

# Customer Service & Software Support Agreement



## Terms & Conditions

Upon TigerTMS' s acceptance of this executed Customer Service & Software Support Agreement, TigerTMS agrees to provide, and Partner Customer (Customer) agrees to purchase and accept services on the Solution subject to the terms and conditions set out below.

### 1. Agreement

Any Support Agreement that is entered into commences on the Start Date (shown on the Support Agreement) and shall run for the Initial Term, (again shown on the Support Agreement) unless terminated by: i) either party with immediate effect for failure of the other party to remedy a default after having first given 30 days' written notice to the other party; or ii) TigerTMS for failure by Customer to make payment in accordance with the provisions of paragraph 4, or iii) either party if the other shall be unable to pay its debts and has filed for insolvency. This Agreement will renew annually after the expiration of the Initial Term unless the Customer provides TigerTMS with written notice of cancellation at least 30 days prior to the anniversary date. Should a cancellation be requested after the 30 day notice date and before the anniversary date, there will be a cancellation charge of 50% of the total renewal value. There is no possibility to cancel a renewal after the anniversary date. Changes to any Support Agreement shall be valid only if agreed in writing by both parties. Regional law shall apply to any Support Agreement and the courts of the country where our servicing support desk is located shall have exclusive jurisdiction.

### 2. Definitions

In this Service Level Agreement ("SLA") the following definitions shall apply; "Operational Times" means 24 x 7 x 365 days a year. "Response Time" means the maximum time which is within Operational Times and which elapses between the time when a service notification is received and the time when TigerTMS carries out any of the actions listed in Paragraph 3; "The Solution" means the provided software solution and will also include hardware if originally supplied by ourselves.

### 3. TigerTMS' Responsibilities

Upon Customer reporting an incident, TigerTMS shall i) accept and acknowledge receipt of the incident report by either telephone or email and ii) confirm by telephone or email that the Customer has carried out the procedures necessary to establish that the incident is not external to the Solution, and as necessary interrogate the system via Remote Access, perform diagnostic routines to determine the exact nature of the reported incident and identify any remedial action required.

Fault Priority	First Response Time (Hours)*
Business Critical	2
Standard	4

- Response time SLAs cover faults only and do not cover requests for moves, adds and changes
- Faults: 24 hours a day - 7 Days a Week
- General Enquiries, Reporting Queries & Moves, Adds and Changes: Monday to Friday 9.00am - 5.00pm (Service Desk Local Time)

TigerTMS shall use reasonable efforts to meet the Response Time listed above. The targets for Business Critical Incidents shall apply to reported incidents where more than 30% of users cannot substantially use the functionality of the Solution and/or Customer cannot substantially conduct its normal business. TigerTMS shall use reasonable efforts to resolve reported incidents within the scope of this Agreement. As part of the TigerTMS Support Program, TigerTMS may deliver, install and commission updates and/or upgrades on to the system, from time to time. TigerTMS shall automatically grant Customer a non-exclusive licence to use such upgrades in association with the system. For the avoidance of doubt, any and all installation and hardware costs associated with such software upgrades will be payable by Customer at TigerTMS' then current charges. Whilst an active current support agreement is in place, when requested by the customer TigerTMS will carry out one tariff update per year without further charge (subject to the updated rates being supplied to us in the required format). TigerTMS' responsibilities under a Support Agreement apply solely to TigerTMS supplied hardware and licenced software. Expressly excluded from TigerTMS' responsibilities are the Customer network infrastructure, servers, and computers and for the avoidance of doubt any re-installation of TigerTMS software on customer supplied hardware is payable by Customer at TigerTMS' current charges. Also excluded is any damage, whether accidental or intentional to any TigerTMS supplied hardware. Consumable items shall not be covered. All parts or replaced units shall become the property of TigerTMS. In the event of an incident being reported to TigerTMS which is found to be external to the Solution or due to an incorrect configuration change made by Customer without TigerTMS' approval, TigerTMS reserves the right to make an additional charge at current service rates. TigerTMS reserves the right to issue a software update to resolve an incident. TigerTMS is not obliged to provide services for Solutions that are more than one (1) release below the then current release of software or where any element of the Solution is no longer generally supported by either TigerTMS or other manufacturers (e.g. server operating system). For the avoidance of doubt the labour and materials required for those services shall be subject to an additional charge. TigerTMS is not obliged to provide the services on premises other than the Installation Address. TigerTMS reserves the right to audit the Solution before acceptance of any Support Agreement or at any time during the term of any Support Agreement in order to verify that the configuration of the Solution is as per the Support Agreement and is in a serviceable condition. If a previous Support Agreement has lapsed for a period exceeding 30 days, the Customer will incur a one-time re-enlistment fee of £600 / \$750 / €700 (aligned with the currency of the Support Agreement) in addition to the Support Agreement costs to reactivate the service.

## 4. The Customer's Responsibilities

Unless otherwise stated, should a Support Agreement be purchased the customer will be invoiced annually in advance. Invoices are due and payable, in full, prior to the Support Agreement commencement and anniversary dates. TigerTMS reserves the right to suspend service provision should a Customer invoice remain unpaid. Service fees shall be reviewed on an annual basis and shall be communicated to Customer prior to the renewal date. Customer shall pay for any other services performed which are not covered by any Support Agreement at TigerTMS' then current service rates and within 30 days of the date of invoice thereof. When support is required, the customer shall provide TigerTMS with a TigerTMS approved method of remotely accessing the Solution for the purposes of diagnostics and incident resolution, for the duration of any Support Agreement. The Customer shall not permit any person other than TigerTMS personnel or persons authorised by TigerTMS for the purpose to attempt to alter, modify, repair or change the Solution in any way.

## 5. Exclusions and Limitation of Liability

TigerTMS shall have no obligations under any Support Agreement in respect of; i) any incidents arising from the installation, which has not been carried out by TigerTMS or its appointed representative; ii) any equipment or software which has not been provided by TigerTMS, such as servers, switches, routers, PCs etc; iii) any part of the Solution which was defective prior to the Effective Date of any Support Agreement, iv) equipment which has been subjected to unreasonable physical, electrical fluctuations/ stress, water damage or excessive temperature levels, v) any incidents arising from misuse, accident or negligence by Customer or any other party.

Except where otherwise expressly stipulated in any Support Agreement the following provisions set out TigerTMS' entire liability (including liability for the acts and omissions of its employees, agents and sub-contractors) to the Customer in respect of any breach of its obligations arising under any Support Agreement and any representation, statement or tortious act or omission including negligence arising under or in connection with any Support Agreement. TigerTMS' liability to the Customer for death or injury resulting from its own or that of its employees' or sub-contractors' negligence and all damage suffered by the Customer as a result of breach of the implied statutory undertakings as to quiet possession and freedom from encumbrances shall not be limited. TigerTMS will be liable to the Customer in respect of damage to the tangible property of the Customer resulting from the negligence of TigerTMS, its employees, agents and sub-contractors provided that TigerTMS' entire liability in respect of such damage shall be limited to a maximum of £35,380 / \$50,000 / €41,000. TigerTMS will not be liable to the Customer for loss of profits, business, goodwill, anticipated savings or any type of indirect or consequential loss (including loss or damage suffered by the Customer as a result of an action brought by a third party or the unauthorised use of the Solution). TigerTMS will not be liable to the Customer for any loss or damage resulting from any act or omission of the Customer or its other contractors or sub-contractors or its agents or any of them or by any event outside TigerTMS' reasonable control. If the Customer attaches to, or allows any third party to attach to the Solution, any equipment or software not approved by TigerTMS for connection to the Solution, then such attachment and subsequent use shall be at the sole risk and expense of the Customer, and the Customer shall indemnify TigerTMS for any expenses, damages, claims or other costs incurred by TigerTMS as a result of the Customer's said attachment and use. TigerTMS does not warrant or represent that the Solution is, or the services provided under any Support Agreement will render the Solution, immune from fraudulent intrusion or unauthorised use (including its/their interconnection to long distance networks) and accordingly TigerTMS will not be liable for any loss, damage, cost or expense directly or indirectly occasioned thereby. Customer hereby agrees and confirms that the Customer shall be responsible for identifying the occurrence of any fraudulent or unauthorised activity affecting the Solution. TigerTMS accepts no liability whatsoever, for the un-supervised integration of its voice and data solutions to any other network component and/or third-party software or the specified functionality or continued performance and security measures of any third-party software. While it is accepted that no system can be fully protected against external intrusion, for example, virus infection, worms, etc, TigerTMS strongly recommends that Customer implements sufficient security and housekeeping policies and procedures so as to ensure that TigerTMS solutions within the Customer network are protected from any third-party failure or influence. Nothing in any Support Agreement shall detract from any of the Customer's rights or TigerTMS' obligations which under the laws of the country where our support desk is located, is prohibited from seeking to exclude or limit. TigerTMS may assign a Support Agreement to any other person at any time by giving notice to the Customer. The Customer may not assign any Support Agreement without TigerTMS' prior written consent, which consent shall not be unreasonably withheld.