



**Service Level Agreement**  
**Support and Maintenance Agreement**  
**Total Coverage Level**

**Control Information**

<b>Revision / Version</b>	<b>Release Date</b>	<b>Author / Owner</b>
<b>Version 3.6</b>	<b>12.04.2011</b>	<b>Patrick Copping</b>

**Total Level Coverage Schedule:**

<b><u>Hours Of Coverage</u></b>	<b><u>Days Covered</u></b>
<b>24 / 7 / 365</b>	<b>All Days</b>
<b><u>Overview of Services in Brief</u></b>	
<ul style="list-style-type: none"> <li>• Dedicated support from a partner that has achieved the highest accreditations on all products in portfolio</li> <li>• Annual "Health-check" to optimise system configuration and performance to ensure it is always fit-for-purpose</li> <li>• Fault reporting hotline with dedicated client DDI</li> <li>• Diagnostics within maximum of 4 hours of fault reported</li> <li>• If required, an engineer to site to fix reported fault</li> <li>• Full remote diagnostics and fix service</li> <li>• A named Project Manager, responsible for all account related matters from invoicing through to account development</li> <li>• Major software updates professional services provided at a reduced rate</li> <li>• Minor software updates professional services included ongoing</li> <li>• A named Project Manager, responsible for all account related matters from invoicing through to account development</li> <li>• A monthly account call/meeting to ensure we are doing all we can to deliver pro-active service</li> <li>• As much administrator training as the client requires, Free of Charge. Unique amongst telephony resellers, Atia offers monthly courses at our training facilities that cover the following Administrator functions: Basic Fault Resolution, Adds moves and changes, and Trouble shooting</li> <li>• Up to 1 Hour of scheduled Administration assistance per week free of charge</li> </ul> <p>In addition to our standard care package, Total Level Coverage includes:</p> <ul style="list-style-type: none"> <li>• Atia's "Protect and Monitor" service, fully inclusive. Servers will be continually polled by Atia's Network Operations Centre software via SNMP, in order to ensure it is live and working. Based on preset norms for memory usage, processor usage, connectivity, temperature (and over 20 additional variables) this will automatically flag "amber" or "red" alerts should a problem with your servers occur.</li> <li>• 5% discount against RRP on all future software purchases from Atia Communications</li> <li>• 2 Additional Professional Services day - included per annum - can be used to complete development, configuration, moves and changes, training, or consultancy</li> </ul>	

**This Agreement** is dated 12/04/2011 (the "**Commencement Date**") and is made **between**:

("the Customer")

and

Atia Solutions Ltd, (Trading as Atia Communications) a company incorporated in England and Wales (Company Number: 5571441) Registered Address: Fairway House, Links Business Park, St Mellons, Cardiff, CF3 0LT ("**the Company**")

## 1.1 DEFINITIONS

**"Agreement"** means this Agreement and is a contract for the Company to supply the Customer with the Products and/or Services incorporating these terms and conditions;

**"Billing Rates"** means the rates charged by the Company, which may vary from time to time, for the provision of training, engineering and/or any other advice/service provided to the Customer that are not included within the terms of this Agreement,

**"Call"** means notification by the Customer to the Company of a fault or request for advice and/or assistance in connection with the Products;

**"Company"** means Atia Solutions Limited (Trading as Atia Communications) and its approved subcontractors;

**"Contracted Working Hours"** means 09:00-17:30 Monday to Friday excluding public and other statutory holidays;

**"Current Products Version"** means the version of Products which the Company shall, from time to time, stipulate as being the current version, incorporating the latest Maintenance Release;

**"Customer"** means XXX (Insert Full name) as the legal entity accepting the Company's written quotation for the Products and/or Services or whose Purchase Order for the Products and/or Services is accepted by the Company or the entities otherwise commissioning the Products and/or Services, in each case as named on the invoice;

**"CAF"** means Customer Acceptance Form and is the document provided to the Customer on completion of any installation; a signature of which invokes payment of all remaining money owed by the Customer to the Company as detailed in the Purchase Order;

**"Deposit"** means the first payment paid by the Customer to the Company according to the Purchase Order that is required to confirm an installation date and/or purchase by the Company the equipment or resources required for the delivery of the Products and/or Services to the Customer;

**"Invoice"** means the document sent by the Company to the Customer, demanding payment for the Products and/or Services in accordance with the Purchase Order;

**"Maintenance Release"** means a version of the Products which includes updates, enhancements or revisions available from time to time to fix Products faults, but which add no major functionality to the Products;

**"Payment Terms"** means the terms of payment specified on the Purchase Order by the Customer to the Company for the Products and/or Services;

**"Priority Call"** A call which implies a significant fault that impairs the immediate usage of the system, such as the inability to make or receive telephone calls;

**“Principle Level Coverage”** means the Company’s standard support terms unless otherwise stated. For the avoidance of doubt, Principle Level Coverage does not include the installation and support of the Customer VPN, LAN/WAN and other associated, relevant networking technology / services unless otherwise stated;

**“Products”** means the software and/or hardware supplied to the Customer by the Company, and/or any other third party for which the Company is providing Services to the Customer, that have been ordered by the Customer and accepted by the Company (and such additions or changes thereto agreed between the parties in writing);

**“Products Upgrade”** means a version of the software that is supplied to further enhance the functionality of the software;

**“Purchase Order”** means written confirmation of the Customer’s intention to purchase the Products and/or Services from the Company and acceptance of the Company’s Terms of Business;

**“Response”** means action by the company in order to diagnose a fault reported by the Customer.

**“Services”** means the support services for the Products to be performed by the Company as defined in Clause 2 below;

**“Site”** means the Customer’s premises where the Products are installed, as agreed in writing between the Company and the Customer;

**“Support Centre”** means the help desk and support service centre operated by the Company for the provision of support Services;

**“Terms of Business”** means the terms specified in this Agreement;

**“Vendor”** means the software developer and owner of the intellectual property of the Products;

**“VPN”** means Virtual Private Network;

## **1.2 Conditions**

Unless the context otherwise so requires:

**1.2.1** References to the singular shall include the plural and vice versa; references to any gender shall include all genders and references to a ‘person’ includes any individual, firm, unincorporated association or body corporate;

**1.2.2** Reference to a clause, paragraph or schedule is to a clause, paragraph or schedule of this Agreement and reference to a statutory provision includes a reference to that statutory provision as from time to time amended, extended or re-enacted and any regulations made under it;

**1.3** In the case of conflict or ambiguity between any provision contained in the body of this Agreement and any provision contained in any schedule or appendix, the provision in the body of this Agreement shall take precedence;

**1.4** The headings in this Agreement are for convenience only and will not affect its interpretation.

## **2. Services**

**2.1** During the term of this Agreement and in consideration of payment from the Customer of the charges according to the Purchase Order and Payment Terms the Company undertakes,

from the Commencement Date, to provide support Services to the Customer within the Contracted Working Hours.

**2.2** The Services are provided subject to this Agreement and to the exclusion of any other terms and conditions of the Customer. Variations or amendments must be confirmed by the Company in writing.

### **3. Invoking Support Services**

**3.1** The initial point of contact for all Services described in the Agreement is the Company's Support Centre on the telephone numbers confirmed in writing to the Customer by the Company. Support Services are invoked as detailed herein (clause 5.1) and/or any reasonable notification and operational procedures specified in writing by the Company from time to time:

**3.1.1** On receipt of a Call by the Support Centre the Company shall use reasonable endeavours to respond to the Customer based on the call priority classification as agreed between the Customer and the Company's Support Centre during the initial Call;

**3.1.2** A log (ticket) number will be given to the Customer and the details of the problem will be entered onto the Company's Support Centre database;

**3.1.3** The Customer will be notified by telephone or email as to progress of the Call. Regular contact will be made by the Company to keep the Customer aware of the status of the Call;

**3.1.4** The Customer may contact the Support Centre at any time during Contracted Working Hours to verify the status and progress of the Call. All calls may pass through various status levels as follows:

- Open
- Waiting Customer Action
- Waiting 3rd Party Action
- Software fault logged with software author
- Hardware fault logged with manufacturer
- Consultancy required
- Closed

**3.1.5** Where the Company's engineer requires access to the Site in order to deal with any Call, the Customer will ensure that, on arrival, the engineer is given full access to the system (subject to compliance with the Customer's security vetting arrangements and network security requirements as shall be confirmed in writing to the Company by the Customer).

### **4. Response**

- The response guideline for faults on Principle Level Coverage is 4 hours. For the avoidance of doubt, a 4 hour response guideline means that within 4 hours of the Call being logged at the Company's Support Centre by the Customer, the Company will use reasonable endeavours to action diagnosis of the source of the problem.
- If a Priority Call is not closed within 4 hours, the Company may dispatch an engineer to Site in an attempt to fix the issue promptly.
- If a Priority Call is not closed within 4 hours, the Company may require access to the Customer's systems out of hours to provide remote diagnostics and fix
- A corresponding support ticket will be escalated to the Vendor a Priority Call is not closed within 4 hours, if a probable solution is not diagnosed.
- If after one working day, a Priority Call is still not closed, a resolution process will be agreed with the Customer, especially where Customer actions are require in order to ensure a resolution; for example, changes to Local Area Network settings or devices,

Virtual Private Network settings or devices, or Network applications or hardware devices.

## **5. Exceptions**

**5.1** Ongoing Charges shall cover the provision of the support Services only in relation to the Products and not to other software. The support Services shall not include the diagnosis and rectification of any fault resulting from:

**5.1.1** malicious or accidental damage;

**5.1.2** theft, including damage caused by theft or attempted theft;

**5.1.3** damage caused by fire, flood, lightning or abnormal fluctuations in mains power or unforeseen natural accident outside the Company's control;

**5.1.4** improper use, operation or neglect of the Software, unauthorised use of the Products or use otherwise than in accordance with this Agreement or the Software Licence Agreement;

**5.1.5** loss or damage to any files or data where the Customer has failed to keep backups;

**5.1.6** damage caused by software or equipment not listed in the Schedule;

**5.1.7** damage caused by attempts to modify, repair or relocate a system by the Customer or a third party that has not been authorised to do so in writing by the Company (such authorisation not to be unreasonably withheld or delayed);

**5.1.8** unreasonable failure by the Customer to implement proper recommendations in respect of, or solutions to, faults previously advised by the Company

**5.1.9** continued use of any previous versions of the Software 6 months after dispatch of any Maintenance Release or Software Upgrade;

**5.1.10** action or inaction of the Customer as a result of a lack of understanding or misunderstanding of the how the system is used or administered

## **6. Charges**

The charges payable to the Company by the Customer for the provision of the Products and/or Services for the term of this Agreement are to be paid to the Company in accordance with the Payment Terms. Ownership of the Products will remain the sole property of the Company and shall not pass to the Customer until payment in full has been received. Until full payment for the Products and/or Services has been received by the Company from the Customer, the Company reserves the right to withdraw the Products and/or Services at any time. All Deposits are non-refundable.

The Company shall be under no obligation to provide the Products and/or Services until payment for the Products and/or Services in accordance with the Purchase Order has been received. Payment by the Customer for the Products and/or Services, in accordance with the Purchase Order, is required within 14 days after receipt of the Company's Invoice. Confirmation of receipt of all invoices by the Customer must be provided in writing in addition to confirmation of the anticipated payment date to the Company for the Products and/or Services by the Customer. If the Customer fails to confirm receipt of an invoice from the Company then the payment date required will default to 14 (fourteen) days from the date on the invoice sent from the Company. The charges and any additional charges payable under this Agreement are exclusive of Value Added Tax which shall be paid by the Customer at the rate and in the manner for the time being prescribed by law.

Where a customer decides that it wishes, after a period of lapse, to recommence having the Services it shall, in cases where the lapse exceeds 30 days, pay for an on-site visit by a Company engineer, at the Company's standard Billing Rates for such on-site visits, in order for the Company to assess the supported Products with a view to recommending the Services in respect of them.

## **7. Additional Charges**

This Agreement shall not include the following matters, for which the Company shall be entitled to bill the account of the Customer at its Billing Rates, for time which, in the reasonable opinion of the Company, it spends in relation to or on account of any of the following:

**7.1** Providing any other services requested by the Customer but not covered in this Agreement or any other agreement between the parties;

**7.2** Providing services to the Customer in circumstances where any reasonably skilled and competent system administrator would have reasonably judged the Customer's request to have been unnecessary;

**7.3** Providing training in use of Products Upgrades;

**7.4** Providing the Support Services to the Customer where such support would in the Company's reasonable and justifiable opinion have been unnecessary if the Customer had implemented Product Upgrades supplied or offered to the Customer within 6 months of their dispatch to the Customer;

**7.5** Support Services required outside Contracted Working Hours;

**7.6** Services required at any site other than the Site;

**7.7** Diagnosis and rectification of any fault in software or other items not provided by the Company to the Customer as part of the initial order;

**7.8** Support Calls that are logged that are considered to be of a training nature;

**7.9** Fixing of Products errors caused as a result of inadequately trained users or administrators;

**7.10** Any Calls and/or issues arising from Third Party or Customer actions and/or modifications that necessitate the upgrades, development, enhancement or variation of the Products;

**7.11** Backup and recovery services to facilitate reconstruction of any lost or altered files, data or programs. The Company will not be liable under any circumstances for any consequences arising from lost or corrupted data, files or programs. The Customer is solely responsible for carrying out all necessary backup procedures for its own benefit, to ensure that data integrity can be maintained in the event of loss of data for any reason. In the event of data corruption, where restoring the data will not resolve the issue, the Company will investigate the data and advise of the remedial work to be undertaken to correct the problem. In such instances the Company will liaise with the Customer to advise of the estimated timescale and charge for correcting.

The Company's invoice in relation to any additional Charges shall be paid by the Customer (together with VAT, where applicable) within 14 days of receipt of the Company's invoice, and if the Customer fails without cause to pay any amount payable by it under this Agreement, the Company shall be entitled (but not obliged) to charge interest on the overdue amount, payable by the Customer forthwith on demand, from the due date up to the date of actual

payment, after as well as before judgment, at the rate of four (4)% per annum above the base rate for the time being of Barclays Bank plc. Such interest shall accrue on a daily basis.

The Company will also, on request by the Customer, provide Services additional to those detailed in this Agreement, in the form of extended Contracted Working Hours, Site visits, implementation and integration, development, consultancy and training. Such additional Services shall be charged and invoiced in accordance with the Company's Billing Rates.

## **8. The Company's Obligations**

**8.1** To act dutifully and in good faith;

**8.2** To use reasonable endeavours to provide Support Services in accordance with the response guidelines, that may vary from time to time, as detailed in this Agreement;

**8.3** To assign knowledgeable and experienced personnel to perform the Services;

**8.4** To perform the Services in a professional and workmanlike manner, with the exercise at all times of all reasonable skill and care:

## **9. Customer's Obligations**

**9.1** To act dutifully and in good faith;

**9.2** To invoke support Services only through the processes confirmed in this Agreement;

**9.3** During the continuance of this Agreement the Customer **shall not**:

**9.3.1** make any modifications to or alter the Products without prior agreement of the Company;

**9.3.2** save as expressly permitted by this Agreement or the Products Licence Agreement and/or permitted by law, attempt to adjust, repair or maintain the Products, nor request, permit or authorise anyone other than the Company to carry out any adjustment, repair, modification or support of the Products.

**9.3.3** not use in connection with the Products any accessory, attachment or additional software and/or hardware other than those that have been supplied by or approved in writing by the Company as compatible with the Products;

**9.4** During the continuance of this Agreement the Customer **shall**:

**9.4.1** keep and operate the Products in a proper and prudent manner in accordance with the Company's written operating instructions as supplied to the Customer in the user documentation and/or training provided by the Company;

**9.4.2** keep full security copies of the Products, third party products, the appropriate licence keys and the original installation media;

**9.4.3** keep back-up copies of data which are updated from time to time as supplied to the Customer in the user documentation;

**9.4.4** promptly notify the Company if the Products or any part thereof needs Products Support or is not operating correctly. Failure by the Customer to notify the Company within 28 days of the Customer first becoming aware of such failure or incorrect working shall free the Company from all obligations to investigate or endeavour to correct such failure or incorrect working;

**9.4.4a** The Customer must provide remote access to allow the Company to access the Customers system via VPN over the internet, or other means as confirmed by the confirmed by the company

**9.4.5** co-operate with the Company's personnel in the diagnosis and rectification of any error or defect in the Products;

**9.4.6** provide the Company with full and safe access to the Products (including telecommunication facilities as are reasonably required by the Company) for the purposes of providing Products Support (subject to compliance with the Customer's reasonable security vetting arrangements and network security requirements as notified to the Company by the Customer from time to time). The Customer acknowledges and accepts that it will be possible for the Company to access the Customer's system remotely, through the Customer's Firewall. The Customer also acknowledges that such remote access is essential in order that any faults identified can be addressed and in order that the Company can fulfil its obligations under this Agreement;

**9.4.7** ensure that the Customer's staff has adequate skills and training to use the Products properly;

**9.4.8** make appropriate use of manuals and other written or oral instructions provided by the Company to try and solve problems before contacting the Support Centre;

**9.4.9** have the appropriate skilled and trained personnel (trained by the Company) with knowledge and authority to be available to assist the Company's support personnel and carry out their reasonable instructions intended to rectify faults;

**9.4.10** ensure any passwords are made available to the Company's support personnel where necessary;

**9.4.11** ensure that proper environmental conditions, including protection against power surges, are maintained for the Products;

**9.4.12** keep and operate the Products in a proper and prudent manner in accordance with the Company's and/or the manufacturer's operating instructions and ensure that only competent trained employees are allowed to operate the Products;

**9.4.13** ensure in the interests of health and safety that the Company's personnel, while on the Customer's premises, are at all times accompanied by a member of staff familiar with the Customer's premises and safety procedures;

**9.4.14** make available to the Company such programs, operation manuals and information as may be necessary to enable the Company to perform its obligations hereunder and shall, if requested by the Company, provide staff familiar with the Customer's programs and operations, which staff shall co-operate fully with the Company's personnel in the diagnostics of any malfunction of the Products.

**9.4.15** provide, at the Customer's expense, such telecommunication facilities as are reasonably required by the Company for the remote provision of the Services

**9.4.16** keep full security copies of the Customer's programs, databases and computer records in accordance with best computing practises;

**9.4.17** carry out certain tasks as may be reasonably directed by The Company in response to Customer telephone or facsimile Support requests, i.e. system restarts, recording of error information, running diagnostic tests and running operational readiness tasks etc;

**9.4.18** assign courteous and professional staff as their representatives

### **10. Force Majeure**

Neither party shall be liable for any delay in performing any of its obligations under this Agreement if the delay is caused by circumstances beyond reasonable control. If and when the period of incapacity exceeds 90 days, then the party not in delay shall have the right to terminate this Agreement unless the parties first agree otherwise in writing

### **11. Liability**

The Customer shall indemnify the Company and keep the Company fully and effectively indemnified on demand against any loss of or damage to any property or injury to or death of any person caused by negligent act or omission or wilful misconduct of the Customer its employees, agents or sub-contractors

Notwithstanding anything else contained in this Agreement, the Company shall not be liable to the Customer for loss of profits, revenue, anticipated savings, contracts or other indirect or consequential loss whether arising from negligence, breach of contract or howsoever.

The Company shall not be liable to the Customer for any loss arising out of any failure by the Customer to keep full and up-to-date security copies of the computer programs and data it uses.

### **12. Intellectual Property Rights**

**12.1** All intellectual property rights in or relating to the Products and the documentation accompanying the Products are and shall remain the Property of the Company;

**12.2** The Customer shall notify the Company immediately if the Customer becomes aware of any illegal or unauthorised use of the Products or the documentation or any of the intellectual property rights therein or relating thereto;

**12.3** The provisions of this Clause shall survive the termination of this agreement;

**12.4** If the 'Atia Solutions Reciprocal Confidentiality Agreement' is signed by both parties this document will supersede this clause 9;

### **13. Termination**

If the Customer is in breach of any of the terms of this Agreement, including payment for the Services and any other amount due to the Company by the Customer within the agreed terms of payment, the Company reserves the right to terminate this Agreement forthwith. The intention to terminate Services must be confirmed in writing to the Customer from the Company including confirmation of the terms that the Customer has breached. The Company is permitted to terminate Services, at its discretion without recourse, if the Customer fails to rectify the breach and comply with the terms of this Agreement within 30 (thirty) days.

Termination shall also be permitted under the following terms:

**13.1** By the Company if the control of the Customer shall be transferred to any person or persons other than the person or persons in control of Customer at the date hereof;

**13.2** By either party forthwith on giving notice in writing to the other if the other party shall have a receiver or administrative receiver appointed of it or over any part if its undertaking or assets or shall pass a resolution for winding-up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court

of competent jurisdiction shall make an order to that effect or if the other party shall become subject to an administration order or shall enter into any voluntary arrangement with its creditors or shall cease or threaten to cease to carry on business; or

**13.3** By either party giving 3 months notice in writing, of termination. No refund will be given against support credits or paid in advance. No refund will be given against support payments paid in advance. In the event of notice not being received prior to the anniversary of this contract, it will be deemed that the contract is renewed for a further 12 months.

#### **14. Waiver**

No waiver of any term is valid unless it is in writing and signed by an authorised person of the party charged with the waiver. A waiver is valid for the specific situation for which it was sought. All remedies provided for in this Agreement are cumulative and in addition to and not in lieu of any other remedies available to either party at law in equity or otherwise.

#### **15. Notices**

Unless expressly stated otherwise elsewhere in the Agreement, all notices which are required to be given shall be in writing and shall be sent to the address of the recipient set out in this Agreement or such other address as the recipient may designate by notice given in accordance with the provisions of this clause. Any notice may be delivered by first class letter post or by facsimile transmission and shall be deemed to have been served, if by post 48 hours after posting, or if by facsimile transmission or by facsimile transmission when despatched.

#### **16. Entire Agreement**

**13.1** The Agreement supersedes all prior agreements, arrangements and understandings between the parties and constitutes the entire agreement between the parties relating to the subject matter hereof.

**13.2** The Customer hereby warrants to The Company that it has not been induced to enter into the Agreement by any prior oral or written representations (whether innocently or negligently made) except as specifically contained in this Agreement.

#### **17. Assignment**

Either party may assign or otherwise transfer this Agreement or any of its rights or obligations hereunder in whole or in part with the prior consent of the other.

#### **18. Illegality of Severance**

If any provision of this Agreement is held by any 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 provisions in question shall not be affected thereby.

#### **19. Law and Jurisdiction**

This Agreement shall be governed by and constructed in accordance with the laws of England and shall be subject to the exclusive jurisdiction of the English Courts.

**IN WITNESS WHEREOF** the parties by their duly authorised representatives have executed this Agreement as of the date first above written.

Signed for and of behalf of: <b>Atia Solutions Limited</b>	Signed for and of behalf of:
Authorised signature:	Authorised signature:
Name:	Name:
Job title/position:	Job title/position:
Date:	Date: