

Andrews & Arnold Ltd

General terms

Version 1.0

General terms

We have included explanatory notes in a box like this. This is not formally part of the agreement, and do not affect the legal interpretation, but are included to help you better understand our terms.

1. The parties

- 1.1. “We”, “us”, and “our” means Andrews & Arnold Limited, a company registered in England and Wales with company number 3342760.
- 1.2. “You” and “your” means the person who has ordered equipment or services from us or, if you ordered on behalf of a company or other entity for which you are authorised to do so, that company or other entity.
- 1.3. Our registered office address is Enterprise Court, Downmill Road, Bracknell, RG12 1QS.
- 1.4. Our “web site” is <https://www.aa.net.uk/>

2. Our agreement with you

- 2.1. If you order equipment or services from us, your order, and your use of our services, is subject to these general terms and all applicable schedules. Schedules supplement these general terms. These, together, form our agreement with you.
- 2.2. These terms, and the applicable schedules, apply to the exclusion of any terms you supply us, or which accompany or are referenced in or linked from any purchase order or communication you send us. They

supersede all previous negotiations, understandings and representations. If you do not agree to this, you do not have authority to access our services or systems.

2.3. This agreement is governed by English law.

2.4. Any provision of this agreement which refers to a charge or fee which we may levy on you confers an obligation on you to pay those charges or fees.

3. Your general obligations

3.1. You must:

3.1.1. Tell us if you act as a consumer, or are a small business customer or a communications provider as defined by Ofcom’s General Conditions of Entitlement, and, in each case, notify us promptly if your status changes;

Your legal status impacts the legal obligations we have to each other. For example, some parts of this contract only apply if you are a consumer, and some only apply only if you are not a consumer. It is therefore important that we know your status.

3.1.2. Behave at all times in a polite and professional manner towards us and our staff;

3.1.3. Maintain such backups, disaster recovery, and resiliency, plans, as are appropriate to your situation;

3.1.4. Comply with all applicable law; and

3.1.5. Ensure that your users (and anyone else who may use the equipment or services) comply

with all the obligations under this agreement which are imposed on you (except for obligations to pay). You are liable to us for their breach or non-compliance.

3.2. You warrant that you have the full power and authority to enter into this agreement.

3.3. You agree that any breach of this clause 3 is a material breach of this agreement.

4. Technical support and fixing faults

4.1. For as long as you are a customer, and provided that you are up to date with all payments to us, we will provide you with reasonable technical support, during our normal working hours, for our services or equipment we have sold to you. Our contact details and normal working hours are available on our web site.

4.2. Customer service is excluded from this agreement, and you agree that you are not entitled to, and shall not accept, any compensation in relation to customer service, even before you have purchased from us.

We pride ourselves in offering excellent customer service, but we stand by our honour and the reputation of our customer service rather than it being a contract term.

4.3. We may help you with the configuration of your services or equipment, but you are responsible for, and are liable for, ensuring that any configuration is suitable for your purposes, and is appropriately secure.

4.4. You must promptly provide all reasonable assistance to our staff (and, where applicable, our suppliers' staff) when they are attempting to diagnose or fix problems with your services or equipment. If you do not do this, the fault repair process pauses.

5. Pricing

5.1. Unless otherwise stated, prices include VAT at the prevailing rate. We publish current prices on our web site.

5.2. We will verify pricing when processing your order and before we take payment. If we have made a mistake and a price is higher than the price we have stated, we may either contact you to confirm if you want to proceed at the correct price or cancel your order. If the correct price is lower than our stated price, we will charge the lower amount.

6. Payments and invoicing

6.1. You must read any invoices we issue you, and notify us of any error within 14 days of the invoice date. You must identify the disputed charges, and explain why they are in dispute, and you must provide any relevant supporting documentation. After that time, you agree that you will not bring any dispute or claim relating to an incorrect invoice. You must still pay any undisputed part of the invoice in accordance with this agreement. On receipt of a notification of dispute, we will contact you, and

you must work reasonably with us to resolve the dispute.

6.2. Unless we agree otherwise, you must pay our invoices in full immediately on issue. We will allow 5 working days from the invoice date for your payment to arrive.

6.3. If we extend your credit terms, you must ensure that we receive your payment for the invoice amount within the credit period. We may withdraw or change credit terms for future invoices on notice to you. Each invoice shows the due date for payment.

6.4. If, for any reason, we do not receive your payment in full by the due date, we may do any or all of the following:

6.4.1. send you reminders by email and post, or contact you by phone or other communications channel, at regular intervals. We may charge you an admin fee (as detailed on our price list) for each reminder, by way of liquidated damages;

6.4.2. if you are not a consumer, charge you penalties and interest as specified in the Late Payment of Commercial Debts (Interest) Act 1998;

6.4.3. if you are a consumer, charge you interest on the overdue amount at a rate of 8% plus the Bank of England base rate from the due date up to the date of actual payment (whether before or after any court judgement); and

6.4.4. charge you our reasonable costs and expenses (including legal

costs) for seeking payment of the overdue amount.

6.5. You agree not to cancel, reverse, revoke, or do anything similar, any payment you make to us. If any payment you make is cancelled, reversed, revoked, or similar (including any claim under the Direct Debit Guarantee), that payment shall be deemed as having never been made to us.

7. Overpayments and credit balances

7.1. If you send us money that you do not owe us, such as an over-payment or a payment when there are no outstanding invoices, we will hold this as money on your account. You can ask for that money back at any time and you agree that that money is not an advance payment in respect of specific future equipment or services. We do not pay interest on this money. If we invoice you for any equipment and services then we will, at that point in time, apply this money towards paying that invoice.

7.2. If we ask for a deposit with your order and you pay it, this is placed on your account as an advance payment. If the order cannot be completed and your deposit is refundable, we will return it to you promptly following your request, less any amounts you owe us.

7.3. If you have a credit balance for a period of 6 years and we have not received from you a request for the return of that balance, we will write off the balance, and you agree the sum is a gift to us.

8. Varying this agreement

8.1. We can vary this agreement at any time. You cannot.

8.2. If we wish to make a variation other than to prices or to service functionality, we will give you at least one month's notice by email or on your invoice. If you do not accept the variation, you must notify us of your objection by following our customer complaints process (as set out on our website). You must ensure that we receive your notice of objection within one month of our notice to you. If we do not receive your notice of objection within this time, you are deemed to have agreed to the variation.

For variations relating to prices or service functionality, see the "Services (general)" schedule.

8.3. Clauses 8.4 - 8.5 apply to:

8.3.1. all variations to the agreement;

8.3.2. all variations to the services;
and

8.3.3. increases in price relating to services which you are buying from us on a recurring basis, and not to (a) variations in "list prices", such as the prices for calls, which we will notify on the relevant page on our website, and (b) increases which are limited to us passing on an amount equal to any increase in the rate of Value Added Tax or any other directly and specifically applicable taxation charge or regulatory levy imposed by mandatory provisions laid down by government or regulatory authorities, payment of which is compulsory.

8.4. If we wish to make a variation, we will give you at least one month's notice by email or on your invoice. If you do not accept the variation, you must notify us of your objection by following our customer complaints process (as set out on our website). You must ensure that we receive your notice of objection within one month of our notice to you. If we do not receive your notice of objection within this time, you are deemed to have agreed to the variation.

If you accept the variation, you do not need to do anything.

8.5. Provided that we receive your notice of objection in accordance with clause 8.4 we will:

8.6. if the variation relates to price, re-issue the relevant invoice using the price in effect immediately before the variation; and

8.7. either (at our discretion) terminate some or all of your services (with no early termination fees, but you will still need to return any equipment we have loaned you), or agree to provide the affected services at the price and on the terms in effect immediately before the variation, for the remainder of any minimum term commitment that applies to that service.

8.8. Nothing in this clause affects your right to terminate the agreement, at any time, under clause 13.1 of the services (general) schedule.

9. Indemnities

9.1. Where, in this agreement, we say that you will indemnify us from

something, it means that you agree to fully indemnify and keep us fully indemnified from and against all actions, demands, costs (on a full indemnity basis), losses, penalties, damages, liability, claims and expenses (including legal fees) whatsoever incurred by us and arising from that thing.

In essence, this means that you would have to pay us all losses we suffer and expenses we incur.

9.2. You will indemnify us from:

9.2.1. Your breach of this agreement, non-compliance with the terms of this agreement (other than in respect of payment) by your users, and your negligence, or other act, omission or default;

9.2.2. The operation or break down of any equipment or software owned or used by you;

9.2.3. Any claim brought against us by any third party alleging that its intellectual property rights are infringed by the use by you of the services, equipment, or any software we provide to you; and

9.2.4. Your use or misuse of the services, equipment, or any software we provide to you.

9.3. In clauses 9.2.1 - 9.2.4, references to “you” and “your” include your users, and anyone else who makes use of the equipment or services.

10. Limits on liability

10.1. If you are not a consumer, and unless we have said differently elsewhere in this agreement, all conditions, warranties or terms which might have effect between

you and us, or be implied or incorporated into this agreement (whether by statute, common law or otherwise) are excluded to the extent permitted by law, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

10.2. Neither party limits or excludes its liability to the other for personal injury or death caused by its negligence, for fraud or fraudulent misrepresentation, or for any matter for which, at law, a party cannot limit or exclude its liability.

10.3. You do not limit or exclude your liability for any indemnities in this agreement, or for sums due under it.

10.4. Subject to clauses 10.1 - 10.3, neither party shall be liable to the other for special, indirect, or consequential losses, nor for the following types of loss, whether direct, indirect, special or consequential, in each case however caused:

10.4.1. financial loss (other than in respect of sums due from you to us under this agreement), including loss of profits, earnings, business, goodwill, business interruption;

10.4.2. expected or incidental losses; loss of expected savings; loss of sales; failure to reduce bad debt; reduction in the value of an asset; and

10.4.3. loss of, or corruption to, data.

10.5. You agree that the limits of liability in this agreement are fair and reasonable.

11. Events outside reasonable control

11.1. Neither party will be liable to the other for any delay or failure in the performance of that party's obligations caused by events outside that party's reasonable control, but only if that party promptly notifies the other of the circumstances of the event. This clause 11.1 does not apply to your obligation to pay any sums due under this agreement.

11.2. We may notify you by posting an updating on our website or status pages.

11.3. If the event persists for 28 days or more, the party not affected by the event may give notice to the other to terminate this agreement with effect from a date specified in the notice without penalty or other liability (except for any liability on your part to pay any sums due under this agreement).

12. Co-dependency

12.1. If we fail to do something that we are required to do under this agreement, and this directly causes you to fail to do something that you are required to do under these terms, we will not treat your failure as a breach of this agreement in those circumstances. You will treat us in the same way.

13. Notices

13.1. Any notice (except for the service of court proceedings) shall be sent to the other party's nominated email

address for service. In our case, this is detailed on our contact page on our web site. This includes communications relating to service migration. In your case, this is the email address which you have provided to us for sending invoices.

We may hold multiple email addresses for you, including for Direct Debit communications or for technical support purposes. It is the email address which you have given us for sending invoices which we use here.

13.2. If you want to change this email address, you must notify us and the change will take effect from the date on which we confirm that we have changed your email address.

13.3. Both parties consider that notice has been given:

13.3.1. in the case of us notifying you, one clear day after the time at which we sent the email; and

13.3.2. in the case of you notifying us, one clear day after you receive confirmation from us that we received such notification.

13.4. Notice for the service of court proceedings shall be by a signed-for postal service which provides proof of delivery, or by courier, and such notice shall be addressed:

13.4.1. to us, addressed to the Managing Director, and sent to our registered office address; and

13.4.2. to you, to the most recent address which we have on file for you or, where no such address exists, to an address which we reasonably believe is linked with you. We may instead serve you by

email, if we are not reasonably able to serve notice to you by post or courier.

14. Dispute resolution procedure

- 14.1. Each party shall deal with any disputes or claims arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims) as follows:
- 14.1.1. the issue in dispute shall be referred for discussion to, in your case, the main account holder, and in our case, our support team (support@aa.net.uk); and
- 14.1.2. if the dispute is not resolved, your general manager (or equivalent) shall discuss the dispute with our general manager.
- 14.2. Subject to clause 14.3, if, after exhausting the procedure set out in clause 14.1, the dispute is still not resolved, you, or we, may bring a claim before the courts of England. Each party agrees to the exclusive jurisdiction of the courts of England in respect of any claim, dispute or matter arising out of or in connection (including non-contractual claims) with this agreement. If you are a consumer, you may instead bring a claim before the courts of the part of the United Kingdom in which you reside.
- 14.3. Clauses 14.1 and 14.2 do not affect our, or your, ability to seek an injunction, or other appropriate interim relief, from the courts of England (or, if you are a consumer, from the part of the United Kingdom in which you reside). Either party

may do this without exhausting the dispute resolution procedure.

- 14.4. You must bring any claim within 12 months of the date on which the cause of action accrued. If you are a consumer, we will only bring a claim against you within 12 months of the date on which the cause of action accrued.
- 14.5. Each party shall bear its own costs for this dispute resolution procedure, up to the involvement of the courts. Costs related to the involvement of the courts shall be at the court's discretion.
- 14.6. You agree that the allocation of risk in this clause 14 is fair and reasonable having regard to all the circumstances.

For communications services, there is also the option of Alternative Dispute Resolution in some cases - see the schedules for connectivity or telephony for more details.

15. Miscellaneous terms

- 15.1. A person who is not a party to this agreement has no rights under this agreement. This includes any users you may have.
- 15.2. If any part of this agreement is found to be invalid or unenforceable by any court, this shall not affect the other provisions of this agreement and those provisions shall remain in full force and effect.
- 15.3. If a party fails to exercise a right or remedy, this failure shall not prevent that party from exercising that right or remedy subsequently for that or any other incident.

- 15.4. A waiver of any breach or provision of this agreement shall only be effective if made by email or in other writing.
- 15.5. We may assign, transfer, charge, sub-contract or deal in any other manner with any of our rights or obligations under this agreement. You may not do these things without our prior written consent.
- 15.6. Nothing in this agreement establishes any partnership, joint venture, or agency. You shall not hold yourself out as being an agent, partner, representative or otherwise being entitled to bind us.