

Schedule 3

MAINTENANCE AGREEMENT - TERMS AND CONDITIONS

1 DEFINITIONS AND INTERPRETATION

In this Schedule the words and expressions defined in the Terms and Conditions, in the Contract Details or in any other Schedule forming part of the Contract shall apply and, in addition, the following definitions shall apply:

Additional Equipment means equipment provided by the Supplier to the Customer during the term of the Contract in addition to the Equipment.

Maintenance Services means rectification of faults as referred to in condition 2.

Variation means a variation to the Contract by which Additional Equipment or extra services are agreed to be supplied to the Customer.

2 MAINTENANCE SERVICES

2.1 The Supplier undertakes to provide the Maintenance Services in respect of the Equipment upon the terms and conditions of the Contract in consideration of the Customer's payment for the annual service charge.

2.2 The Customer may request the following Maintenance Services:

- a) the inspection testing and diagnosing (by attendance on site or remotely) by the Supplier or any fault reporting in an item of Equipment; and
- b) the carrying out by the Supplier of such repairs, replacement of parts or adjustment as the Supplier shall deem necessary to remedy the said fault.

2.3 Appropriately qualified engineers will carry the maintenance in question.

2.4 The Service Minimum Term for Maintenance Services shall be seven years from the Commencement Date.

2.5 The Extended Term for Maintenance Services shall be three years.

3 TIMES FOR MAINTENANCE SERVICES

3.1 The Supplier shall provide the Maintenance Services within the following periods based upon the agreed tier of service detailed in the Contract Details:

- a) Mode Assure TIER 1: 24 hours a day including weekends and public holidays
- b) TIER 2: Between the hours of 9.00am and 5.00pm on Business Days

3.2 The Supplier will use its reasonable endeavours to ensure that response times to the Customer's notification of a fault are not more than:

- a) 8 working hours if the Equipment has failed completely; or
- b) 16 working hours if the Equipment has failed partially.

4 MAINTENANCE CHARGES

- 4.1 Services provided by the Supplier to the Customer in addition to the Maintenance Services shall be paid by the Customer at the Supplier's standard rates from time to time upon presentation of the Supplier's invoice.
- 4.2 The annual charge for the Maintenance Services is subject to annual review and may be increased provided that in any twelve-month period, such charges are not increased (i) more than once; or (ii) by more than fifteen percent (subject to the following provisions of this condition 4).
- 4.3 The Supplier may increase its charges for the Services by more than fifteen percent in any twelve-month period if the Supplier has given the Customer two months' prior written notice of such an increase ("Price Notice"). If the Supplier serves a Price Notice then the Customer may, within one month of the service of the Price Notice, serve three months' written notice on the Supplier to terminate the Contract insofar as it relates to the Services. During such notice period the charges shall remain at the same level as applicable at the date of the Price Notice.
- 4.4 Where the Supplier receives erroneous notification of an Equipment failure more than twice in any calendar month, the Supplier has the discretion to make a proportionate charge in line with current rates.

5 EXCLUSIONS

- 5.1 The Supplier accepts no obligations or liability whatsoever in relation to Maintenance Services:
- a) in respect of any defect caused by the Customer arising from wilful damage, negligence (including improper storage), abnormal working conditions, failure to follow the Supplier's instructions (whether oral or in writing), misuse or alteration or repair of the Equipment without the Supplier's approval;
 - b) where loss is suffered by the Customer due to the Equipment neglecting to perform to its specifications and the failure is based on faults in the service provided by the network provider;
 - c) in respect of any delay caused in the execution of any repair due to circumstances beyond the reasonable control of the Supplier;
 - d) in respect of remedying defects in electricity or network supply to the Equipment; defects caused by failures or surges of electrical power; failure of the Equipment due to changes in the electrical supply service or the public network;
 - e) for delay in performing, or failure to perform, any of its obligations if such delay or failure result from events, circumstances or causes beyond its reasonable control.

6 THE CUSTOMER'S OBLIGATIONS

The Customer undertakes to:

- 6.1 settle with the Supplier outstanding amounts due to the Supplier in relation to the provision of the Maintenance Services by the due date for payment;

- 6.2 make sure that the Equipment is not:
- a) moved from the Premises; or
 - b) altered, adjusted or interfered with in any way except by the Supplier's servants or agents. Alterations include the reprogramming of the Equipment to change network providers for the purpose of least cost routing.
- 6.3 provide the Supplier with complete access to the Equipment during the agreed hours in line with the agreed service tier to enable maintenance of the said Equipment to be carried out.
- 6.4 pay the Supplier's charges in the event of errors, by persons other than the Supplier's servants or agents, for reprogramming the Equipment due to such errors.
- 6.5 not to alter or extend the Equipment without prior notification to the Supplier (an additional charge may, at the Supplier's sole discretion be made for the maintenance of altered Equipment); provide the Supplier with details of the installer of the Equipment, a copy of its Pre-Connection Inspection Certificate and access to all relevant site records.

7 ADDITIONAL EQUIPMENT

- 7.1 Where the Supplier agrees to provide the Customer with Additional Equipment:
- a) the provision of such Additional Equipment will be recorded on a Variation to be agreed between the Supplier and the Customer;
 - b) the Service Minimum Term for Maintenance Services shall be extended to a period of seven years from the date on which the Variation is agreed; and
 - c) the annual charge for Maintenance Services shall be increased by an amount equal to the agreed annual charge for Maintenance Services as specified in the Variation with effect from the date of agreement of the Variation.