

Technical Support supplementary terms

1. Interpretation

1.1. The following definitions and rules of interpretation apply in these supplementary terms.

Commercially Reasonable Efforts means the same degree of priority and diligence with which the Company meets the support needs of its other similar customers.

Customer Cause means any of the following causes

- a) any improper use, misuse or unauthorised alteration of the System by the Customer;
- b) any use of the System by the Customer in a manner inconsistent with its intended purpose, technical documentation, specification and/or operations manual;
- c) the use by the Customer of any hardware or software not provided by the Company or where applicable, approved by the Company in the Quotation for use by the Customer in connection with the System; or
- d) the use of a non-current version or release of software.

Fault means any failure of the System to operate in all material respects in accordance with the technical documentation, specification and/or operations manual, including any failure or error referred to in the Service Level Table.

Help Desk Support means any support provided by help desk technicians sufficiently qualified and experienced to identify and resolve most support issues relating to the System.

General Conditions means the Company's general terms and conditions for the supply of services which shall be read in conjunction with these Supplementary Terms.

Normal has the meaning set out in the Service Level Table.

Out-of-scope Services means any of the following services:

- a) any services provided by the Company in connection with any apparent problem regarding the System reasonably determined by the Company not to have been caused by a Fault, but rather by a Customer Cause or a cause outside the Company's control (including any investigational work resulting in such a determination);
 - b) any Support Service provided outside of the Support Hours; or
 - c) where relevant, any Support Services which are not covered by the Package.
- Package if applicable, means the maximum number of hours of Support Services to be provided in a calendar month as agreed between the Company and the Customer which may be varied by the parties from time to time.

Service Levels means the service level responses and response times referred to in the Service Level Table which may be amended by the Company from time to time.

Service Level Table means the table set out in paragraph 5.1.

Solution means either of the following outcomes:

- a) correction of a Fault; or
- b) a workaround in relation to a Fault that is reasonably acceptable to the Customer.

Supplementary Terms means these supplementary terms and conditions relating to the provision of Support Services as amended from time to time.

Support Fees means the fees details in the Quotation or in the absence of such, the Company's standard daily fee rate.

Support Hours means 9.00am to 5.30pm Monday to Friday excluding Bank Holidays.

Support Period means the period of 12 months from the commencement of the Support Services which will be automatically extended for a further 12 month period unless terminated after the initial 12 months upon giving 3 months' notice in writing to the Company.

Support Request means a request made by the Customer in accordance with these Supplementary Terms for support in relation to the System, which may include correction of a Fault.

Support Services means the support of the System, including Help Desk Support but excluding any Out-of-scope Services.

System means the computer system owned and operated by the Customer, application software and/or network as detailed in the Quotation which is the subject of the Support Services.

Urgent has the meaning set out in the Service Level Table.

1.2. All initial capitalised terms not defined in paragraph 1 above shall have the meaning given to them in the General Conditions.

1.3. In the event of any inconsistency between the provisions of these Supplementary Terms and the General Conditions, the terms of these Supplementary Terms shall prevail.

2. Support Services

2.1. During the Support Period, the Company shall perform the Support Services during the Support Hours in accordance with the Service Levels.

2.2. As part of the Support Services, the Company shall:

2.2.1. provide Help Desk Support by means of e-mail address support@kayo.digital;

2.2.2. use Commercially Reasonable Efforts to correct all Faults notified under paragraph 4.3.1; and

2.2.3. provide technical support for the System in accordance with the Service Levels.

2.3. The Company may reasonably determine that any services are Out-of-scope Services. If the Company makes any such determination, it shall promptly notify the Customer of that determination.

2.4. The Customer acknowledges that:

2.4.1. the Company is not obliged to provide Out-of-scope Services;

2.4.2. in relation to correction of Faults, the Support Services comprise correction of the Faults to the extent that such Faults result in the System not conforming with the System specification;

2.4.3. in order to assist the Company in providing error correction Support Services, the Customer should provide if possible a detailed description of the Fault including a screenshot and platform details (including the device, hardware, operating system, browser version and network status);

2.4.4. the Company will investigate the Fault and endeavour to correct it on a development platform similar to the live environment; and

2.4.5. it is the Customer's responsibility to maintain up to date virus checking software on the System and to carry out data backup.

2.5. The Company will use its reasonable endeavours to respond to and resolve Support Requests as soon as possible (having regard to the nature and effect of the Support Request) or to circumvent it by way of a workaround, patch or fix but it cannot and does not guarantee that all Support Requests can be completed within the response times detailed in the Service Level Table

2.6. The Company shall not in any circumstances be liable to the Customer:

2.6.1. for failure to provide the Support Services in accordance with the Service Level Table; or

2.6.2. for a failure or delay in providing the Support Services caused by any act or omission of the Customer or the Customer's agents, sub-contractors or employees as referred to clause 4.2 of the General Conditions.

2.7. Where the Support Services are provided under a Package for a fixed price:

2.7.1. the Customer will be entitled to a maximum number of hours of Support Services in any one month for the Support Fee; and

2.7.2. if the maximum number of hours of Support Services have not been utilised in any one month, such unused hours will be extinguished and cannot be rolled over into the following month, unless the Package purchase so provides.

3. Fees

- 3.1. The provision of Support Services on a remote, off-site basis (such as over the telephone or by e-mail) within the Support Period shall be included in the Support Fees.
- 3.2. The provision of Support Services outside the Support Period or at the Customer’s premises or the provision of Out-of-scope Services shall be charged for at the applicable time and materials rates set out in the Quotation or in the absence of such, at the Company’s standard daily fee rate.
- 3.3. Support Fees shall be payable monthly in advance.

4. Submitting Support Requests and access

- 4.1. The Customer may request Support Services by way of a Support Request.
- 4.2. Each Support Request shall include the Customer’s name, the name of the individual making the request, contact details, a description of the issue, where relevant, in accordance with paragraph 2.4.3 and the start time of the incident.
- 4.3. The Customer shall provide the Company with:
 - 4.3.1. prompt notice of any Faults; and
 - 4.3.2. such output and other data, documents, information, assistance and (subject to compliance with all Customer’s security and encryption requirements notified to the Company in writing) remote access to the System, as are reasonably necessary to assist the Company to reproduce operating conditions similar to those present when the Customer detected the relevant Fault and to respond to the relevant Support Request.

5. Service Levels

- 5.1. The Company shall:
 - 5.1.1. prioritise all Support Requests based on its reasonable assessment of the severity level of the problem reported; and
 - 5.1.2. respond to all Support Requests in accordance with the responses and response times specified in the table set out below:

Severity level of Support Request	Definition	Service Level response during Support Hours	Service Level response outside of Support Hours
Urgent	<p>Business critical failures:</p> <p>An error in, or failure of the System that:</p> <ul style="list-style-type: none"> a) materially impacts the operations of the Customer’s business or marketability of its service or product; b) prevents necessary work from being done; or c) disables major functions of the System from being performed. 	<p>Level 1 response:</p> <p>Automatic acknowledgment of receipt of a Support Request allocating ticket number to track Fault within 5 minutes of it being reported to the Company.</p> <p>Level 2 response:</p> <p>The Company shall allocate an Urgent or Normal priority to the Fault.</p>	<p>Level 1 response:</p> <p>Automatic acknowledgment of receipt of a Support Request allocating reference number to track Fault within 5 minutes of it being reported to the Company.</p> <p>Level 2 response:</p> <p>The Company shall allocate an Urgent or</p>

		The Company will respond to the Support Request within 30 minutes of it being reported to the Company.	Normal priority to the Fault. The Company will respond to the Support Request within 24 hours of it being reported to the Company
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Severity level of Support Request	Definition	Service Level response during Support Hours	Service Level response outside of Support Hours
Normal	<p>System defect with workaround:</p> <p>a) a critical error in the System for which a work-around exists; or</p> <p>b) a non-critical error in the System that affects the operations of the Customer’s business or marketability of its service or product.</p> <p>Minor issue: An isolated or minor issue with the System that:</p> <p>a) does not significantly affect System functionality;</p> <p>b) may disable only certain non-essential functions; or</p> <p>c) does not materially impact the Customer’s business performance.</p>	<p>Level 1 response:</p> <p>Automatic acknowledgment of receipt of a Support Request allocating ticket number to track issue within 5 minutes of it being reported to the Company.</p> <p>Level 2 response:</p> <p>The Company shall allocate an Urgent or Normal priority to the Support Request. The Company will respond within 24 hours of it being reported to the Company providing it is within Support Hours on a Business Day. If not, the Company will respond during Support Hours on the next Business Day</p>	<p>Level 1 response:</p> <p>Automatic acknowledgment of receipt of a Support Request allocating ticket number to track issue within 5 minutes of it being reported to the Company.</p> <p>Level 2 response:</p> <p>The Company shall allocate an Urgent or Normal priority to the Support Request. The Company will respond during Support Hours on the next Business Day.</p>

5.2. The parties may, on a case-by-case basis, agree in writing to a reasonable extension of the Service Level response times referred to in the Service Level Table above.

5.3. The Company shall give the Customer regular updates of the nature and status of its efforts to comply with any Support Request.

6. Warranty

6.1. The Company warrants that the System and/ or any Deliverables will perform substantially in accordance with any specification detailed in the Quotation or otherwise agreed in writing with the Company, for a period of one month after delivery of the System and/ or Deliverables (as appropriate). If the System and/or Deliverables do not so perform, the Company shall for no additional charge carry out any work necessary in order to ensure that the System and/or Deliverables (as appropriate) complies with such specification.

6.2. The warranty set out in paragraph 6.1 shall not apply to the extent that any failure of the System and/or Deliverables (as appropriate) to perform substantially in accordance with the specification is caused by a force majeure event which has the meaning given in clause 11 of the General Conditions or is caused by any act or omission of the Customer or the Customer’ agents, sub-contractors or employees.

7. Other remedies

7.1. If a Solution or satisfactory outcome is not provided within the relevant Service Level response time, the Customer may escalate the Support Request to the parties’ respective Project Managers as appointed pursuant to the General Conditions.

8. Service Levels

8.1. The Company shall use its reasonable endeavours to provide the Hosting Services in accordance with the times specified in the table set out below excluding planned or emergency maintenance or otherwise caused by events beyond the Company’s reasonable control:

Hosting Server uptime	Service Level response during Support Hours on a Business Day	Service Level response outside of Support Hours
99.9% This excludes outages of 15 minutes of less	The Company will respond to Support Requests within 30 minutes of it being reported to the Company and will endeavour to provide the Customer with an estimation of when the issue will be resolved.	The Company will respond to Support Requests during Support Hours on the next Business Day.

8.2. In the event that a hardware outage falls below the Server uptime referred to in the Service Level Table, excluding planned or emergency maintenance or otherwise caused by events beyond the Company’s reasonable control, the Company shall provide service credits by way of compensation for such downtime in accordance with paragraph 8.3.

8.3. For any hardware outage on any Business Days which fall below the Service Levels, subject to the Customer notifying the Company in writing of its claim within 30 days of the first occurrence of the outage, the affected Hosting Service will receive a credit to be redeemed against a renewal of the same Hosting Service on the next Renewal Date. The credit will be equivalent to the prorata refund for the Business Day(s) on which the hardware was not available.

8.4. The provision of service credits pursuant to paragraph 8.3 is the Customer's sole compensation by the Company in the event that a hardware outage falls below the Service Levels.

9. Website content

9.1. Unless expressly stated in the Quotation, the Company shall upon request update the Website with Materials provided from time to time by the Customer which shall be charged at the Company's standard hourly fee rate as amended from time to time.

9.2. The Customer shall ensure that the Materials do not infringe any applicable laws, regulations, third party rights or contain Prohibited Content.

9.3. The Company shall include only the Materials on the Website. The Customer acknowledges that the Company has no control over any content placed on the Website by Visitors and does not purport to monitor the content of the Website and it shall at all times, remain the sole responsibility of the Customer. The Company reserves the right to remove content from the Website where it reasonably suspects such content is Prohibited Content. The Company shall notify the Customer if it becomes aware of any allegation that content on the Website may be Prohibited Content.

9.4. The Customer shall ensure that the security of its Website is maintained and regularly updated at all times so as to minimise the risk of attack by viruses, hackers and to prevent other unauthorised access or damage to the Website or the System. It is the Customer's responsibility to operate its own filtering system and security software on the System.

9.5. The Customer shall indemnify the Company against all damages, losses and expenses arising as a result of any action or claim that the Materials or any other material posted to, or linked to, the Website constitutes Prohibited Content.

9.6. The Company may include the statement "Powered by Kayo Digital" on the home page of the Website in a form to be agreed.

10. Term and termination

10.1. The provision of Design Services shall commence on the date set out in the Quotation and shall, subject to earlier termination pursuant to the General Conditions, continue until the Approval of the Deliverables and/or completion of the Design Services and payment of all outstanding sums.

10.2. On termination of these Supplementary Terms for any reason, each party shall as soon as reasonably practicable return, destroy or permanently erase (as directed in writing by the other party) any materials, documents, designs, illustrations, photographs or other information or data provided to it by the other party, failing which, the other party may enter the relevant premises and take possession of them, provided, regarding the Customer's rights under this paragraph 10.2, that the Customer has (if appropriate) paid the Company in full for such materials, documents, designs, illustrations, photographs or other information or data. Until these are returned or repossessed, the party in possession shall be solely responsible for their safe-keeping.