

This is a maintenance agreement (hereinafter referred to as the "Agreement") made between the persons or Company named on the DocuSign agreement (hereinafter referred to as the "Customer") and BDM Voice Ltd, Greenacre Court, Station Road, Burgess Hill, West Sussex, RH15 9DS registration number 05618725 (hereinafter referred to as the "Company") where the Company has agreed to provide to the Customer certain services in respect of the maintenance of the equipment detailed on the DocuSign agreement and identified by type and serial number (the "Equipment").

## **1 Charges**

- 1.1 The Charges shall be levied by the Company monthly in advance and shall be payable by the Customer within 30 days of receipt of an invoice therefore.
- 1.2 The Charges shall be increased on each anniversary of this Agreement by a percentage equivalent to no more than 3% above the previous year's maintenance fee.
- 1.3 The Charges shall not include the cost of any Excepted Service (as defined in Clause 4.2).
- 1.4 Additional Charges (as defined in Clause 4) shall be levied by the Company on completion of an Excepted Service and shall be payable by the Customer within 30 days of receipt of an invoice thereafter.  
The standard office hour charges are:
  - £100.00 per hour
  - £400.00 per ½ day
  - £700.00 per day
- 1.5 If any charges quoted are exclusive of any applicable value added tax (unless specifically shown), the Customer shall be additionally liable to pay the required tax to the Company at the prevailing rate.
- 1.6 The Company reserves the right to charge the Customer interest in respect of the late payment of any Charges or Additional Charges due under this Agreement (as well after as before judgment) at the rate of 8% per annum above base rate as defined by Barclays bank plc.

## **2 Maintenance Services**

The Services to be provided by company in their ongoing support of this Agreement are. The following IT services are covered by this Agreement.

- a) Manned telephone technical support.
- b) Monitored email support.
- c) Management and maintenance of software and operating systems scheduled in this agreement
- d) Management and maintenance hardware as scheduled in this agreement.
- e) Planned or emergency onsite technical assistance.

All Microsoft licensing is provided through the Client's Office 365 subscription (unless otherwise specified by the Client and specified in the agreement). The Company will undertake to ensure that licenses are kept up to date for the correct number of Client users.

All other software licenses are the responsibility of the Client unless otherwise specified.

### **Service Requests**

In support of services outlined in this Agreement, the Service Provider will respond to service-related incidents and/or requests submitted by the Client within the following time frames:

- Within 1 hours (during business hours) for issues classified as High priority.
- Within 4 hours (during business hours) for issues classified as Medium priority.
- Within 2 working days (during business hours) for issues classified as **Low** priority.

Remote assistance will be provided in-line with the above timescales dependent on the priority of the support request. It will be the responsibility of the Client to define the priority level at the time of placing the call.

### **Backup Maintenance**

All data is held securely in Microsoft's SharePoint and OneDrive locations. These data stores are replicated across geographically separated locations in real time for business continuity.

### **Service Provider Requirements**

Service Provider responsibilities and/or requirements in support of this Agreement include:

- Meeting response times associated with service-related incidents.
  - Appropriate notification to Client for all scheduled maintenance.
- 2.1 To maintain the agreed equipment at the installation address detailed in the Agreement or other sites agreed in writing between the parties and detailed in the Agreement ("**supply of I.T (Information technology) support services**") in efficient working order and throughout the term of this Agreement, to execute by its servants, agents or contractors.
  - 2.2 The Company shall, as soon as is reasonably practical after notification in accordance with Clauses 5.2 and 5.3 and subject to Clause 4, provide:
  - 2.3 either a maintenance engineer to carry out during its normal hours any maintenance of and repairs and replacements to the Equipment that may reasonably be required by the Customer and shall carry out any maintenance repairs as shall be necessary as arising from the proper operation of the equipment.
  - 2.4 or, where appropriate at the discretion of the Company, provide remote technical support.

- 2.5 For the avoidance of doubt any maintenance repairs or replacements or visits caused by other than (in the sole opinion of the Company) fair wear and tear arising from the proper operation of the Equipment at the Customer's expenses in accordance with Clause 4.2. All maintenance repairs or replacement may be carried out at the premises where the Equipment is installed or elsewhere at the discretion of the Company.

### **3 Times for Maintenance Services**

Save where otherwise agreed between the parties in writing the Services shall be carried out during normal working hours which means Monday to Friday, 9.00 am to 17.30 pm (excluding public holidays).

### **4 Excepted Services**

- 4.a The Services shall not include:
- 4.b. electrical work external to the Equipment and including without limitation power supply or maintenance of accessories, attachments, machines or other devices not furnished by the Company;
- 4.c the painting or refinishing of the Equipment;
- 4.d the relocation or transportation of the Equipment;
- 4.e the provision of supplies for use in association with the Equipment;
- 4.f the replacement of Equipment of parts and other accessories necessitated.
- 4.g repair of any wiring external to the Equipment cabinets and enclosures;
- 4.h battery maintenance or replacement of batteries of individual cells;
- 4.i corrections of any fault due to any accident or disaster affecting the equipment including without limitation fire, flood, water, wind, lightning, transportation, vandalism or burglary;
- 4.j the Customer's failure inability or refusal to afford the Company's personnel proper access to the Equipment;
- 4.k programming error affected by the Customer (in the sole opinion of the Company) resulting in the need for re-programming and or service visits;
- 4.l the Customer's failure to maintain a suitable environment for the Equipment at the Place of use in accordance with the Company's or manufacturer's written specification or otherwise including without limitation failure to maintain a constant power supply, air conditioning or humidity control;
- 4.m the Customer's neglect or misuse of the Equipment or its failure to operate the equipment in accordance with the Company's or the manufacturer's instruction manuals or for the purposes for which it was designed;
- 4.n the alteration modification or maintenance of the Equipment by any party other than the Company without the Company's prior written consent;
- 4.o the transportation or relocation of the Equipment save where the same has been performed by or under the directions of the Company;
- 4.p the use of defective or inappropriate supplies with the Equipment;
- 4.q Any equipment which is not detailed on the DocuSign agreement is specifically excluded from this maintenance agreement

- 4.2 The Company shall upon request of the Customer provide all or any (in its sole discretion) of the services referred to in this Clause 4 (“the “Excepted Services”) but shall be entitled to charge for the same by levying additional charges to be calculated by the Company on a time and materials basis at its then prevailing rate and terms in the manner described in Clause 1.4 (the “Additional Charges”).
- 4.3 Without prejudice to Clause 4.2 above the Company shall be entitled to levy Additional Charges in the manner described in Clause 1.4 if Services are provided in circumstances where any reasonably skilled and competent customer would have judged the Customer’s request to have been unnecessary.

### **5 Customer’s Obligations**

The Customer undertakes to the Company throughout the term of this Agreement:

- 5.1 to pay the Charges and Additional Charges in accordance with the terms of this agreement;
- 5.2 to give the Company fourteen days written notice of any work required so far as possible;
- 5.3 to notify the Company immediately of any fault in the Equipment or any repairs which might be necessary;
- 5.4 to grant the Company such access to the Equipment and the Place of use of the Equipment (“the Place of use”) as the Company shall from time to time reasonably require in order to discharge its obligations hereunder;
- 5.5 to make available at the Place of use such facilities as the Company shall reasonably require in order to discharge its obligations hereunder including without limitation adequate work space storage and office furniture and equipment;
- 5.6 to take all reasonable precautions to protect the health and safety of the Company’s employees, agents and subcontractors while on the Customer’s premises;
- 5.7 to make available the Equipment and supply all documentation and other information necessary for the Company to diagnose any fault in the Equipment;
- 5.8 not to maintain service, repair, adjust, tamper with, alter or expand the equipment or any part thereof or allow any work to be affected by an agent not appointed by the Company;
- 5.9 To maintain a valid manufacturers warranty on all equipment covered by this agreement.
- 5.10 To agree to update all software as required by the manufacturer or by means of need in order to maintain security levels or compatibility with the software being actively supported by the manufacturer of the software.

5.11 in the event of equipment being provided to the Customer the equipment shall remain at the Installation Address for the duration of this Agreement. If at any time the Agreement with the Company is terminated the Company has the right to gain access to the Installation Address to remove any company equipment from the premises.

## **6 Limitation of Liability**

6.1 In this Agreement "Liability" means any liability arising by reason of any representation (unless fraudulent), or any breach of any implied term or any duty at common law, or under any statute, or under any express term of this Agreement.

6.2 The Company shall have no Liability to the Customer for loss of profit or any indirect, special or consequential Loss (as defined in Clause 6.3) of the Customer arising out of or in connection with the provision of any goods or services pursuant to this Agreement (except in respect of death or personal injury resulting from negligence) and the total Liability of the Customer so arising in any year of this Agreement in respect of any one event or series of connected events shall not exceed the Charges payable by the Customer in respect of that year.

6.3 In the context of this Clause 6 "Loss" means, in relation to the Customer, loss of profit or any other loss, damages, costs or other compensation and any legal or other expenses awarded against or incurred by or paid or agreed to be paid in settlement of any claim by the Customer, however the same may arise and whether occasioned by the negligence of the Company, its employees or agents or otherwise.

## **7 Customer's Warranty**

7.1 The Customer warrants and undertakes to the Company that it is the owner charge or lessor of the Equipment and that it has full power and authority to enter into this Agreement and permit the Company to perform the Services.

7.2 The Customer undertakes to indemnify and hold harmless the Company against any loss or damage that the Company may suffer as a result of a breach by the Customer of Clause 7.1 above and against all claims from third parties in the event that the Company is unable to keep the Equipment in good working order due to matters which (in the sole opinion of the Company) are in the control of the Customer or the Customer allows the Equipment to be altered adjusted or interfered with by persons other than the Company's authorised engineers or agents or other apparatus is fitted without the Company's agreement thereto.

7.3 In the case of wiring, the Customer shall obtain and retain any necessary licenses way leaves of permission for attachment for supporting wiring and shall pay any rent and expenses in connection with the same and be responsible for any damage that maybe done to property of persons by such wiring.

## **8 Duration of Agreement**

- 8.1 This Agreement shall commence on the date set out in the agreement (the “effective date”) and continue until terminated by either party in accordance with the provisions of Clause 9, but subject to the provisions of Clause 8.2 below.
- 8.2 This Agreement shall continue for a minimum period as set out in the order form under the “initial term”, payable in monthly increments and continue thereafter from year to year until either party gives the other notice to terminate in accordance with the provisions of Clause 9.

## **9 Termination**

- 9.1 This Agreement may be terminated:
- 9.2 by the Customer upon giving to the Company not less than 90 days’ notice in writing before the expiry of the end of the “initial term” of the agreement as documented on the agreement, or any anniversary thereafter. If any anniversary after the ‘initial term of the agreement’ passes then the agreement shall continue in its full force until the next anniversary and this arrangement shall continue until notice is issued in accordance with clause 9;
- 9.3 forthwith by the Company if the Customer fails to pay the Charges or any Additional Charges due hereunder within 14 days of the due date therefore;
- 9.4 forthwith by either party if the other commits any material breach of any term of this Agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within 21 days of a written request by the other party to remedy the same;
- 9.5 forthwith by either party if the other shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other shall be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other party or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other party or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction).
- 9.2 If the Company terminates the contract in accordance with Clauses 9.2 to
- 9.3 then without prejudice to any other rights that the Company may have, it shall be entitled:
- 9.4 to retain any advance payment made by the Customer;
- 9.5 to suspend or determine any unfulfilled part of the Agreement;

- 9.6 to halt any goods in transit; and
- 9.7 either by an agent or itself to have access to the Customer's premises for the protection, removal, realisation and disposal of any products at any time and from time to time in which the property shall not have been passed from the Company to the Customer.
- 9.8 In the event of the Customer requiring new or different Equipment during the currency of this Agreement, provided that the value of which is not less than the capital value of the Equipment (at the time of the purchase or acquisition), and on the Company agreeing to sell or supply the new Equipment to the Customer, then this Agreement will be waived by the Company without any penalty to the Customer.
- 9.9 In the event of the Customer being in material breach of the terms of this Agreement, the parties agree that:
  - 9.10 the Customer will pay all monies due and owing under this Agreement up to the end of the annual Charge period in which the said breach occurred;
  - 9.11 the Customer will pay liquidated damages calculated at the rate of 70% of the current Charges multiplied by the whole number of monthly maintenance charge periods remaining under this Agreement;
  - 9.12 the Customer recognises that the said percentages represent a fair measure of the losses and damages to the Company as would be calculated by a Court of Law;
  - 9.13 this Agreement shall terminate immediately upon the payments referred to in sub-Clause 9.3 above, have been made by the Customer to the Company.
  - 9.14 The waiver by the Company of a breach or default of any of the provisions of this Agreement by the Customer shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay on the part of the Company to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the Customer.

#### **10 Right to Sub-Contract or Assign**

- 10.1 The Company shall have the right to sub-contract all or any part of the services provided under this contract and reserves the right to assign this Agreement.
- 10.2 The Customer shall not be entitled or have the right to assign this Agreement nor all or any of their rights and obligations hereunder without the prior written consent of the Company.

## **11 Force Majeure**

The Company shall not be liable to the Customer or be deemed to be in breach of this Agreement by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the services, if the delay or failure was due to any cause beyond the Company's reasonable control. Without limiting the foregoing, the following shall be regarded as causes beyond the Company's reasonable control:

- 11.1 act of God, exclusion, flood, tempest, fire or accident or pandemic
- 11.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 11.3 acts, restrictions, regulations, bye-laws, prohibition or measures of any kind on the part of any governmental, parliamentary or local authority;
- 11.4 import or export regulations or embargoes;
- 11.5 strikes, lock-outs or other industrial action or trade disputes (whether involving employees of the Company or of a third party);
- 11.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- 11.7 power failure or breakdown in machinery.

## **12 Unauthorised use of the Services by Third Parties**

12.1 The Customer will be liable for all charges incurred for the use of the Services, irrespective of whether the Services have been used by the Customer, its employees, agents or representatives and any Unauthorised Third Party.

12.2 The Customer will be responsible for:

- (a) preventing unauthorised use of the Services;
- (b) maintaining the security of all systems, network elements and equipment within it's (or its employees', agents' or contractors') control; and
- (c) maintaining (and ensuring that each of its authorised users maintains) the integrity and secrecy of all passwords, log-in details and access codes used for the purposes of accessing or using the Services or any systems, network elements or equipment.

12.3 Without limiting clause 12.1, the Customer will (or will procure that appropriately qualified third parties will) put in place and comply at all times with the following security measures:

- (a) Remove all default password settings
- (b) Passwords and access codes should be changed regularly and if possible be alpha/ numeric and as many digits as the system allows. Avoid 000, 1234,
- (c) Delete/change passwords for ex-employees
- (d) Secure the system physically, site it in a secure computer room and restrict access to that area

12.5 The Customer will notify the Company immediately of any illegal, fraudulent or unauthorised use of the Services. On receipt of such a notice, the Company shall use reasonable efforts to suspend or prevent such use by the Unauthorised Third Party.



## 13 Confidentiality and Data Protection

The Service Provider undertakes to:

- 13.a Treat as confidential all information which may be derived from or be obtained during the provision of services under the Agreement or which may come into its possession, or that of its employees, servants, agents or sub-contractors as a result of or in connection with the provision of services under the Agreement; and provide all necessary precautions to ensure that all such information is treated as confidential by its employees, servants, agents or sub-contractors.
- 13.b In accordance with the UK General Data Protection Regulation (“GDPR”) the Company is recognised as a data processor and processes personal data on the Client’s behalf, undertakes to:
- 13.c Always comply with the United Kingdom’s Data Protection Laws (which can be currently defined as applicable laws relating to data protection, the processing of personal data and privacy, including: (a) the UK General Data Protection Regulation (“GDPR”); (b) the Privacy and Electronic Communications ~ Regulations 2003; and (c) the Data Protection Act 2018) in respect of the provision of services under the Agreement to the Client.
- 13.d The Service Provider, in relation to any personal data provided to, generated or obtained by it hereunder or in the process of providing the services (hereinafter referred to as the “Data”) shall:
- 13.e Only process Data for the purpose of providing the services and in accordance with the provisions of the Agreement and in accordance with Table A below (which the Client and Service Provider acknowledge are the documented instructions of the Client), or as otherwise notified to the Service Provider by the Client unless required to process otherwise by applicable law to which the Service Provider is subject.
- 13.f Not transfer any Data to a country outside of the European Economic Area (“EEA”) or to a person based outside the EEA (unless required to do so by applicable EU or member state law to which the Service Provider is subject and in such circumstances the Service Provider shall inform the Client of such requirement unless prohibited by applicable EU or member state law on the grounds of public interest) without: (a) the prior written consent of the Client; and (b) adequate safeguards being in place in advance as directed by the Client (or the relevant regulatory authority from time to time).
- 13.g Ensure that any persons authorised by it to process Data are bound by appropriate confidentiality obligations in relation thereto.

- 13.h Take and maintain appropriate technical and organisation measures (including, where applicable, complying with the Client's policies and procedures relating to data protection) in relation to the Data to ensure a level of security appropriate to the level of risk (and in assessing risk shall take account, in particular, of the risks that are presented by processing in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to the Data), including such measures as required by Article 32 of the GDPR. Such measures shall include inter alia as appropriate (a) the pseudonymisation and encryption of Data, (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services, (c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident, and (d) a process for regularly testing, accessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.
- 13.i Not to provide Client system administrator access to any third parties and not authorise any third party to process any Data without the prior written consent of the Client and subject to compliance with the Data Protection Laws.
- 13.j Taking into account the nature of the processing and the information available to the Service Provider, assist the Client in fulfilling the Client's obligations under the Data Protection Laws, including assisting the Client in (i) ensuring compliance with its obligations relating to data security, data breaches and data protection impact assessments under applicable Data Protection Laws (including Article 32 to 36 of the GDPR), and (ii) responding to requests from data subjects in relation to the exercise of that data subject's rights with respect to their personal data under the Data Protection Laws.
- 13.k Forthwith at the end of the provision of the IT services, at the choice of the Client, delete or return to the Client all Data in its and/or its sub-processor's (if any) possession or control (except to the extent that applicable EU or member state law requires storage of that Data by the Service Provider).
- 13.l prepare, keep, and make available to the Client on its request all such documentation and information as is reasonably necessary to demonstrate it compliance with its obligations under the Data Protection Laws.
- 13.m Allow for and contribute to audits (including inspections) conducted by the Client or another independent auditor mandated by the Client to verify compliance with its obligations under 28 of the GDPR in relation to the Data and, relating to it and all sub-processors to it.

- 13.n Inform the Client without undue delay if it becomes aware of a personal data breach under the Data Protection Laws relating to the Data, and/or if in its opinion an instruction from the Client infringes the Data Protection Laws, and assist and cooperate with the Client, as the data controller, as is necessary in order for the Client to seek to mitigate the effects of the breach and comply with its own obligations under the Data Protection Laws.
- 13.0 The Service Provider agrees that, as part of the services provided, it shall take all steps necessary to ensure that the Client complies with its obligations under the Data Protection Laws.
- 13.P Notwithstanding any other provisions of the Agreement, the Service Provider has agreed to indemnify and hold harmless the Client against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Client arising out of or in connection with any breach by the Service Provider of any provision.

**Table A – Details of Processing**

Duration of processing	For the continuance of the provision of services.
Nature and purpose of processing	To perform the obligations under/and provide the agreed services as detailed in the Agreement.
Categories of data subjects	Partners, employees, contractors, secondees and agents of the Firm and of the Firm’s client companies; service providers of the Firm and of the Firm’s client companies; investors of its client companies.
Types of personal data	Names, email addresses, telephone numbers, dates of birth, addresses, bank details, salaries, remuneration and benefits, NI numbers, job titles, passport numbers, driving licence details, photographs.

**14 Jurisdiction**

14.1 This Agreement shall be governed by and construed in accordance with English & Welsh law and the parties hereto agree to submit to the exclusive jurisdiction of the courts of England and Wales courts.

## **15 Entirety of Contract**

- 15.1 The terms of this Agreement embody the entire agreement between the parties and they shall govern the contract to the entire exclusion of any other express or implied conditions, promise, representations, various exclusions, additions and amendments unless agreed in writing and executed jointly by the Customer and a Director of the Company.
- 15.2 If any provision of this Agreement is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Agreement and the remainder of the provision in question shall not be affected.
- 15.3 A person who is not a party to this Agreement obtains no benefit from this Agreement and has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

## **16 Headings**

Headings to clauses in this Agreement are for the purpose of information and identification only and shall not be construed as forming part of this Agreement.