

Solution Update Terms Guide (Business Agreement V1.0, 3 October 2011)



1. Contents and Application of Solution Update Terms

- 1.1 The following additional provisions (“**Update Terms**”) shall apply and be incorporated into the Solution Terms where the Customer has contracted with EE on a Business Agreement V1.0 and has taken a Solution from EE on or from 30 October 2012. The Update Terms ensure the Solution Terms are compatible with the Business Agreement V1.0. Customers who have contracted with EE on an Orange Business Services Master Agreement (“**OBSMA**”), Orange Business Services Customer Agreement (“**OBSCA**”) or Orange Business Agreement (“**OBA**”), should refer to the Solution Update Guide (OBSMA, OBSCA, OBA) for applicable additional terms.

Solution taken by the Customer	The following Update Terms in this Update Terms Guide apply to a Customer who has contracted with EE on the Business Agreement V1.0.
BlackBerry® for business (BlackBerry® Internet Service, BlackBerry® Enterprise Server and/or BlackBerry® Enterprise Server Express)	Clauses 1, 2, 3 and 4
Broadband and Fibre Broadband	Clause 1, 2 and 3
Call Safe from Orange	Clauses 1, 2 and 3
Care In Motion from Orange, powered by NDL	Clauses 1, 2 and 3
Customised Apps	Clauses 1, 2, 3 and 10
Data VPN from Orange	Clauses 1, 2 and 3
EE Freedom	Clauses 1, 2, 3 and 9
Landline to Mobile Calling Package (Orange Wirefree Extension, Indirect Access only)	Clauses 1, 2 and 3
Lone Worker from Orange powered by Guardian24	Clauses 1, 2 and 3
Lone Worker from Orange powered by Peoplesafe	Clauses 1, 2 and 3
Managed BlackBerry® Server Support from Orange (Employees Transferring)	Clauses 1, 2, 3 and 5
Managed BlackBerry® Server Support from Orange (No Employees Transferring)	Clauses 1, 2, 3 and 5
Mobile Device Management from Orange	Clauses 1, 2 and 3
Orange Wirefree Extension (Direct and Indirect Access)	Clauses 1, 2 and 3
Office Signal Box	Clauses 1, 2, 3 and 6
Landline	Clauses 1, 2 and 3
Orange smartnumbers	Clauses 1, 2, 3 and 7
Public WiFi from EE	Clauses 1, 2, 3
Secure Mobility from Orange	Clauses 1, 2 and 3
Signal Booster	Clauses 1, 2 and 3
Standard Support	Clauses 1, 2 and 3

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Tailored Service	Clauses 1, 2 and 3
Total Resource from Orange (Employees Transferring)	Clauses 1, 2, 3 and 8
Total Resource from Orange (No Employees Transferring)	Clauses 1, 2, 3 and 8
WiFi	Clause 3.3
2G Signal Box	Clauses 1, 2 and 3

- 1.2 References to insurance propositions sold by or provided on behalf of EE include Orange Care.
- 1.3 References to clause 22.2 of the General Terms and Conditions shall mean clause 20.2 of the General Terms and Conditions for Business Customers v1.0 03102011.
- 1.4 In case of any inconsistency between these Solution Update Terms and the applicable Solution Terms, the Solution Terms will prevail.
- 1.5 The Solution Terms are available at www.ee.co.uk/businesssterms.

2. General Definitions

These definitions apply where used in the relevant Solution Terms but do not otherwise affect the interpretation of the Agreement:

Additional Charge	means Additional Fee.
Agreement	means the Business Agreement.
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	means the Change Form.
Customer Order Form	means the Order Form.
Customer Representative	means a representative of the Customer with the authority to bind the Customer in relation to the Agreement, as detailed in the Commercial Terms or the Statement of Requirements, or as otherwise notified to EE.
Device	means any mobile or wireless device, handset, USB drive, data card, memory card or other equipment incorporating a SIM Card, or tablet (which may or may not incorporate a SIM Card), provided by EE for use in connection with the Services.
Statement of Requirements	means the Customer Requirements Form.
EE	means Orange.
EE Software	means Orange Software.
Equipment	means the Devices and Installed Equipment (both of which may contain Software) set out in Part 2 of the Commercial Terms or in the applicable Contract Change Note and any other equipment, including SIM Cards, that may be supplied by EE to enable the Customer to access the Services as agreed between the parties from time to time.
Installed Equipment	means any antennae, routers, enhancers, monitoring units or other equipment, including but not limited to equipment forming part of the Network, which EE may agree to install or otherwise provide for installation by the Customer at any premises owned, occupied or controlled by the Customer.
List Price	means the standard prices for services and equipment as current at the time the price needs to be determined.
Network	means the electronic communications system by which EE makes the Services available in the United Kingdom and any other type of communications system which may be provided by EE.
Price Guide	means the Orange Business Price Guide.
Solution	means a business solution (which may include services and Equipment) to which additional requirements, technical details, commercial and support arrangements, terms and conditions may apply as set out in the Solution Terms.
Solution Description	means the General Specification.

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Solution Terms	means the Solution Terms applicable to the Solution (as defined in the Agreement), into which these Solution Update Terms are incorporated.
Statement of Requirements	means the Customer Requirements Form.
Sub-contractor	means any person appointed by EE to perform EE's obligations under this Agreement to the Customer on EE's behalf.
Termination Charges	means the Termination Fees.
Working Day	means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in the UK.

3. General Terms

3.1	Agreement of Statement of Requirements	<p>a. If the Customer orders a Solution to which a Statement of Requirements applies (as specified in the online Solution Terms), EE and the Customer shall agree the final contents of that Statement of Requirements in writing, in accordance with the process set out in clause (b), before EE provides the Solution.</p> <p>b. Upon either party completing a Statement of Requirements, the other party may agree to the proposed Statement of Requirements or revise it with suggested amendments for approval or revision by the original party. Any revised Statement of Requirements will then follow the same approval or revision process. The Statement of Requirements shall only be incorporated into the Customer's Agreement when EE communicates to the Customer in writing that the Statement of Requirements is in final and agreed form.</p> <p>c. If the Statement of Requirements has not been agreed within 14 days of the date of this Agreement or the applicable Contract Change Note for the Solution, EE may, at its discretion and without the Customer being liable for Termination Charges for the relevant Solution:</p> <ul style="list-style-type: none"> i. charge the Customer an administrative fee to cover EE's reasonable expenses caused by the delay; and/or ii. terminate the Solution, <p>in which case the Customer shall return to EE, in good condition, all Equipment supplied by EE for the Solution whether on a Charged Basis or Funded Basis, and title in any Equipment supplied on a Funded Basis shall revert back to EE. Where Equipment is not returned, or in EE's reasonable opinion is not returned in good condition, EE reserves the right to charge the Customer at the List Price for such items.</p>
3.2	Minimum Connection Period	<p>a. The Customer acknowledges that the functionality of certain Services is interconnected and that in such circumstances the Customer cannot receive one Service without also purchasing another. Therefore, where the Customer wishes to add a Service ("New Facility") which relies on the Customer continuing to purchase an existing Service from EE ("Base Facility"), the Customer agrees that the Minimum Connection Period for the Base Facility will be required to meet the longer of:</p> <ul style="list-style-type: none"> i. the Minimum Connection Period of the New Facility; and ii. the Minimum Connection Period in respect of the Base Facility. <p>b. The Customer acknowledges and agrees that it will be liable for Termination Charges in respect of both the New Facility and the Base Facility in the event that the Base Facility is terminated during such Minimum Connection Period.</p>
3.3	Termination of the Solution	<p>a. Where any variation by EE to this Agreement is likely to be of material detriment to the Customer, EE 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 by giving EE 30 days' written notice. This right to terminate ends 60 days after the date on which the variation became effective.</p> <p>b. Subject to clause 3.3(a) (above), EE may at any time, withdraw the Solution and terminate the Agreement with respect to the Solution where it is either no longer able to provide the Solution because its nominated third party supplier no longer provides the Service to EE, or where EE has decided that the Solution is no longer suitable to its business operations, provided it gives the Customer at least 60 days' notice of such withdrawal or termination. The Customer shall not be liable to pay any Termination Charges in respect of the Solution where EE exercises its rights under this clause.</p>

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3.4	Customer Obligations	<ul style="list-style-type: none"> a. Where there is an obligation in the Agreement to keep any Customer account password, personal identification code, number or name issued by EE confidential, such obligation shall be construed as an obligation not to disclose such passwords, codes, numbers or names to any third party. b. Where there is an obligation in the Agreement to provide EE with information and/or assistance such obligation shall be construed as to provide such information and/or assistance in a timely manner. c. The Customer shall, and shall procure that its Users of the Solution shall: <ul style="list-style-type: none"> i. comply with any manuals, guidance and any reasonable instructions issued by EE or relevant third party manufacturer or supplier concerning the use of the Equipment, Services and Network and co-operate with EE's reasonable security and other checks (which may include EE making calls or sending communications to Users); and ii. do not use, nor knowingly allow the Equipment or Services to be used in any way which causes annoyance, inconvenience or needless anxiety as set out in the Communications Act 2003, nor use the Network or the Services to send spam or unsolicited communications without the receiver's consent.
3.5	Equipment	<ul style="list-style-type: none"> a. Data on any lost or stolen Equipment is at the Customer's risk and the sending of any command for remote wiping of data (such as a device management solution) is the responsibility of the Customer. The Customer must send any remote wipe command prior to reporting the Device lost or stolen and EE will use reasonable endeavours to carry such command across the Network. The Customer acknowledges that once the loss or theft of the Equipment is notified to EE, EE will terminate the ability of the Device to communicate with the Network. b. The Customer acknowledges that any support services that may be provided by EE are only provided for the specified Equipment and that EE does not provide support for any other equipment (including without limitation Customer Equipment).
3.6	Installed Equipment	<p>Where EE provides Installed Equipment under the Solution:</p> <ul style="list-style-type: none"> a. all risks in any Equipment, SIM Card and Software pass to the Customer on installation. Any Equipment, SIM Card or Software returned to EE shall be done so at the Customer's risk until received by EE; b. the Customer agrees to inform EE of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises to which EE, its agents, Sub-contractors, consultants and employees need access in order to perform the Services; c. the Customer agrees to provide EE with reasonable access to the Customer's premises and systems during office hours and if necessary outside these hours for the de-commissioning and removal of the Services and/or Equipment; and d. upon expiry or termination of the Agreement (in whole or in part) for any reason, the following shall apply (and where terminated in part, shall apply to that part) subject to clause 19.2 of the Agreement, all Installed Equipment or any other Equipment in which title has not passed to the Customer must be returned to EE in full working order. Where it is not returned, or if in EE's reasonable opinion is not returned in good working order, Customer must pay the List Price for such Equipment.
3.7	Warranty	<p>EE shall not be liable for faults in or malfunction of any Equipment or EE Software where:</p> <ul style="list-style-type: none"> a. the Customer or Users have failed to comply with all relevant licences, specifications, manuals, guidelines or conditions specified in the warranties in the Agreement; or b. any alteration, modification or addition has been made to the Equipment or EE Software without EE's prior written consent.
3.9	Sub-contractors	<p>Where the Agreement requires the Customer to provide information, assistance or access to EE or requires the Customer to comply with instructions of EE, the Customer acknowledges that it will be required to provide equal co-operation to EE's Sub-contractors.</p>
3.10	Liability	<p>EE will not be liable for any breach of the Agreement to the extent that any delay or failure by EE to perform its obligations results from an act, omission or delay of the Customer, its agent, sub-contractors, consultants or employees resulting in negligence or breach of law, which is contrary to the terms of the Agreement.</p>

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3.11	Data Protection	Where EE processes Users' Personal Data for the provision of the Services, EE may share such Personal Data with its suppliers, Sub-contractors and service partners.
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4. Update Terms for BlackBerry® for business (BlackBerry® Internet Service, BlackBerry® Enterprise Server and/or BlackBerry® Enterprise Server Express)

4.1	Application	This clause 4 shall only apply to a Customer who has taken a BlackBerry® for business (BlackBerry® Internet Service, BlackBerry® Enterprise Server and/or BlackBerry® Enterprise Server Express) Solution from EE.
4.2	Definitions	Set out in clause 2 of this Update Terms Guide. No additional definitions apply.
4.3	Update Terms	<p>a. Liability</p> <p>Subject to clause 20.3 of the Agreement, neither party will be liable to the other in contract or tort (including negligence) or otherwise for any loss (whether direct or indirect) of profit, business, contract, use, anticipated saving or revenue, goodwill, production, business interruption, wasted expenditure, any loss or corruption of data or software, or for any indirect or consequential loss or damage whatsoever arising under or in connection with this Agreement.</p> <p>b. Legal Compliance</p> <p>i. The Equipment and/or Software may be subject to export control laws and regulations. The Customer agrees to comply with any applicable export laws, regulations, prohibitions or embargoes of any country and agrees to obtain written authority from the relevant licensing authority where necessary.</p> <p>ii. EE does not represent that any necessary export approvals and/or licences have been obtained or will be granted in respect of the Equipment or the Software.</p>

5. Update terms for Managed BlackBerry® Server Support from Orange (No Employees Transferring) and Managed BlackBerry® Server Support from Orange (Employees Transferring)

5.1	Application	This clause 5 shall only apply to a Customer who has taken a Managed BlackBerry® Server Support from Orange (No Employees Transferring) Solution or a Managed BlackBerry® Server Support from Orange (Employees Transferring) Solution.
5.2	Definitions	Set out in clause 2 of this Update Terms Guide. No additional definitions apply.
5.3	Update Terms	<p>Liability</p> <p>Subject to clause 20.3 of the Agreement, neither party will be liable to the other in contractor tort (including negligence) or otherwise for any loss (whether direct or indirect) of profit, business, contract, use, anticipated saving or revenue, goodwill, production, business interruption, wasted expenditure, any loss or corruption of data or software, or for any indirect or consequential loss or damage whatsoever arising under or in connection with this Agreement.</p>

6. Update Terms for Office Signal Box

6.1	Application	This clause 6 shall only apply to a Customer who has taken an Office Signal Box Solution from EE.
6.2	Definitions	Set out in clause 2 of this Update Terms Guide. No additional definitions apply.

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6.3	Update Terms	<p>a. Amendment to clause 4.1 of the Solution Terms (Installed Equipment)</p> <p>The reference to clause 14 of the General Terms and Conditions for Business Customers in clause 4.1 of the Solution Terms shall be replaced with a reference to clause 12 of the General Terms and Conditions for Business Customers V1.0 (Installed Equipment).</p> <p>b. Amendment to clause 5.1 of the Solution Terms (Title)</p> <p>The reference to clause 12.1 of the General Terms and Conditions for Business Customers in clause 5.1 of the Solution Terms shall be replaced with a reference to clause 10.1 of the General Terms and Conditions for Business Customers V1.0 (Risk and Title).</p>
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7. Update terms for Orange smartnumbers

7.1	Application	This clause 7 shall only apply to a Customer who has taken an Orange smartnumbers Solution.
7.2	Definitions	Set out in clause 2 of this Update Terms Guide. No additional definitions apply.
7.3	Update Terms	<p>Public Contracts</p> <p>A Customer that is a contracting authority (as defined in the Public Contracts Regulations 2006) warrants and represents that it has entered into this Agreement in compliance with the Public Contracts Regulations 2006, Directive 2004/18/EC and the general EU Treaty provisions.</p>

8. Update terms for Total Resource from Orange (No Employees Transferring) and Total Resource from Orange (Employees Transferring)

8.1	Application	This clause 8 shall only apply to a Customer who has taken a Total Resource from Orange (No Employees Transferring) Solution or a Total Resource from Orange (Employees Transferring) Solution.
8.2	Definitions	Set out in clause 2 of this Update Terms Guide. No additional definitions apply.
8.3	Update Terms	<p>Customer Obligations</p> <p>The Customer shall be responsible for implementing its own data archiving and data back-up processes. The Customer acknowledges that it may be required to restore data from its back-up to relevant systems to enable a Service to continue to be provided.</p>

9. Update Terms for EE Freedom

9.1	Application	This clause 9 shall only apply to a Customer who has taken an EE Freedom Solution from EE.
9.2	Definitions	<p>In addition to clause 2 of this Update Terms Guide the following definition applies:</p> <p>"Connection" means a connection by which EE gives the Customer access to the Network, including via a SIM Card that has been configured to attach to the Network, or via any other connection specified in the Agreement. "Re-Connection", "Connect" and "Connected" each have a corresponding meaning.</p>

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9.3	Update Terms	<p>c. Amendment to clause 3.1 of the Solution Terms (Installed Equipment):</p> <p>The reference to clause 12.2 of the General Terms and Conditions for Business Customers in clause 3.1 of the Solution Terms shall be replaced with a reference to clause 10.2 of the General Terms and Conditions for Business Customers v1.0 03102011 (Installed Equipment).</p> <p>c. Amendment to clause 3.4 of the Solution Terms (EE Freedom Software):</p> <p>The reference to clause 24 of the General Terms and Conditions for Business Customers shall be replaced with a reference to clause 22 of the General Terms and Conditions for Business Customers v1.0 03102011 (Software Licence).</p> <p>d. Amendment to clause 8.2(e) of the Solution Terms:</p> <p>The reference to clause 11 of the of the General Terms and Conditions for Business Customers shall be replaced with a reference to clause 9 of the General Terms and Conditions for Business Customers v1.0 03102011 (Customer Group).</p> <p>e. Customer obligations</p> <p>The Customer shall (and shall procure that the EE Freedom Users shall):</p> <p>i. not operate, whether directly or through a third party, any device to route or re-route EE voice, data or other Services on, from or to the Network, including without limitation any device used to forward or divert calls with the intention of reducing Charges for that call except where a Device is supplied as part of a Service by EE and used by the Customer in accordance with the Solution Terms; and</p> <p>ii. be responsible for implementing its own data archiving and data back-up processes. The Customer acknowledges that it may be required to restore data from its back-up to relevant systems to enable the Solution to continue to be provided.</p> <p>f. Liability</p> <p>EE shall not be liable for:</p> <p>i. any delay or failure to provide and/or maintain the Solution due to any failure by the Customer to comply with its obligations under the Solution Terms;</p> <p>ii. faults in or malfunction of any Equipment or EE Software where any alteration or addition has been made to the Equipment or EE Software without EE's prior written consent; or</p> <p>iii. any loss or corruption of software used by the Customer which is not provided by EE.</p>
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10. Update Terms for Customised Apps

10.1	Application	This clause 10 shall only apply to a customer who has taken the Customised Apps Solution from EE.														
10.2	Definitions	Set out in clause 2 of this Update Terms Guide. No additional definitions apply.														
10.3	Update Terms	<p>a. References to General Terms and Conditions for Business Customers ("General Terms")</p> <p>References in the Solution Terms to clauses of the General Terms shall be replaced as follows:</p> <table border="1"> <thead> <tr> <th>Clause of General Terms v2.0 referred to in the Solution Terms</th> <th>Replacement provision applicable to Customers who have contracted on General Terms v1.0</th> </tr> </thead> <tbody> <tr> <td>Clause 5.3</td> <td>Clause 3.1(a) Update Terms Guide</td> </tr> <tr> <td>Clause 5.4</td> <td>Clause 3.1(b) Update Terms Guide</td> </tr> <tr> <td>Clause 5.5</td> <td>Clause 3.1(c) Update Terms Guide</td> </tr> <tr> <td>Clause 8</td> <td>Clause 6 General Terms v1.0</td> </tr> <tr> <td>Clause 11</td> <td>Clause 9 General Terms v1.0</td> </tr> <tr> <td>Clause 16.4</td> <td>Clause 14.4 General Terms v1.0</td> </tr> </tbody> </table>	Clause of General Terms v2.0 referred to in the Solution Terms	Replacement provision applicable to Customers who have contracted on General Terms v1.0	Clause 5.3	Clause 3.1(a) Update Terms Guide	Clause 5.4	Clause 3.1(b) Update Terms Guide	Clause 5.5	Clause 3.1(c) Update Terms Guide	Clause 8	Clause 6 General Terms v1.0	Clause 11	Clause 9 General Terms v1.0	Clause 16.4	Clause 14.4 General Terms v1.0
Clause of General Terms v2.0 referred to in the Solution Terms	Replacement provision applicable to Customers who have contracted on General Terms v1.0															
Clause 5.3	Clause 3.1(a) Update Terms Guide															
Clause 5.4	Clause 3.1(b) Update Terms Guide															
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Clause 16.4	Clause 14.4 General Terms v1.0															

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Clause 18	Clause 16 General Terms v1.0
Clause 22.2	Clause 20.2 General Terms v1.0
Clause 22.3	Clause 20.3 General Terms v1.0
Clause 26.5	Clause 24.5 General Terms v1.0

b. Legal Compliance

- i. The Customised App Software may be subject to export control laws and regulations. The Customer agrees to comply with any applicable export laws, regulations, prohibitions or embargoes of any country and agrees to obtain written authority from the relevant licensing authority where necessary.
- ii. EE does not represent that any necessary export approvals and/or licences have been obtained or will be granted in respect of the Customised App Software.

c. Data back-up

The Customer shall be responsible for implementing its own data archiving and data back-up processes. The Customer acknowledges that it may be required to restore data from its back-up to relevant systems to enable the Solution and the Customised App to continue to be provided.

d. Liability

Subject to clause 20.3 of the General Terms, EE shall not be liable for any loss or corruption of any software used by the Customer (including without limitation software used with the Customised App) which is not provided by EE.