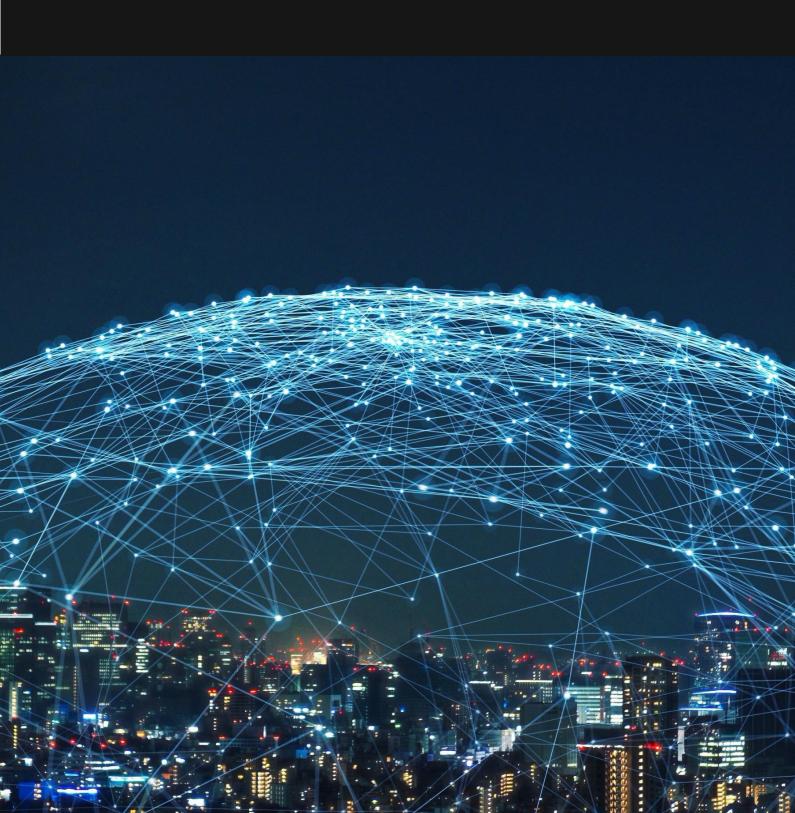# Back-up Service Terms

onecom

1. General

These Back-up Service Terms should be read in conjunction with all other terms of the Contract.

2. Definitions and interpretation

2.1 Terms defined in the Contract shall have the same meaning in these Back-up Service Terms. The following definitions shall also apply.

Back-up EULA	the end user license agreement as may be updated from time to time located at continuum_bdr_-_terms__conditions_final_-_07.11.19_final.pdf (or any other online address that Onecom advises the Customer of)
Back-up Services	the provision of the Back-up Software and any services ancillary thereto
Back-up Software	the third party IT back-up software provided to the Customer by Onecom as detailed in the Commercial Terms
Planned Maintenance Hours	the period between 10pm and 6am UK time
User Subscriptions	the user subscriptions purchased by the Customer which enable Users to access and use the Back-up Software in accordance with the terms of the Contract

2.2 The rules of interpretation set out in the Contract apply to these Back-up Service Terms.

3. Implementation and delivery

3.1 Following the Effective Date, Onecom shall remotely deliver and install the Back-up Software on the applicable element(s) of the Customer's IT System.

3.2 It is the Customer's responsibility to ensure that its internal network or internet connection is configured to support the Back-up Services and meets the minimum requirements as communicated to the Customer by Onecom from time to time.

3.3 Unless specified otherwise in the Commercial Terms, Onecom shall not provide support services in relation to the Back-up Software.

4. Back-up Software

4.1 The Back-up Software is provided on an 'as is' basis and Onecom does not make any warranties or representations concerning the performance or functionality of the Back-up Software.

4.2 To the fullest extent permitted by Applicable Law, Onecom hereby disclaims and excludes any and all conditions, warranties, representations or other terms which might have effect between the parties or be implied or incorporated into the Contract (whether by statute, common law or otherwise), including warranties for merchantability, fitness for any particular purpose, or satisfactory quality.

4.3 Onecom does not warrant that the use of the Back-up Software will be uninterrupted or error-free.

4.4 The Customer expressly acknowledges that its right to use the Back-up Software is limited to the rights provided by the third-party licensor and that any and all claims that the Customer may have concerning or relating to such Back-up Software regarding the performance or the functionality shall be brought exclusively against the third party licensor of such Back-up Software and not against Onecom.

4.5 The Customer accepts responsibility for the selection of the Back-up Software to achieve its intended results and acknowledges that the Back-up Software has not been developed to meet its individual requirements.

5.   Intellectual Property Rights

5.1 The Customer acknowledges that the Back-up Software and all the Intellectual Property Rights therein are and will remain the sole and exclusive property of Onecom and its licensors and no title to such Intellectual Property Rights are transferred to the Customer.

5.2 The Customer shall not alter, remove or obscure, the Intellectual Property Rights notices of Onecom and its licensors that may appear on the Back-up Software.

6.   User Subscriptions

6.1 The Customer may, from time to time during the term of the Contract, purchase additional User Subscriptions in excess of the number set out in the Commercial Terms.

6.2 The Customer shall not allow the number of User Subscriptions to exceed the number specified in the Commercial Terms, unless the Customer has otherwise purchased additional User Subscriptions in accordance with the terms of the Contract.

6.3 In event the Customer purchases additional User Subscriptions during the Minimum Term, the term of such User Subscriptions shall run coterminous with the Minimum Term (which for the avoidance of doubt shall include the Minimum Term together with any extensions), unless expressly stated otherwise.

7.   Term and Termination

7.1 Upon expiry of the Minimum Term, the Contract shall automatically renew for successive 12-month periods (each a **Renewal Term**) unless the Customer serves at least 90 days' Notice prior to the expiry date of the Minimum Term or Renewal Term (as applicable) to terminate the Contract.

7.2 Upon termination, Onecom (or where directed by Onecom, the Customer) shall uninstall or otherwise remove and delete from each Customer computer or other device all copies of the Back-up Software that have been installed on such computers or other devices by Onecom and / or the Customer.

8.   Customer Obligations

8.1 The Customer agrees that it shall not, and shall ensure that all Users shall not:

8.1.1   sub-license, assign or novate the benefit or burden of the Back-up Software in whole or in part;

8.1.2   allow the Back-up Software to become the subject of any charge, lien or encumbrance; and

8.1.3   reverse assemble, reverse engineer, reverse compile, or otherwise translate or modify any portion of the Back-up Software.

onecom

9. Back-up EULA

9.1 The Customer agrees and accepts it is a condition of the Contract that the Customer agrees and accepts the Back-up EULA.

9.2 The Customer shall ensure that all Users comply with the Back-up EULA.

9.3 The Customer shall immediately notify Onecom if it becomes aware of, or reasonably suspects that, a User has breached the Back-up EULA.

10. Charges

10.1 Onecom shall invoice the Customer for the Recurring Charges monthly or annually (as may be applicable) in advance.

10.2 Onecom shall invoice the Customer for usage charges (where applicable) monthly in arrears.

10.3 Onecom shall invoice the Customer monthly in arrears for User Subscriptions purchased by the Customer following the Effective Date.

11. Planned and Emergency Maintenance

11.1 The Customer acknowledges that it may be necessary, from time to time, to carry out planned and emergency maintenance to the Back-up Software.

11.2 Onecom shall use reasonable endeavours to:

11.2.1 provide the Customer with at least 5 Business Days' advance notice of any planned maintenance;

11.2.2 procure that planned maintenance takes place during Planned Maintenance Hours; and

11.2.3 provide the Customer with advance notice of any emergency maintenance, but the Customer acknowledges that it may not be possible to provide advance notification of emergency maintenance.