

REDCENTRIC

**TERMS & CONDITIONS OF TRADING
SUPPORT SERVICES**

redcentric
business technology. managed.

CONTENTS

- 1. General3
- 2. Duration of Agreement3
- 3. Charges3
- 4. SUPPORT Services.....4
- 5. Warranties5
- 6. Liability.....5
- 7. Suspension.....7
- 8. Termination7
- 9. Entire Agreement7
- 10. Severability7
- 11. Assignment.....8
- 12. Law and Jurisdiction.....8

1. GENERAL

"The Agreement" means the Support Contract including its Schedules and also comprises these Terms and Conditions.

All support services that Redcentric provides shall be on these terms.

Any terms put forward by the Customer are excluded, and the Customer agrees to the application of this Agreement when accepting the services provided by Redcentric.

The "Contract Date" means the date shown in the Agreement as the Contract Start Date .

The "Customer" means the person or company identified as such in the Agreement and whose details are set out in the Agreement.

"Redcentric" Redcentric Solutions Limited or its assignees; Registered Number 08322856 and Registered Address Central House, Beckwith Knowle, Otley Road, Harrogate HG3 1UG.

"Equipment" means all or any items of equipment supported by Redcentric under the Agreement and identified in the Schedule 1 of the Agreement.

"Initial Period" means the minimum duration of the contract which is shown in the Agreement as the Minimum Term.

"Optimum Functionality" means operation without material defect (and 'material defects for the purposes of the Agreement shall exclude defects arising by reason of the age of the Equipment, wear and tear on the Equipment, the connection to, or use with the Equipment of any hardware or software not supplied by, or approved of in writing by Redcentric or operation of the Equipment other than in accordance with the manufacturers' instructions for use, environmental conditions or otherwise.)

2. DURATION OF AGREEMENT

The Agreement shall begin on the Contract Date and remain in force for the Initial Period. At the end of the Initial Period, this Agreement shall be automatically renewed for periods of one year (each such period being referred to as a "Renewal Period"), unless terminated earlier in accordance with the terms of this Agreement or by either party giving at least 90 days' written notice to the other (such notice to expire on the last day of the Initial Period or any Renewal Period).

3. CHARGES

a) The charges are set out in the Agreement which entitle the Customer to the Support Services (as defined in clause 4 below) at the locations and on the Equipment specified in the Schedules to the Agreement. These charges are subject to change by Redcentric with effect from the 1st anniversary of the Contract Date or at any time thereafter upon not less than 3 months prior written notice thereof being given to the customer.

- b) Where during the continuance of the Agreement the Customer requests and Redcentric carries out changes in the specifications, attachments or features of any part of the Equipment, then the charge specified in respect of that Equipment may at the discretion of Redcentric be adjusted.
- c) Equipment and/or additional services added to the Agreement during the contract term shall be charged pro-rata from the time of addition up to the next annual payment date, or date of termination of the Agreement if earlier, at the rates specified by Redcentric.
- d) If the Customer directs Redcentric to maintain Equipment at any mainland UK location over 40 miles from the nearest Redcentric field engineering location, the accessibility of the location will be taken into account prior to a response time being agreed. Response to offshore locations will be decided on a case by case basis and carry an appropriate surcharge to cover any additional costs involved.
- e) The maintenance charges defined in the Contract shall be paid annually in advance, the first payment becoming due following the Customer's receipt of invoice. All payments due under the Agreement must be made in full without any set-off or deduction.
- f) Payments must be settled within 30 days from the date of invoice unless otherwise agreed in writing. Redcentric reserves the right to charge interest on any overdue amount at a rate of 4% above the base rate of HSBC Bank PLC.

4. SUPPORT SERVICES

- a) Where, in Redcentric opinion, Equipment requires routine attention or modification to maintain Optimum Functionality, Redcentric will specify the duration of and dates on which such routine work will be carried out.
- b) Where Redcentric undertakes to deliver the support service according to a defined standard, this will be specified in a Schedule to the Agreement. Where no service standards are specified or defined, then no service levels are offered.
- c) Where service support is sub-contracted by Redcentric to a third party, the third party's underlying service level standards and Terms & Conditions for support will be passed through to the customer by Redcentric and these will also be specified as a Schedule to the contract. In this case, the Customer acknowledges that service support will be provided directly by the third party, and the Customer's will deal directly with the third party to effect support services and to resolve any issues arising.
- d) The Customer shall not be invoiced for the cost of any replacement Equipment or parts, engineering time or additional labour or material supplied by Redcentric to the Customer unless the costs arise out of the circumstances described in Clause 6.e) below. Any equipment or part removed and replaced free of charge shall become the property of Redcentric.
- e) Maintenance services or repairs which fall outside the scope of the Agreement may be carried out by Redcentric at Customer's request subject to the prior agreement in writing as to Redcentric charges.
- f) The Customer shall be invoiced for the list cost of any replacement Equipment or parts, supplied by Redcentric and not returned within 30 days from the date that the replacement Equipment or parts were received by the Customer.

5. WARRANTIES

a) The Customer warrants to Redcentric that:

- i) the Equipment will not be operated in an abnormal or improper manner or by incompetent personnel, or under environmental conditions detrimental to the correct operation of the equipment.
- ii) the Customer has complied with any applicable provisions of the Health and Safety Legislation.
- iii) Redcentric employees will have full access to the Equipment for the purposes of discharging the obligations of Redcentric under the Agreement.

b) Redcentric warrants to the Customer that the maintenance services will be supplied with reasonable care and skill and by appropriately qualified personnel, who will comply with all reasonable site regulations of the Customer notified to them when they attend a Customer site.

6. LIABILITY

a) The Customer acknowledges that it is the best-placed person to assess any potential loss to it, and that it should cover such risks by insurance. The Customer also agrees to take such steps as may be prudent to minimise risks to it, such as taking back-up copies of any information, software or other material stored on the Equipment.

b) Redcentric shall not be liable to the Customer in connection with or arising out of the Agreement, or the performance or non-performance of the maintenance services, except to the extent that the loss or damage results solely from misrepresentation by, negligence of, or breach of the Agreement or other default by Redcentric, its servants or agents, in which case such liability shall be subject to the exclusions and limitations set out in these terms and conditions.

c) Redcentric liability for any loss or damage however caused, in connection with or arising out of the Agreement or the performance or non-performance of the maintenance service will:

- i) in the case of loss of or damage to tangible property caused by Redcentric's negligence be limited to £1,000,000 in respect of any claim or series of claims;
- ii) in the case of all other claims, in the aggregate be limited to £50,000, or if higher, then the total fees (excluding VAT) paid to Redcentric in respect of the 12 months prior to the date of claim.

d) Notwithstanding clause 6(c) above, Redcentric shall not be liable to the Customer or to any other person for:

- i) indirect or consequential loss or damage however caused;
- ii) any loss of use, operating time, data, business, profits, revenue, anticipated savings or other economic or similar loss, or for any inconvenience to the Customer, however caused;
- iii) any claim for loss or damage, unless made with reasonable details in writing to Redcentric no later than 3 months after the date the claimable event first comes or ought to have come to the attention of the Customer its servants or agents;
- iv) the non-performance of its obligations where the proper performance of those obligations is hindered or delayed by circumstances or events beyond Redcentric's reasonable control, including the Customer's acts or omissions.

e) The Customer will be liable for:

- i) the costs of replacement Equipment or parts, travel costs, engineering time, additional labour and materials arising from:
 - A) electrical work required, other than to the Equipment, for the purpose of its maintenance;
 - B) damage resulting from accident, transportation, theft, fire, water damage, neglect, misuse, or Act of God including lightning strike;
 - C) failure by the Customer, his servant, or agent to maintain the installation environment recommended for the Equipment;
 - D) unauthorised alterations to the Equipment, or the connection of the Equipment to any device not previously approved by Redcentric in writing;
 - E) Redcentric complying with the Customer's request for on-site maintenance of Equipment which, in Redcentric reasonable opinion operates correctly, or would so operate if properly used, or, if used as part of a network in which all other devices were functioning properly;
 - F) any breach of Clause 5a);
- ii) the costs of:
 - A) supplying consumable accessories;
 - B) refinishing the Equipment;
 - C) relocation of, and consequential changes in specification to the Equipment;
 - D) adding to or removing from the Equipment any other device;
- iii) Any additional costs, disbursements or expenses involved in:
 - A) maintaining the Equipment at a location other than that specified in the Schedule(s) to the Agreement although Redcentric shall not be obliged to maintain such relocated Equipment, and if Redcentric does so, may adjust the maintenance level of the Equipment to reflect increased response time required;
 - B) maintaining any device or equipment not specified in the Schedule(s) to the Agreement.

f) The term "however caused" means arising by reason of breach of contract, misrepresentation, negligence or other tort, breach of statutory duty or other wrongful act or omission, deliberate or not, however fundamental the result.

g) Nothing in the Agreement or these terms and conditions shall affect the parties' liability for

- i) death or personal injury caused by negligence;
- ii) fraudulent misrepresentation or other fraud; or
- iii) any breach of any obligations imposed by section 2 or 7 of the Supply of Goods and Services Act 1982.

h) Save as set out in these terms and conditions all other express or implied terms, conditions and warranties, whether statutory or otherwise, are excluded to the fullest extent permitted by law.

i) The Customer agrees to indemnify Redcentric at all times hereafter against all claims demands costs (including costs of management time, and full legal costs) and expenses in excess of the liability expressly accepted by Redcentric in these terms and conditions.

j) No person who is not a party to this Agreement shall have any rights against Redcentric by virtue of the Contracts (Rights of Third Parties) Act 1999.

7. SUSPENSION

Redcentric may suspend or delay the performance of any or all of its obligations hereunder if the Customer is in breach of any of the customer's warranties given in clause 5.a) above or if the Customer has failed to make payment of any sum due to Redcentric when due.

8. TERMINATION

a) Redcentric may terminate the Agreement without notice if any sums due and payable by the Customer or its subsidiary or associated company, shall remain unpaid for a period of 14 days after becoming due, whether such sum is due in respect of the Agreement or otherwise.

b) Either party may terminate the Agreement immediately by notice in writing if after serving a written notice on the other party which specifies with reasonable details the other party's material breach of the Agreement and states an intention to terminate the Agreement, and that breach is not remedied within a period of 21 days following service of the notice. Notice shall be served on the relevant party at the address given in the Agreement, or at such other address as may have been specified by that party to the other in writing. Such termination shall be without prejudice to the prior existing rights of either party hereunder.

c) Either party may terminate the Agreement with immediate effect if the other becomes insolvent, enters liquidation, administration, receivership, a members' or creditors' arrangement or anything similar, or any preparatory steps are taken for any of the same.

d) Upon termination of the Agreement for any reason, all sums then owing based on the unexpired term of the contract shall become immediately due and payable. Termination shall not affect any accrued rights or obligations of either party under the Agreement.

e) Clause 2 details contract duration and termination notice requirements.

9. ENTIRE AGREEMENT

The Agreement contains the entire Agreement between the parties with respect to the subject matter hereof. There are no understandings, agreements, representations or warranties expressed or implied in respect of the Agreement or of the services to be furnished thereunder except those specifically referred to in these Terms.

10. SEVERABILITY

In the event that any part of the Agreement, Schedule(s), or terms and conditions shall be determined invalid, unlawful or unenforceable to any extent, such term, condition or provision shall be severable from the remaining terms conditions and provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

11. ASSIGNMENT

The Customer may not assign its rights or obligations under the Agreement except with the prior written consent of Redcentric which will not be unreasonably withheld. Redcentric may assign or sub-contract this Agreement or part of it to any Redcentric Group company or subsidiary company.

12. LAW AND JURISDICTION

The Agreement shall be subject to and interpreted in accordance with the laws of England and the parties hereby irrevocably submit to the exclusive jurisdiction of the courts of England in all matters arising out of the Agreement.

HARROGATE (HEAD OFFICE)

Central House
Beckwith Knowle
Harrogate HG3 1UG

THEALE

2 Commerce Park
Brunel Road
Theale
Reading RG7 4AB

CAMBRIDGE

Newton House
Cambridge Business Park
Cowley Road
Cambridge CB4 0WZ

READING

3-5 Worton Drive
Reading
RG2 0TG

LONDON

John Stow House
18 Bevis Marks
London EC3A 7JB

HYDE

Unit B, SK14 Industrial Park
Broadway
Hyde
SK14 4QF

INDIA

405-408 & 410-412
Block II, 4th Floor, White House
Kundan Bagh, Begumpet
Hyderabad 500016

0800 983 2522

info@redcentricplc.com

www.redcentricplc.com

redcentric
business technology. managed.



FS603185

IS603187