infrastructure
- 12.2 Freedom shall use its reasonable endeavours to keep any suspensions under Clause 12.1 to a minimum, to provide prior notice where possible and to restore the services as soon as reasonably practical.
- 12.3 Without prejudice to Freedom's other rights under this Agreement, Freedom may additionally suspend or restrict use of any or all of the Services and/or Equipment where Freedom have not received payment of outstanding Charges (including any accrued interest) where those charges are not being disputed in good faith.

➤ 13. Termination

- 13.1 Subject to the remainder of this clause 13, the Customer may terminate this Agreement in whole or in part and may terminate any individual Active Support Order at any time by giving Freedom 90 days' written notice.
- 13.2 Without prejudice to Clause 11 (Variations), Freedom may terminate this Agreement whole or in part by giving the Customer 90 days' written notice, provided such notice does not expire before the end of the Minimum Connection Period of any contracted Service.
- 13.3 Either Party may terminate this Agreement in whole or in part at any time by notice in writing if the other Party:
 - a) is in material or persistent breach of any of the terms of this Agreement , by giving written notice specifying the breach and (if capable of remedy) requiring it to be remedied. If the breach is not remedied within 90 days of the date of this notice, this Agreement shall end on expiry of the 90 day notice period. If the breach is not remediable, termination will take effect immediately; or,

- b) becomes subject to an Insolvency Event.
- 13.4 Termination Charges will be payable where an Active Support Order is terminated during its Minimum Connection Period by the Customer under Clause 13.1 or by Freedom under Clause 13.3. The Customer acknowledges that the Termination Charges specified in Service Schedule Terms represent a genuine pre-estimate of the loss suffered by Freedom due to early termination, having regard to the overall commercial deal between the Parties, and that the Termination Charges do not represent a penalty.
- 13.5 The Customer may terminate an Active Support Order without liability for Termination Charges by giving Freedom 30 days written notice where Freedom have varied the terms of this Agreement pursuant to Clause 11 (Variations) in relation to that specific Active Support Order to the material detriment of the Customer. This right to terminate ends 30 days after the date on which the variation became effective.

➤ 14. Consequences of Termination

- 14.1 Termination of this Agreement will not affect any extant Active Support Order where Freedom's obligations continue beyond the Expiry Date and the terms of this Agreement shall continue to apply in respect of such Active Support Order until expiry of the Minimum Connection Period relevant to each such Active Support Order ("Surviving Order") and no further or otherwise. The Customer will not be able to make any new Active Support Orders after the Expiry date based on these Active Support Framework Terms.

On expiry of Minimum Connection period relating to the last Surviving Order following termination of this Agreement the following shall apply:

- a) the Customer shall pay all outstanding Charges;
- b) Freedom shall no longer provide and the Customer shall immediately cease to use the Services or Equipment relating to the Surviving Order;
- c) Freedom will provide reasonable assistance to the Customer in accordance with standard telecommunications industry practice in relation to transfer of Services or Equipment relating to the Surviving Order to another telecommunications provider;
- d) the Customer must promptly on Freedom's request return or destroy all Confidential Information (except as required for regulatory purposes) and also return any property belonging to the other (and where requested provide written confirmation of this); and,
- e) all Equipment in which title has not passed to the Customer must be returned to Freedom in full working order. Where it is not returned, or in Freedom's reasonable opinion is not returned in good working order, the Customer must pay the List Price for such Equipment.
- 14.2 Termination or expiry of this Agreement (or any part of it) will not affect either Party's accrued rights or liabilities and provisions of this Agreement which are intended by their nature to survive termination shall continue in force (including Termination, Consequences of Termination, Liability, Intellectual Property, Software Licence, Confidentiality and General Terms) together with any other provisions necessary for their enforcement or interpretation..

➤ 15. Liability

- 15.1 Nothing in this Agreement limits or excludes:
 - a) either party's liability for death or personal injury caused by the negligence of its employees, agents or sub-contractors, for fraud or fraudulent misrepresentation or for any other matter in respect of which liability cannot lawfully be limited or excluded; or,
 - b) the Customer's obligation to pay the Charges, Termination Charges, refund any Credits or meet any Minimum Spend Requirement.
- 15.2 Subject to clause 15.1:
 - a) the total liability of each party under or arising in connection with this Agreement in contract, tort (including negligence), breach of statutory duty or otherwise will be limited to

50% of the charges paid or payable by the Customer in the first 12 months of this Agreement;

- b) neither party will be liable to the other in contract or tort (including negligence) or otherwise for: (i) any loss (whether direct or indirect) of profit, business, contract, use, anticipated saving or revenue, goodwill, production, business interruption, wasted expenditure; (ii) any loss or corruption of data or software; or (iii) for any indirect or consequential loss or damage whatsoever arising under or in connection with this Agreement.

➤ 16. Charges & Payment

- 16.1 The Customer must pay all Charges by direct debit within 14 days from the date on the invoice. If the Customer does not want to pay by direct debit Freedom may accept other forms of payment but may charge the Customer a fee. VAT will be charged where it applies.
- 16.2 If the Customer owes Freedom money beyond the due date Freedom may charge the Customer interest daily at the rate of 4% over the prevailing base rate of Barclays Bank Plc. Freedom may also charge the Customer reasonable administration costs as a result of failing to pay when due.
- 16.3 Invoices shall be sent electronically at no extra cost to the Customer. Should the Customer require paper copies of invoices or itemisation reports, additional charges shall be applied at Freedom's prevailing rates.

➤ 17. Confidentiality

- 17.1 Each party undertakes that it shall not at any time during this Agreement, and for a period of 3 years after termination of this Agreement, disclose to any person the terms of this Agreement or any Confidential Information, except as permitted in Clause 17.2.
- 17.2 Disclosure of Confidential Information is permitted:
 - a) by each party to its employees, officers, representatives, advisors, contractors and suppliers for the purposes of service implementation and performance management of this Agreement;
 - b) as may be required by law, court order or any governmental or regulatory authority;
 - c) as may be permitted pursuant to Data Protection Legislation;
 - d) with the consent of the disclosing party;
 - e) to the extent that information has come into the public domain through no fault of the receiving party; and,
 - f) by the Customer to other members of the Customer Group to the extent required in connection with Clause 9 – Customer Group.

➤ 18. Data Protection

- 18.1 Each party shall comply with its obligations under Data Protection Legislation.
- 18.2 The Customer agrees that its details and those of its people may be used and disclosed by Freedom from time to time for the purposes of this Agreement and marketing purposes.
- 18.3 Freedom may monitor or record calls and emails for business purposes such as to improve customer service, carry out quality control exercises, train staff and to make sure Freedom have effective systems in place to prevent or detect unauthorised use, fraud or crime.

➤ 19. Intellectual Property

- 19.1 All Intellectual Property Rights used by or subsisting in the Services and Equipment shall remain the sole property of Freedom or (as the case may be) the relevant third party rights owner.
- 19.2 Where Intellectual Property Rights are created during or as a result of the supply of the Services and Equipment to the Customer, these Intellectual Property Rights shall be owned by Freedom or the third party rights owner as applicable.
- 19.3 The Customer must not:
 - a) do anything or allow anything to be done which might jeopardise Freedom's or its licensors' Intellectual Property Rights;
 - b) dispute or challenge the rights of Freedom or the relevant third party rights owner; or,
 - c) apply for, or obtain, registration in any country of any trade or service mark or any other Intellectual Property Rights which consists of, or comprises of, or are confusingly similar to, the trade marks of Intellectual Property Rights of Freedom or its licensors.
- 19.4 The Customer expressly and unequivocally hereby agrees to, and shall, indemnify and hold Freedom, its officers, directors, shareholders, employees, agents, insurers, legal representatives, successors, and assigns harmless, from and against, any and all, third party liability, losses, claims, expenses (including reasonable legal fees), demands, or damages of any kind resulting directly from the acts and omissions of the Customer, its employees, or agents or arising out of or incurred in connection with the distribution, marketing or sublicensing of the software copies by the Customer. The Customer shall have the opportunity to defend any such claim or action with counsel of its own choosing and there shall be no settlement by Freedom for which the Customer shall be liable hereunder unless the Customer has consented to such settlement.
- 19.5 Should the Software become or, in Freedom's opinion be likely to become the subject of a claim of infringement of a patent, trade secret or copyright, Freedom may:
 - a) procure for the Customer at no cost to the Customer, the right to continue to use the Software;
 - b) replace or modify the Software, at no cost to the Customer, to make such non-infringing, provided that the same function is performed by the replacement or modified Software; or,
 - c) accept the return of the Product in exchange for a refund of the Price that Freedom actually sold to the Customer for such Product, less depreciation based on a straight-line depreciation schedule over the Minimum Connection Period.
- 19.6 Freedom shall have no liability for any claim of patent, trade secret or copyright infringement based on:
 - a) the use of other than the then latest Software release of the Software, if such infringement could have been avoided by the use of the latest Software release and such latest release had been made available to the Customer, but, the Customer with knowledge of actual or possible infringement, chose to retain the prior release; or,
 - b) the use or combination of the Software with other software, hardware or other material not provided by, or not authorised by Freedom. Material affects to the customers' use of the system by adopting this clause would be reviewed on a case by case basis.
- 19.7 Sections 19.5 and 19.6 herein state the entire liability of Freedom with respect to infringement of patents, trade secrets and copyrights by the Software or any parts or use thereof and Freedom shall have no additional liability with respect to any alleged or proven infringement.

➤ 20. Software

- 20.1 The Services and Equipment provided under this Agreement may contain or use Freedom Software or End User Licensed Software. Where Freedom Software is provided, Freedom grants the Customer a non-exclusive, revocable, non-transferable licence (without the right to sub-licence) to use any such Freedom Software in object code form for the purpose of properly accessing the Services in accordance with this Agreement. Any End User Licensed Software provided or accessed shall be governed by the terms of the relevant licence

which shall comprise the Customer's sole rights and remedies in respect of such End User Licensed Software.

- 20.2 If the Customer does not accept the licence terms relating to the End User Licensed Software, it shall not use the relevant feature of the Service to which the End User Licensed Software relates and Freedom shall not be required to deliver the relevant Service. The Customer shall indemnify and keep indemnified Freedom in full and on demand for any claim or for any losses incurred or suffered by Freedom (including any legal costs) arising from any failure of the Customer to comply with the terms of the End User Licensed Software or Freedom Software.
- 20.3 The licence granted under this Agreement to use Software may be terminated if the Customer disputes the ownership of any Intellectual Property Rights under this Agreement, fails to comply with any term of this Agreement or if the continued use or possession of the Software infringes the rights of any third party. The licence shall further be subject to the Customer undertaking:
 - d) not to copy, reproduce, translate, adapt, vary, modify, sub-license, decompile, reverse engineer or create derivative works from or allow any third party access to any Freedom (or any part of it) unless expressly permitted to do so by Freedom, its licensors or by relevant law; and,
 - e) not to use the Software with anything other than the specified Equipment, unless otherwise expressly specified or approved by Freedom or its licensor.
- 20.4 Software delivered to the Customer by electronic means cannot be reissued and the Customer shall ensure that correct email addresses are provided for these purposes and that any firewall or other protection will not prevent such delivery.

➤ 21. General Terms

Notices

- 21.1 Notices served in accordance with the Agreement shall be in writing and shall be delivered by hand or first class post or other next day delivery service to the address given in the Agreement, or sent by email to the Appointed Representatives as set out in this Agreement.
- 21.2 All notices will be deemed served 48 hours after they are sent, or on earlier proof of delivery. Notices sent by email will be deemed served at time of transmission.
- 21.3 The provisions of Clauses 21.1 and 21.2 shall not apply to the service of any proceedings or to the service of any other documents in any legal action.

Waiver

- 21.4 The failure or delay by either party to exercise a right or remedy under this Agreement does not constitute a waiver of the right or remedy or of any other rights or remedies. No single or partial exercise or waiver of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy.

Force Majeure

- 21.5 If either party is affected by Force Majeure it shall promptly notify the other party of the nature and extent of the circumstances in question. Neither party shall be deemed to be in breach of this Agreement, or otherwise be liable to the other, for any delay in performance or the non-performance of any of its obligations, excluding Payment, under this agreement, to the extent that the delay or non-performance is due to any Force Majeure of which it has notified the other party, and the time for performance of that obligation shall be extended accordingly.

Assignment

- 21.6 Neither party shall be entitled to assign or subcontract this Agreement, nor all of its rights and obligations hereunder, without the prior written consent of the other, such consent not to be unreasonably withheld.

Entire Agreement

- 21.7 This Agreement contains all the terms agreed between the parties regarding its subject matter and supersedes any prior agreement, understanding or arrangement

between them whether oral or in writing. The Customer shall have no remedy in respect of any untrue statement made to the Customer upon which the Customer relied in entering into this Agreement (unless such untrue statement was made knowing that it was untrue) other than any remedy it may have for breach of the express terms of this Agreement.

Severability

- 21.8 If any term or provision hereof is held by any court of competent jurisdiction to be void or invalid, this shall not affect the validity or enforceability of any other term or provision.

No third party rights

- 21.9 Pursuant to the Contracts (Rights of Third Parties) Act 1999, a person who is not party to this Agreement shall not have any rights under or in connection with it. No member of the Customer Group shall have any right to directly enforce any provision of this Agreement.

No legal partnership

- 21.10 Nothing in this Agreement creates, is intended to create, or shall be deemed to have created a legal partnership or joint venture of any kind between the parties, nor constitute any party as agent or distributor of the other for any purpose and no party shall have authority to act as agent for, nor to bind, the other party in any way.

Non-solicitation of staff

- 21.11 All Parties agree not to offer employment to any person employed by the other during this agreement and for six months after the termination of this Agreement, unless:
 - a) the prior written consent of the other party has been given; or,
 - b) it can be clearly demonstrated the person in question independently approached the other party seeking employment.

Requirement to act reasonably

- 21.12 Where we both are required under this Agreement to exercise discretion, we both agree to act reasonably and without delay.

Law and Jurisdiction

- 21.13 This Agreement is governed by and construed and interpreted in accordance with English Law and we hereby submit to the exclusive Jurisdiction of the English Courts.

➤ **Definitions**

In these Active Support Contract Framework Terms, unless the context otherwise requires, the following definitions apply:

“Account Manager” means a person nominated by Freedom to act as the Customer Account Manager who will be responsible for the overall provision of the Services and Equipment under this Agreement.

“Active Support Contract” means the document signed by the Customer that signifies the Customer’s acceptance of these Active Support Contract Framework Terms.

“Active Support Contract Framework Terms” means the terms herein this document.

“Active Support Order” means a Freedom form that may be used to detail the Customer requirements and Freedom Charges and Service Schedule Terms specific to the Service and/or Products listed on such form.

“Appointed Representatives” means in respect of each party the individuals on the front of the Active Support Contract signed by the Customer accepting the terms of these Active Support Contract Framework Terms (as may be replaced pursuant to Clause 8.1 (Staff and Governance)).

“Benchmark Review” means a review by the Customer and Freedom to establish whether a Benchmarked Service is, as a whole, good value where the parties shall jointly identify and agree a Service and list of comparable organisations able to provide that Service.

“Charges” means all monies payable by the Customer to Freedom under this Agreement as set out in any Active Support Order form and these Active Support Contract Framework Terms.

“Commencement Date” means the date shown on the front of the Active Support Contract signed by the Customer accepting the terms of these Active Support Contract Framework Terms.

“Confidential Information” means any commercial or technical information in whatever form which is disclosed by one party to the other party and which would be regarded as confidential by a reasonable business person including, without limitation, all business, statistical, financial, marketing and personnel information, customer or supplier details, know-how, designs, trade secrets or software of the disclosing party or any member of its Group.

“Contract change note” the communication issued by Freedom by email or other suitable notice permitted by this Framework, detailing the Customer’s requested change to this Agreement.

“Credit” a notional credit which has no cash redemption or equivalent value that can be used by the Customer to purchase Services or Equipment at the List Price from Freedom in accordance with the terms of this Agreement, and any other contractual credit, subsidy, fund, discount or cheque which Freedom agrees to provide under this Agreement.

“Customer” the person or entity whose name appears on the Active Support Contract as signed by its authorised representative.

“Data Protection Legislation” means the Data Protection Act 1998, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (s/2000/2699), any amendments or replacements to them and all other applicable laws and regulations relating to the processing of personal data and privacy.

“End User Licensed Software” means software licensed to the Customer by a separate agreement with the licensor of such software, as set out in any Active Support Order form or by any 'shrink wrap' or 'click through' licence agreement or “in-box” documentation provided.

“Equipment” means the Devices and Installed Equipment (both of which may contain Software) set out in any Active Support Order form and any other equipment that may be supplied by Freedom to enable the Customer to access the Services as agreed between the parties from time to time.

“Expiry Date” means the date shown on the front of the Active Support Contract signed by the Customer accepting the terms of these Active Support Contract Framework Terms.

“Freedom” means Freedom Communications (UK) Limited (Registered Number 2443243), registered office at Global House 2 Crofton Close, Lincoln, LN3 4NT (or any organisation that may succeed it as the assignee of this Agreement).

“Freedom Software” means any software, excluding End User Licensed Software, that is owned by Freedom or licensed by Freedom on behalf of a third party, and which may be updated from time to time.

“Group” means any entity or person controlled by, controlling or under common control with Freedom or the Customer (as applicable), from time to time. For the purpose of this definition the term "control" means ownership, directly or indirectly, of: (i) equity securities entitling it to exercise, in aggregate, 50% or more of the voting power in such corporation or other entity; (ii) 50% or more of the interest in the profit or income in the case of a business entity other than a corporation; or (iii) in the case of a partnership, any other comparable interest in the general partnership.

“Insolvency Event” means an event where either party:

- a) ceases, threatens to cease or suspends trading or carrying on business (other than temporarily by reason of a strike); or,
- b) suspends payment of its debts or is or becomes unable to pay its debts (within the meaning of section 123 of the Insolvency act 1986) or commits any act of insolvency, or enters into a composition or voluntary arrangement with its creditors, or has a receiver or administrator appointed over the whole or any part of its business or assets, or has a creditor’s winding up petition advertised against it in the appropriate Gazette, or passes a resolution to wind up (other than for the purposes of a solvent amalgamation or reconstruction), or is subject of any action or procedure commenced in any jurisdiction which is similar to or analogous with any above mentioned action or procedure.

“Like-for-Like Service” means a benchmarked service that is of equal quality to the existing Service Freedom provide. For the avoidance of doubt this means equality of the technical specification, Support Accreditation and Service Level Agreement in place including, but not limited to country of support, hours of cover, response, redundancy and disaster recovery options.

“List Price” means the standard prices for the Services and Equipment as current at the time the price needs to be determined.

“Minimum Connection Period” means the minimum period (as stated in the relevant Active Support Order form) that the Customer commits to receive the relevant Service

“Minimum Spend Requirement” means the minimum sum set out in any Active Support Order form that the Customer commits to pay Freedom in Charges in relation to a particular Service or Services during the specified Minimum Connection Period.

“Minimum Term” means the minimum period stated on the front of the Active Support Contract signed by the Customer accepting these Active Support Contract Framework Terms which subject to clause 1.4 will apply to the relevant Active Support Order/s made by the Customer during such period.

“Order Effective Date” means the date on which Freedom commences supply of a particular Service and/or Equipment to the Customer.

“Service Levels” means the Service Level for a particular Service set out in and forming part of the relevant Active Support Order form.

“Service(s)” means the service(s) set out in the Active Support Order form and any other Services that may be agreed between the parties from time to time, which may include support services and/or equipment that may contain or use Software.

“Surviving Order” means an extant Active Support Order where the Minimum Connection Period exceeds the expiry date of the Active Support Framework Contract.

“Termination Charges” means the lump sum termination charges set out in the Active Support Order form for a particular Service and/or Equipment payable on termination of a Service before completion of the Minimum Connection Period and/or Minimum Term of this Agreement.

“Unified Communications” means Equipment or software, that provides a platform for the Customer to integrate common methods of communication, that is, to Unify the Customer’s Communications.

“Users” means the Customer or anyone who is permitted by the Customer to use the Service(s) and/or Equipment provided under this Agreement.

“The Customer” means the Customer as specified on an Active Support Framework Contract and/or Active Support Order form.

➤ Document Control

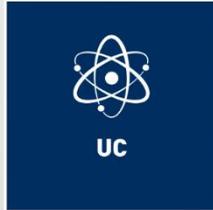
Amendment History

Version	Date	Author	Amendment
1.0	October 2013	Kevin Kemp	Published
1.1	February 2014	Kevin Kemp	Minor Amendments (Clause 6.1 & definitions)
2.0	March 2015	Kevin Kemp	Refresh of Content
2.1	July 2015	Ali McGregor	Branding update
2.2	January 2017	Daniel Bruce	Change to Registered Office

Freedom

End-to-End Unified Communications

For over 26 years, our comprehensive portfolio has supported over 6,000 customer locations, providing one point of presence for all communications needs.



Unified Communications -

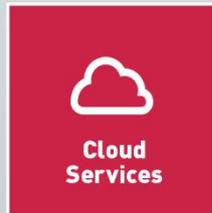
the optimisation, integration and management of all communications and supporting infrastructure.



Skype for Business - enterprise grade telephony, presence, instant messaging, audio and video calling, online meetings, and easy sharing and collaboration.



Data Networking - the foundation of communications infrastructure, optimised to support modern working practices such as Voice and Video.



Cloud Services - migrating you seamlessly to 24 x 7 reliability and scalability, ensuring you're always up to date with managed Cloud communications.



Network Services - providing structural connectivity for business communications, from traditional lines and minutes, through to innovative SIP and internet connectivity.



Active Support -

Freedom's ongoing commitment to manage your leading edge business communications, providing world class service and support.

Freedom Partnerships

To complete the unified solution, we work with specialist partners, including;

Microsoft



Alcatel-Lucent



aruba
NETWORKS