

Dated << >>

(1) << >> LIMITED

(2) << >> LIMITED

Equipment Maintenance Agreement

THIS AGREEMENT is dated << >> and made

BETWEEN:

- (1) <<Name of Contractor>> Limited a company registered in <<Country of Registration>> under number <<Company Registration number>> whose registered office is at <<Registered office>> (hereinafter known as the "Contractor") and
- (2) <<Name of Customer>> Limited a company registered in <<Country of Registration>> under number <<Company Registration number>> whose registered office is at <<Registered office>> (hereinafter known as the "Customer")

Whereas:

- I The Contractor carries on the business of maintaining computer equipment.
- II The Customer uses the Equipment and requires the Equipment to be maintained

1. Definitions

"Equipment means the Equipment listed in Part 1 of the Schedule and shall include all updated or replacement parts and any additional equipment supplied by The Contractor;

"Maintenance Period" means 9.00am to 5.00pm on Monday to Friday excluding public and national holidays;

"the Location" means the site at which the Equipment is installed as specified in Part 2 of the Schedule hereto or such other location to which the Equipment is moved in accordance with this Agreement;

"The Contractor Maintenance Rates" means the rates of charge for services to be carried out by the Contractor as published by the Contractor from time to time.

2. Term

This Agreement shall commence at the date hereof and shall continue for an initial period of 12 months and thereafter for successive twelve month periods unless or until terminated by not less than 90 days' prior written notice of termination given by either party to the other to expire at the end of the initial period or at the end of any successive twelve month period.

3. Services Provided

During the Maintenance Period or at such other times as the Contractor may nominate, the Contractor will provide the maintenance service as follows:-

- 3.1 The Contractor shall provide an Equipment maintenance service on a regular basis and at time to be agreed between the Contractor and the Customer to provide day to day maintenance and repair of the Equipment as necessary to keep the Equipment in good operating condition.

3.2 If at any time the Equipment becomes inoperative for any reason, the Customer shall notify the Contractor at the earliest practicable opportunity and the Contractor shall at the earliest practicable opportunity put the inoperative Equipment in such good operating condition.

3.3 The Contractor (subject to its [best] endeavours to maintain the software program and undertakes to reinstall any software program damaged or made unavailable due to hardware failure) shall provide technical assistance as may be necessary to secure the support or rectification of a defect, (subject to the Contractor's normal commitments) normally begin work on such support on the first working day thereafter and shall diligently complete the work within the normal working hours until the work is completed to the satisfaction of the Customer.

[3.4 The Contractor will be responsible for the performance of any third party software programs which the Contractor has agreed to reinstall per Clause 3.3.]

4. **Customer's Obligations**

The Customer will allow the Contractor access to the Equipment and computer programs for investigation and repair and provide adequate working space and facilities for the Contractor staff and equipment in the diagnosis of the defect or malfunction in the Equipment.

The Customer shall allow the Contractor to remove any machinery attachments or other equipment from the Equipment to provide the maintenance services and shall be responsible for the cost of calling and maintaining all services and equipment.

The Customer will not allow the Contractor to make changes or modifications to the computer programs by anyone other than the Contractor. Any changes or modifications are to be carried out the Contractor's responsibility and adjust accordingly.

The Customer will make free available to the Contractor all documentation associated with the system, including original program media, current data backup copies and Equipment maintenance of the Equipment and the Contractor's computers programs.

The Customer will undertake to maintain current data backup copies in such a manner as to minimise any loss of data and to ensure that these are available if required by the Contractor.

The Customer shall take all necessary steps to ensure the safety and health of the Contractor personnel working at the Customer's premises.

5. **Charges**

Charges at the Contractor's discretion shall be time to time prevailing shall be invoiced quarterly in advance and shall be due and payable on receipt of invoice by the Customer. The Contractor reserves the right to vary the charges as set out in the Contractor's charges list at any time subject to 3 months' prior written notice.

All charges are inclusive of import duties, taxes and levies but exclusive of Value Added Tax. No other charges shall be charged at the rate prevailing at the date of invoice.

The Customer will pay interest on any amount outstanding at the rate of <= 12% per annum.

6. Relocation of Equipment

Equipment moved from the old Location to the new Location shall continue, at the Contractor's option, to be maintained pursuant to this Agreement. The Customer shall give to the Contractor 30 days' written notice prior to any relocation of the Equipment.

The Contractor personnel shall be responsible for dismantling and packing of the Equipment and shall inspect the Equipment at the new Location. The Customer shall provide all facilities for the dismantling, packing, unpacking and setting up of the Equipment. The Contractor shall be charged for such supervision, inspection and packing at the standard Contractor rates.

7. Exclusions

7.1 The Contractor shall not be responsible for the maintenance services or any other services if:

7.1.1 the maintenance services are required because of the negligence of the Customer or improper programming of the Equipment or because the Equipment has been subjected to failure or fluctuation of voltage, abnormal electrical stress, abnormal air conditioning or abnormal physical stress;

7.1.2 the Equipment is damaged (or attempts are made to damage it) by persons other than Contractor personnel without the Contractor's prior written approval;

7.1.3 the Customer fails to fulfil its obligations under the Agreement;

7.1.4 the Equipment is not maintained in such condition as to put it in such condition as in the reasonable opinion of the Contractor, constitutes a maintainable condition.

7.2 Maintenance services shall not include:-

7.2.1 the provision of spare parts or media;

7.2.2 the installation of any item not furnished by the Contractor;

7.2.3 the painting or repainting of the Equipment or the supply of materials for that purpose.

7.2.4 electrical work or the making of specification changes to the Equipment

8. **Warranty**

If written notice is given to the Customer of any alleged defect in the materials or workmanship of the Equipment within 90 days from the date of installation, the Contractor shall at its own expense repair (or at its option replace) the defective (replaced parts being supplied by the Contractor). This clause states the Contractor's obligation in connection with the quality and fitness for any particular purpose of the Equipment of any part thereof.

The Contractor shall not, save in the case of the Contractor's negligence, be liable for consequential loss or damage or any kind howsoever caused by or in connection with the foregoing for any loss damage or personal injury arising from the performance of this Agreement for contracts limited to loss of data or information (including contracts) or subject to the limitation of liability whatsoever.

The Contractor's liability in respect of claims for personal injury arising from the performance of all agreements between the Contractor and the Customer (with or without any other party) shall be subject to a maximum aggregate of £<< >> in the event of any claim.

The Contractor shall not be liable for any delay in the performance of its obligations under this Agreement which is beyond its control.

9. **Notices**

Any and all notices, documents or communications relating to this Agreement must be in writing and either delivered in person or posted by pre-paid, registered post to the Contractor's registered office for the time being or the party to which the notice is given. In either case it shall be deemed to have been properly given at the time of delivery or posting and to have been delivered in the ordinary course of post.

10. **Assignment**

The Customer shall not assign or transfer its rights or obligations under this Agreement without prior written consent of the Contractor which shall not be unreasonably withheld. The Contractor shall not assign or transfer the contract to third parties all or any part of the work to be performed.

11. **Governing Law**

This Agreement shall be governed by and construed in accordance with English Law.

12. **Amendments**

No change, alteration or modification shall be valid unless in writing and signed on behalf of the

ment shall be valid unless in writing and signed by duly authorised officers.

13. **Applicable Law**

This Agreement shall be governed by the laws of England and the parties hereto agree to

ing to the laws of England and the courts of the English courts.

IN WITNESS WHEREOF this Agreement has been executed the day and year first before written

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Part 1: Equipment Specification and

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Part 2: Location of Equipment

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SIGNED by

<<Name and Title of person signing
for and on behalf of <<Contractor's

In the presence of

<<Name & Address of Witness>>

SIGNED by

<<Name and Title of person signing
for and on behalf of <<Customer's

In the presence of

<<Name & Address of Witness>>

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