

CHUBB SYSTEMS TERMS AND CONDITIONS - MAINTENANCE

1 DEFINITIONS

Agreement: means these conditions, the Quotation, the Customer's order for the Maintenance Services and the Customer's acceptance.

Company: means Chubb Systems Limited.

Cost and Expenses: means costs and expenses incurred by the Company in carry out the Maintenance Services for the Customer, which include, but are not limited to, photocopying costs, travel costs, accommodation costs, reproductions costs and subcontractor fees and costs.

Customer: means the person/organisation named in the Quotation.

Equipment: Customer owned equipment located at the Equipment Site.

Equipment Schedule: means a list of equipment contained at the Equipment Site.

Equipment Site: means the postal address of the site where the Equipment is located.

Force Majeure Event: means any circumstance not within a party's reasonable control including, without *limitation*:

- a) acts of God, flood, drought, earthquake or other natural disaster;
- b) epidemic or pandemic;
- c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- d) nuclear, chemical or biological contamination or sonic boom;
- e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- f) collapse of buildings, fire, explosion or accident;
- g) any labour or trade dispute, strikes, industrial action or lockouts [(other than in each case by the party seeking to rely on this clause, or companies in the same group as that party);
- h) [non-performance by suppliers or subcontractors [(other than by companies in the same group as the party seeking to rely on this clause); and
- i) interruption or failure of utility service

Maintenance Charge: means the charges for performing the Maintenance Services.

Maintenance Service: means corrective maintenance, preventative maintenance or any other services undertaken hereunder.

Warranty Period: 12 months from date of completion of the Maintenance Services undertaken on the Equipment.

Quotation: means the Company's written terms which sets out the Maintenance Services, and the Maintenance Charge the Company will render to the Customer for the delivery of the Maintenance Services together with any additional express terms of contract agreed between the Company and the Customer.

2 GENERAL

2.1 Notwithstanding anything to the contrary in the Customer's standard conditions or elsewhere, this Agreement shall apply to all Maintenance Services undertaken for the Customer and shall not be varied unless expressly agreed in writing and signed by the Company and by the Customer's authorised representative. No servant or agent of Company is authorised to vary the conditions contained herein or to make representations of premises about the Maintenance Services provided.

2.2 To the extent permitted by law, no term warranty conditions or other stipulation, expressed or implied, statutory or otherwise shall apply to this Agreement unless it is expressly contained in or incorporated into this Agreement.

2.3 If any provisions of this Agreement are not permitted by law, then such provisions shall be deemed to be omitted to that extent only.

2.4 The Customer may not assign or transfer in whole or in part any rights under this Agreement.

2.5 At the commencement of the Agreement or when items are added to the Equipment Schedule the Company will inspect the Equipment to ensure its suitability for inclusion within this Agreement.

3 CORRECTIVE MAINTENANCE

3.1 Corrective Maintenance shall be provided for the repair of faults that cause the Equipment to malfunction. In response to calls for Corrective Maintenance Company will undertake that:

- 3.1.1 Upon receipt of a fault call Company will respond by a visit to the Equipment Site of an engineer within the defined response time.
- 3.1.2 Upon arrival at the Equipment Site the engineer will proceed with the fault diagnosis and repair of the Equipment, repairing or replacing defective components and modules as necessary. Components and modules removed shall become the property of Company and replacement components and modules shall become the property of the Customer, unless the Customer shall expressly request otherwise at the time of replacement.
- 3.1.3 During the course of this Agreement Company may request, upon 90 days written notice, the removal of any item of Equipment from the Equipment Schedule provided that Company can reasonably demonstrate that the item cannot be effectively maintained due to the lack of availability of spare parts from the manufacturer or any other reason beyond the control of Company.
- 3.1.4 When removing equipment from site for repair, where the equipment or component contains personal data (e.g. access control data, CCTV recording), the Company will delete any such data prior to removing the equipment/component from site. Exemptions to this are when otherwise instructed by the Customer or where the repair requires the personal data to remain. For the avoidance of doubt the Customer remains responsible for the backing up of all personal data that they wish to retain.

4 PREVENTIVE MAINTENANCE

- 4.1 Preventive Maintenance shall be provided for the routine care and attention necessary to ensure the continued efficient operation of the Equipment, Company will undertake to:
 - 4.1.1 Provide details of the Preventive Maintenance programme within four weeks from commencement of this Agreement.
 - 4.1.2 Visit the Equipment Site at the defined frequency as stated in the Agreement to perform preventive maintenance on the Equipment in accordance with the manufacturer's recommendations.
 - 4.1.3 Such Preventive Maintenance will be provided between the hours of 0800 to 1700 Monday to Friday, excluding public and bank holidays. Where the Customer shall so request, Preventive Maintenance will be provided outside of these hours and will be subject to an additional charge.

5 OTHER SERVICES

- 5.1 When the Customer requests Service outside of the provisions of this Agreement, Company will use reasonable endeavour to provide such service, subject to the Customer agreeing to pay any additional charge arising as a result.

6 ADDITIONAL EQUIPMENT

- 6.1 Additional equipment may be added to the Equipment Schedule provided that such additional equipment is acceptable by Company for inclusion within this Agreement and subject to the Customer agreeing to pay any additional charges arising as a result.

7 CUSTOMER OBLIGATIONS

The Customer Shall:-

- 7.1 Promptly report all faults to the designated Service Control Centre.
- 7.2 Provide to the Engineer full and free access to the Equipment for the purposes of performing the Maintenance Service.
- 7.3 Undertake not to relocate, remove or reposition the Equipment without the prior written consent of Company.
- 7.4 Not make any addition to, modification of, or adjustment to the Equipment without the prior written consent of Company.
- 7.5 Co-operate reasonably with Company in the diagnosis of the reasons for any malfunction of the Equipment.
- 7.6 Not make any offer of employment or otherwise seek to entice away from the employment of Company any member of the Company staff during the term of this Agreement.
- 7.7 Maintain a suitable environment and electrical supply for the Equipment which complies with specifications given by the manufacturer(s). Company undertake to advise the Customer if the environment is suitable or the specification from the manufacturer alters.
- 7.8 Ensure the Equipment is operated in a proper manner by competent personnel.

8 TERMS OF PAYMENT

- 8.1 Time for payment shall be of the essence
- 8.2 The Customer shall pay the Maintenance Charge as stated in the Quotation annually in advance. Where a Maintenance charge extends for greater than 12 months, the next payment shall be due on the anniversary of the service commencement date
- 8.3 Where agreed within the proposal, the Customer shall pay the Maintenance Charge quarterly in advance.
- 8.4 Where any maintenance services are provided which are not covered by the provisions of this Agreement the Customer shall pay immediately on presentation of an invoice for the charges.
- 8.5 The Customer shall pay all accounts in full within 30 days of receipt of a valid invoice and not exercise any rights of set-off or counterclaim.
- 8.6 Costs and Expenses shall be in addition to the Maintenance Charges unless specifically included in the Quotation. Payments shall be made in the currency specified in the Quotation.
- 8.7 If any payments are more than 90 days in arrears from the due date on any Agreement between the Customer and Company then Company shall be entitled to suspend the terms of this Agreement.
- 8.8 The Company shall be entitled to charge interest on any sums not paid on the due date under Condition 6(a), at 8% above the Bank of England base rate under the Late Payment of Commercial Debts (Interest) Act 1998 until payment is made.

9 CHARGES

- 9.1 Company may increase or decrease the Maintenance Charge upon reasonable notice in writing.

9.2 If Maintenance Service is continued and is for any reason not covered by the provisions of the Agreement then the Customer shall pay at the appropriate hourly rate for such services, including any Costs and Expenses.

10 EXCLUSIONS

Maintenance Service does not include:-

- 10.1 Repair of damage caused by accident, misuse, neglect, movement of or interference with the Equipment, or by failure to maintain a suitable environment and electrical supply including (but not limited to) failure of electrical power, poor air conditioning or humidity control, static electricity, or by any cause other than the normal usage of the Equipment by the Customer, notwithstanding Clause 1.6.7 above.
- 10.2 Repair of damage caused by faulty manufacture of or modification of the Equipment before the date of this Agreement, or by any person other than an authorised representative of Company attempting to maintain the Equipment.
- 10.3 Maintenance of accessories, attachments, machines or any other items not included in the Equipment list specified in this Agreement.
- 10.4 Making modifications or specification changes to the Equipment. Reconditioning, refurbishing, painting or refinishing the Equipment, performing services connected with relocation of the Equipment or adding or removing accessories, attachments or other devices.
- 10.5 Provision of supplies or accessories, as detailed on the Agreement.

11 CUSTOMER WARRANTY

- 11.1 Company warrants and undertakes to the Customer.
- 11.2 That it will perform the Maintenance Services with all reasonable care and skill, but Company does not warrant or undertake that the provision of the Maintenance Service will cause the Equipment and the Software to operate without material fault or material interruption.
- 11.3 Subject to the foregoing all conditions, warranties, terms and undertakings express or implied statutory or otherwise, in respect of the performance of the Maintenance Services are hereby excluded.

12 BREACH OF AGREEMENT

If either party shall be in default of its obligations under this Agreement, then such default may be considered by the other party to be a breach of Agreement, if such default shall continue for 30 days after receipt of written notice thereof. Failure to remedy such breach shall entitle the other party to terminate this Agreement summarily without recourse to other remedy. Any outstanding sums due under the Agreement will become immediately payable.

13 TERM OF AGREEMENT

This Agreement shall take effect on the date specified and shall continue unless and until terminated by either party giving to the other not less than 3 months notice.

14 NOTICE

Either party may give any notice to the other by posting a letter, addressed to the other party at its registered office (if any) or other known relevant place of business, and sent by pre-paid first class post. Any notice so sent shall be deemed to have been properly and effectively given upon the expiration of 48 hours after it shall have been posted.

15 LIMITATION OF LIABILITY

- 15.1 Company will indemnify the Customer in respect of claims for direct physical damage to the Customer's property arising as a direct result of the negligence of its servants in the performance of this Agreement.
- 15.2 Company will indemnify the Customer in respect of claims for direct physical injury to, or the death of, the Customer's staff, where such is attributable to the negligence of Company or its servants.
- 15.3 Company shall not be liable for any loss of software data, how so ever occasioned.
- 15.4 Company shall not be liable for any indirect or consequential damages arising out of its performance under this Agreement.
- 15.5 Notwithstanding anything else in this Agreement, and to the extent permitted by law, Company's total liability in contract, tort, strict liability or otherwise arising in connection with this Agreement shall be limited in the aggregate at the Maintenance Charge.

16 INTELLECTUAL PROPERTY RIGHTS

- 16.1 The Customer acknowledges and agrees that all copyrights, trade marks, trade names, design rights, design patents, confidential information and all other intellectual property rights of whatever nature or description owned or possessed by Company in or in relation to the Equipment and the Software are the exclusive property of Company.
- 16.2 Company shall fully indemnify the Customer at its own expense for any third party action brought against the Customer which alleges or purports an infringement of the third party intellectual property rights.

17 CONFIDENTIALITY

- 17.1 Each of the parties hereto undertakes to the other to keep confidential all information (written or oral) concerning the business and affairs of the other including its clients that it shall have obtained or received as a result of the discussions leading up to or the entering into of this Agreement save that which is:-
- (i) Trivial or obvious.
 - (ii) Already in its possession other than as a result of a breach of this Condition or
 - (iii) In the public domain other than as a result of a breach of this Condition.
- 17.2 Each of the parties undertakes to the other to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of Conditions 1.16.1 above by its employees, agents and sub-contractor(s).

18 INSURANCE

The Company shall provide £10 million pounds Employers Liability Insurance and, £5 million pounds Public and Product Liability Insurance to cover the Maintenance Services provided under this Agreement.

19 FORCE MAJEURE

- 19.1 Provided it has complied with clause 19.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 19.2 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.
- 19.3 The Affected Party shall:
- a) as soon as reasonably practicable after the start of the Force Majeure Event but no later than [five] days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and
 - b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 19.4 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than four weeks, the party not affected by the Force Majeure Event may terminate this agreement by giving two weeks' written notice to the Affected Party.

20 RESTRICTIONS ON SENSITIVE COUNTRIES

The Customer agrees that it will not either directly or indirectly sell, re-export or transfer products, equipment, software, technical information or any services supplied under this Agreement to the following countries: Iran, Sudan (including Southern Sudan), Cuba, North Korea, Myanmar and Syria including any entities or persons located in those countries, or who are owned or controlled by the governments of those countries. The Company reserves the right to change any of these countries in the future.

21 NUCLEAR INCIDENTS

The Customer will indemnify the Company, against any liability to third parties, and against damage or injury, to any person or property including the Works, arising out of or resulting from ionising, radiations, or contamination, by radioactivity from any nuclear fuel or from any nuclear waste, save where liability or damage in respect of property, is caused by a corporate act or omission of ours done with intent to cause injury or damage.

22 ANTI-BRIBERY

Neither the party shall, directly or indirectly, make a bribe or other illegal gift or payment or offer, promise or authorize a bribe or other illegal gift or payment to any public or private person or entity, in connection with this Agreement. The parties represent and warrant that they have not taken, or permitted any of its Affiliates, agents, sub-contractors, suppliers or employees to take, any action which would constitute a breach of this provision, and covenants to comply

with (and require its Affiliates, agents and employees to comply with) this provision. This provision shall survive the termination of this Agreement.

23 DATA PRIVACY

- 23.1 **Compliance with Law.** The products and/or services being provided require the collection of Personal Information (information and data exchanged in connection with this Agreement related to any identified or identifiable natural person or, in case of a conflict with applicable law, which is subject to any applicable data privacy laws). The parties will comply with applicable data privacy laws governing Personal Information processed in connection with this Agreement. The parties take all reasonable commercial and legal steps to protect Personal Information.
- 23.2 **Rights and Obligations.** If the Customer provides the Company with Personal Information, the Customer will ensure that it has the legal right to do so. The Customer will notify the individuals whose Personal Information it has provided to the Company prior to providing it to the Company.
- 23.3 The Company may share Personal Information with the Company's service providers in accordance with applicable data privacy laws and with appropriate protections.
- 23.4 The Company may store Personal Information on servers located and accessible globally by Carrier entities and their service providers with appropriate protections in place.
- 23.5 If the Company processes Personal Information under this Agreement, the Company will retain the Personal Information for the term of this Agreement and thereafter as required under this Agreement, to protect the Company's legal rights, or as required or permitted by law or audit requirements. If processes Personal Information for purposes separate and apart from this Agreement, the Company serves as a controller and assumes legal obligations as a controller, including for defining the appropriate retention period.
- 23.6 If the Personal Information is involved in a Data Breach Incident (set of circumstances that involve actual or a reasonable possibility of unauthorized access to or possession of, or the loss or destruction of, Personal Information), the party on whose system the data was stored is responsible for any notifications and associated costs. Unless prohibited by law or a regulator with jurisdiction over a party, the notifying party shall make reasonable efforts to coordinate with the other party to allow input into the notification before it is made.
- 23.7 While performing under this Agreement, if a party learns of any: (i) complaint or allegation indicating a violation of the applicable data privacy laws regarding Personal Information; (ii) request from one or more individuals seeking to access, correct, or delete Personal Information; or (iii) inquiry or complaint from one or more individuals in relation to the processing of Personal Information, the party will exercise reasonable efforts to promptly notify the other party in writing, except to the extent prohibited by law, law enforcement, or a regulator with jurisdiction over such party. The parties shall provide reasonable commercial assistance to each other in investigating the matter, identifying the relevant information, preparing a response, implementing a remedy, and/or cooperating in the conduct of and defending against any claim, court or regulatory proceedings.

24 BREXIT

After taking all reasonable steps to mitigate, the Company shall give the Customer reasonable notice should it suffer during the course of this agreement any adverse impact on this agreement, including increases in costs and expenses, as a result of an Event i) related to the UK leaving the European Union, ii) related to an epidemic or pandemic, or iii) beyond the Company's reasonable control. An "Event" shall include, but not be limited to:

- (a) changes in law;
- (b) government action, public authority action;
- (c) national emergency;
- (d) changes in health and safety requirements;
- (e) changes in environmental requirements;
- (f) imposition of sanctions or embargo, breaking off of diplomatic relations;
- (g) increases in tariffs or other duties, taxes or levies imposed on exports or imports, fluctuating exchange rates;
- (h) changes or new requirements for licenses or consents;
- (i) delays in export or import of products or services due to controls, processes or restrictions;
- (j) terrorist attack, war; or,
- (k) any other change to the business or economic environment in which we operate that may be unforeseen at the date of this agreement.

Notwithstanding any other term or condition of this agreement, following reasonable prior written notice to the Customer setting out the change(s) to the agreement and the effective date(s), the Company shall be entitled as a result of an Event, on a fair and reasonable basis, to (i) change any of this agreement's charges, prices, and/or rates so that the Company is financially no worse off than if the Event had not occurred, and/or (ii) vary any of the goods, products and/or services provided under this agreement.



In addition, it is further agreed that the Company shall have no liability for any delays to programme or delivery or any penalties, costs or damages that are associated with any programme or delivery if such delay is caused by an Event.

25 CONTRACTS (RIGHTS OF THIRD PARTIES ACT 1999)

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy that exists or is available to a third party apart from that Act.

26 DISPUTES

26.1 In the event of a dispute that cannot be resolved by discussion and negotiation the Company and the Customer agree to an initial process of mediation. The mediation will be conducted in London, England, in accordance with the Centre of Dispute Resolution (CEDR) Model Mediation Procedure (as in force at the date of the mediation). The mediator shall be nominated by CEDR. All costs, other than legal costs associated with the process, shall be shared equally by the Company and the Customer.

26.2 In the event that a dispute cannot be resolved by mediation all disputes arising out of or in connection with this Agreement shall be settled on a final and binding basis under the Rules of Arbitration of the Chamber of Commerce, by one arbitrator, sitting in London, England conducting the arbitration in English and pursuant to English Law.

27 LAW

This Agreement shall be considered in accordance with English Law (Arbitration Act or its successor) and the parties hereby submit to the exclusive jurisdiction of the English courts.