

Appendix 5.8.1 to Terms and Conditions - Legacy Equipment Support Agreement Based on Reasonable Endeavours

Definitions

“*Company*” means Telecom Green Ltd (registered in England and Wales under 05508837) and/or its contractors and/or agents, as authorised by them

“*Client*” means the company, person or person(s) agreeing to procure goods or services from the company named herein.

“*Client's Equipment*” means any telephony equipment (including, without limitation purchased equipment, cabling, wiring and any other accessories) expressly contained within a purchase order or as mutually agreed prior to purchase by the company in writing.

“*Support Services*” means the provision of diagnosis, analysis, and rectification to Client Equipment on a “reasonable endeavours” basis.

“*Reasonable Endeavours*” means any labour or additional fees associated with but not limited to the diagnostics, sourcing of spares or repair of any legacy equipment which is no longer supported in the mainstream by manufacturers. All reasonable endeavours will be mutually agreed between the “Company” and the “Client” as to costs associated with “Equipment Reserves” and “Labour Reserves”.

“*Equipment Reserves*” means the assigned maximum budget mutually agreed between the “Client” and “Company” for the sourcing of any telephony equipment including but not limited to handsets, central control cabinet (and associated components) associated with this agreement.

“*Labour Reserves*” means the assigned maximum labour quota for the repair or diagnostics of any telephony equipment associated with this agreement.

“*Terms and Conditions*” means all of the terms and conditions contained within this document only.

“*Acceptance*” means absolute acceptance of all the terms and conditions contained within this document by purchase

“*Offer*” means a “*valid*” written proposal document containing the “company” letterhead which is capable of being accepted and includes quotations which are subject to survey or further investigation prior to providing a fixed price but exclude “budgetary quotations”

“*Validity Period*” refers to the standard 30 day period that a valid “offer” as defined in this document can be accepted

“*Purchased equipment*” means any equipment purchased by the client from the company

“*Site*” means the site or site(s) at which any client equipment and/or purchased equipment shall be located or stored.

“Survey” means any survey or other investigations carried out by or on behalf of the company that is deemed necessary prior to the commissioning of works.

“Access” means safe entry to the site and reasonable unhindered access to the precise location of the equipment during normal office hours, or at times mutually agreed between the “Company” and the “Client”.

“Budgetary Quotation” means any quotation for equipment or support services, which is not a valid offer but provides an indication as to the cost and scope associated with a client's enquiry.

“Works” - Any labour or activities including but not limited to sourcing of equipment, testing, diagnostics, repair and maintenance of telephony and any associated equipment.

“Aborted Visit” - Any pre-arranged visit to a client's site for whatever reason including but not limited to surveys, repair, support and installation works. That is cancelled without sufficient notice, or where safe access cannot be achieved.

“Termination” - The discontinuation of this agreement in its entirety as if either party had never entered into it, without prejudice of invoices due to date.

Terms and Conditions

1.1 The client accepts that the equipment associated with this agreement is obsolete and therefore no longer supported by the manufacturer or by mainstream sources with regard to the provision of spare components, maintenance labour or associated software.

1.2 The client accepts that, therefore, any “reasonable endeavours” as defined in this document to provide support services are based on resources available to the business, and use of, from time to time, refurbished and used equipment which is deemed fit for purpose but carries no warranty. Any software provided with equipment may therefore refer to site(s) from which the equipment was removed but in no way infringes licensing, copyright of the manufacturer's or the companies from which the equipment was removed.

1.3 The client accepts that, due to the legacy nature of the equipment covered by this agreement, any support services provided are not a guarantee of continued or uninterrupted service and hence no warranty can be given in respect of continued serviceability either from purchased equipment or remedial/maintenance work carried out through any support services provided.

1.4 In the event of a significant failure of client equipment which is not as a direct result of the company's undertaking and results in a significant loss of service, the company offers no indemnity or guarantee in respect of fully or partially restoring service.

1.5 The client accepts that, should replacement equipment be provided by the client as part of the rectification process offered under this support agreement, then the “company” will subject the equipment to their own acceptance test, and will make

additional charges for such, on a time and materials basis. The company reserves the right to reject any equipment provided by the “client” based on the results of the acceptance tests.

1.6 Each provision of equipment and support services will be provided on a mutually exclusive case by case basis and no precedence will be drawn from previous conduct, purchase orders or other documents with regards to costs for the provision of legacy equipment, components or other fees associated with supporting legacy telephony equipment.

1.7 The company reserves the right to charge for any telephone or remote support received by the client which is deemed unreasonable or outside of the original remit of the “works”.

1.8 Each quotation for support services is subject to survey, and is not deemed to be a fixed price quotation, any additional works outside the scope of the original quotation will be charged on a time and material basis, including but not limited to overtime associated with diagnostics of equipment with multiple faults.

1.9 The company will make every effort to discuss and agree costs and any associate risks or caveats with the client prior to undertaking the works. The client assumes the risk once any communication of possible service outage or damage to equipment has been communicated by the company through the provision of a “Risk Register” to the client and no indemnification is provided.

1.10 The company at its sole discretion reserves the right at any time to end any and all support services activities without prejudice and without charges, fines or additional pecuniary costs.

1.11 The client will provide relevant information concerning the malfunction, operational occurrences and operating environment of any equipment which is to be diagnosed, repaired or supported and accepts any additional cost in regards to making good leaks and other environmental factors leading to the malfunction of equipment.

1.11 Aborted Visits - The company reserves the right to charge the client for the amount of labour which was reasonably foreseeable for the activities charged at a fixed hourly rate, travel to site, accommodation (for sites more than 2 hours from the company's registered office) and subsistence. Should pre-arranged access to a site be denied for any reason excluding events which were not reasonably foreseeable such as force majeure incidents (acts of god, terrorism etc) without sufficient notification of 48 hours. Aborted visits will also include situations in which a safe working environment has not been provided contravening good working practices, legislative standards and as a result work cannot safely be carried out.

1.12 The company operates an internal quality process to assess the competency and risks of any suppliers and sub-contractors in which it is engaged. The company therefore reserves the right to sub-contract all or part of the works to these approved third parties without prior notification to the client.

Termination -

1.13 Both parties reserve the right to terminate this agreement at any time with

28 days notice, immediate termination may occur without notification under the following circumstances.

- 1.14 The party receives information that he believes to be true regarding the imminent liquidation, bankruptcy or financial restructuring of an individual or organisation privy to this agreement.
- 1.15 The period of which the payment of any invoice expires and is unpaid for more than 14 days thereafter.
- 1.16 Or repeated attempts have been made to attempt to acquire information necessary to carrying out the “works” and this has not been received after reasonable endeavours have been made or a period of 14 days after initial requests.
- 1.17 The working environment is not safe to carry out the “works” including but not limited to trip hazards, confined spaces, excess temperatures, water egress, damaged electrical components etc.
- 1.18 Repeated unauthorised alterations are made to the equipment, following an initial support session or consultation.

Defects Notice

- 1.17 - The defects certificate is an acknowledgement by the client that any work done or equipment supplied is provided in-line with the original quoted works and performed to the client satisfaction, after completion of this notice any further faults or liability for equipment failure, loss of service, damage or loss is sole responsibility of the client.
- 1.18 The defect certificate will also list any shortcomings, defects or non-standard operating procedures which the system has as a result of repair or modification by the company and is not intended to be an exhaustive list, liability for incorrect operation, damage and loss is therefore passed to the client in its entirety upon notification of these issues and subsequent issues caused as a result, excluding death and personal injury.

Payment

1.19 - Payment shall be received no longer than 30 days after date of invoice, not receipt.

Health and Safety

The company will comply with the necessary requirements of client specific sites with regards to good health and safety practices as well as the necessary statutory standards (HSAWA, PUWER etc.)

- Preparation of Risk Assessments and Method Statements
- Attending Client Site Inductions
- Adhering to Demarcation Zones for Pedestrians and Vehicles.
- Adhering to Site Speed Limits
- Wearing the Correct Protective PPE
- Inspecting any equipment which maybe used for working at height (ladders etc)
- Notifying of any near misses or defects with Client provided equipment
- Investigating any near misses or dangerous occurrences in which our employees are involved.

Signed by an Authorised Officer or Representative of the Client:

Print Name _____

Signature _____

Date _____

Signed by Telecom Green Limited (Director)

Print Name _____

Signature _____

Date _____