

## General Terms

The following Terms and Definitions apply to both Terms of Sale and Terms of Maintenance.

### Definitions

**You, Your, Yourself** – as shown under Customer Details' overleaf.

**We, Us, Our** – the Supplier and/or Maintenance Provider 'Annodata Limited' whose registered office is at The Maylands Building, Maylands Avenue, Hemel Hempstead, Hertfordshire, HP2 7TG and whose Reg No. is 2246366.

**Equipment** – Hardware (including any software required to operate it) to be sold to You and/or maintained by Us as set out in the Solutions Specification' overleaf.

**Maintenance** – Services provided to maintain the Equipment as indicated under Maintenance' overleaf. **Total Equipment Failure** – The total loss of all incoming, outgoing and internal calls.

**Software** – The computer programs incorporated into any Equipment or which are supplied separately by Us under the Agreement.

**Completion Date** – The date when installation of the Equipment has been completed by Us and signed off by You.

**Proposal** – The proposed solution issued by Us to You the reference number to which is stated at the top of this Agreement.

- This Agreement contains the entire terms and conditions as applied to the Equipment sold by Us and all Maintenance provided by Us which, for the avoidance of doubt, includes the maintenance of equipment not purchased from Us, to the exclusion of all other terms.
- By signing this Agreement You agree to buy the Equipment and We agree to sell it to You as a Cash purchase for the Total Solution Price specified in the section headed 'Solution pricing' overleaf.
- If You wish to apply for leasing facilities to replace Your Cash purchase then:
  - You must pay to Us a refundable deposit of 30% of the Total Solution Price in order for Us to procure the Equipment and commence installation. We will repay this deposit to You immediately We receive full payment of the purchase price from the Leasing Company; and
  - provided the Leasing Company accepts and executes the proposed Lease Agreement within 14 days of the date of Our sending them Your signed confirmation that the Equipment has been satisfactorily installed We will accept that this sale to you is intended (but not any Maintenance Agreement between Us) and sell the Equipment to the Leasing Company with your consent; but
  - unless a Lease Agreement is executed within the said period You will continue to be bound to purchase the Equipment for cash and We shall be entitled to retain any deposit paid on account of the Total Solution Price.
- You agree that the person signing this Agreement on Your behalf is properly authorised to do so. No modification of these terms shall be effective unless made in writing and signed by a Director of ACS and somebody authorised by You to do so.
- Where You request Us to supply to You any items under this Agreement We reserve the right to make a charge for delivery.
- Any notice that You or We need to give under these terms will be made in writing and sent to the other party's principal place of business. Notice will be deemed to have been given 48 hours after it has been sent. You agree to send any termination notice by registered post.
- You shall not be entitled to assign the Agreement or any part of it without Our prior written consent and We may assign the Agreement or any part of it to any person, firm or company.
- We do not represent that the operation of any Software will be uninterrupted or error free or that any specific requirement You have informed Us of will continue to be met should Your operating system or network operating system alter after the date of installation. You acknowledge that We may not successfully diagnose or correct all faults or errors.
- Except to the extent permitted by law, You agree not to copy, modify, merge, decompile, or make available or disclose the Software in whole or in part to any third party.
- You agree to take full back ups of all Your data prior to Us conducting any work on Your systems and to implement effective audit controls, data security measures and virus controls at all reasonable times.
- Except for the terms of this Agreement, You agree that all other conditions, warranties, terms, representations and undertakings express or implied, are to the fullest extent permitted by law, excluded from this Agreement. Our liability for damage to Your property caused by Our negligence is limited to one million Pounds in aggregate in respect of any one claim. If that limit is not adequate You agree to take up Your own additional insurance cover. We are not liable to You for any indirect or consequential loss or damage (whether for loss of profit, reputation or goodwill) or any financial loss, or any liability You may have to a third party, howsoever caused. Save as provided above Our entire liability to You under or in connection with this Agreement shall not exceed the previous 12 month's charges.
- We may from time to time deliver equipment, software or other items to You, which You have leased from a third party. We may also facilitate the placing of orders between You and third party suppliers and/or contractors. You acknowledge that We are not the agent of any leasing company or other third party, and that We have no liability in respect of such orders or for the acts or omissions of any third party.
- This Agreement applies to all items of the Equipment individually. If any item fails, it will not affect the rights and liabilities of either of Us for the other items.
- We are not liable for delaying, or not carrying out any of Our duties if caused by circumstances beyond Our control. Under these circumstances We can choose to cancel part or all of this Agreement or delay carrying out all or part of it.
- Failure or delay by Us in enforcing or partially enforcing any provision under this Agreement will not be construed as a waiver of any rights under the Agreement.
- If any term in the Agreement becomes invalid, illegal or unenforceable, it will not affect the other terms in the Agreement.
- This Agreement is governed by English Law and comes under the jurisdiction of the English Courts.

### Terms of Sale

The following terms apply in respect of the sale to You of Equipment as detailed overleaf and are effective from the date You sign the Agreement.

#### 1. Delivery

1.1 Any delivery date or time proposed either by You or Us is an estimate only and shall not be of the essence of the contract.

1.2 You agree to inspect the Equipment on delivery and notify Us of any defect within five days in writing.

#### 2. Ownership and Insurance

2.1 Ownership of the Equipment will not pass to You until payment is received in full by Us and has been irrevocably credited to Our bank account

2.2 When We have delivered the Equipment to You, You are liable for the risk of any loss or damage to it. This will remain Your risk unless We take it back so You must insure Yourself against loss or damage.

2.3 If you do not make payments when they are due, or, if before You pay for Equipment, You go into liquidation or receivership or commit any act of bankruptcy, or We think any of these may happen, You agree to allow Us to enter Your premises without notice and recover the Equipment and claim any money You owe Us under this Agreement or any other contract.

2.4 You agree that You cannot send Equipment back instead of paying for it. We may take legal action to recover the price even though title in the Equipment may not have passed to You.

#### 3. Payment

By signing this Agreement You acknowledge acceptance of the Proposal and agree to pay a deposit of 30% of the purchase price with this signed order. You agree to pay a further 60% of the purchase price on delivery and the balance of 10% within 7 days of the Completion Date. Payment on time shall be of the essence of the Agreement and unless otherwise specified all prices are subject to VAT.

#### 4. Termination

Termination of this signed Agreement by You without Our written consent before receipt of payment by Us, pursuant to clause 2.1 above, shall result in a charge payable by You to Us of twenty five percent of the total invoice value of this Agreement.

#### 5. Suitability

You agree that the Equipment is suitable for Your needs and meets Your requirements. You are responsible for ensuring that the Equipment is compatible with any software, network or other items for which it is linked.

### Terms of Maintenance

#### 1. Maintenance repair and response times

- We will carry out maintenance of and repair to the Equipment arising from fair wear and tear and proper operating during the working hours indicated by the Service Level shown overleaf.
- We will exercise all reasonable skill and care in providing Maintenance and shall comply with all regulatory requirements of a maintainer of call routing apparatus. Maintenance shall be provided by competent personnel in a professional manner in accordance with best industry practice.
- We will make every reasonable attempt to respond to a call for maintenance within the following response times based on the time of receipt of Your call to Our call centre.
  - 1.3.1 Level 1 and Level 2 (SL1/SL2): Total Equipment Failure – within four working hours. Any other Equipment failure – within fifteen working hours.
  - 1.3.2 Level 3 (SL3): Total Equipment Failure – within four actual hours. Any other failure – within twenty-four actual hours.
  - 1.3.3 For Equipment based on personal computer platforms PC service levels for response apply as follows: PC Level 1 and PC Level 2 (PC1/PC2): within eight working hours. PC Level 3 (PC3): within eight actual hours.

#### 2. Your obligations

- You agree to ensure that the environmental conditions at the installation site comply with the requirements of Us, the network operator and any other approved authority and to ensure the Equipment is operated in accordance with the manufacturer's instructions.
- You agree to pay Our invoices within 30 calendar days from the invoice date. Failure to pay an account in respect of any sums due shall be a breach of the terms of this Agreement and without prejudice to any other remedy available to Us under this Agreement, We will be entitled to:
  - Suspend the provision of Maintenance hereunder and/or
  - Terminate the Agreement.
- You agree to notify Us immediately of any malfunction or defect in the Equipment.
- You agree to allow Us, or Our agents, access to Your premises at any time during the contracted working hours to inspect, service or test the Equipment or to remove any property belonging to Us. We will follow any reasonable security and health rules that may apply at Your premises.
- You agree to prevent anyone other than Our approved staff from moving, altering, adjusting, or otherwise interfering with the Equipment without Our prior written consent.

#### 3. Charges and payment

- Maintenance charges are set out overleaf (subject to any changes under clauses 3.2 and 3.5) and payment is due before any period of cover commences. Unless otherwise stated, all charges are subject to VAT.
- We may review charges on any anniversary to this Agreement and We will inform You of any changes by submitting an invoice for the succeeding period no less than 30 days before the period commences.
- If the charges are increased by more than 12.5% over the preceding period, You can cancel the Agreement by giving Us no less than 14 days notice.
- Where the Equipment concerned has been supplied by somebody else and has been in Your possession prior to the commencement of this Agreement we reserve the right to charge You for bringing the Equipment up to proper serviceable condition.
- We reserve the right to make additional charges for work required due to:
  - external forces outside of Our control including but not limited to accident, disaster or burglary;
  - Lightning damage, failure or fluctuation of electrical power, surges or spikes in the electrical mains or currents induced into or damage caused by electro-magnetic interference;
  - work in connection with equipment not listed in the Solutions Specification';
  - any moves, changes, updates, reprogramming or additions that you require to the Equipment;
  - errors caused by software not supplied or approved by Us;
  - the loss of, or damage to, data;
  - work required outside of the contracted normal working hours;
  - faults or damage caused by Your negligence or failure to observe recommendations made by Us or the network operator;
  - any failure of the line wiring connected to the Call Routing Apparatus;
  - alterations or extensions to the Equipment effected by You or a third party that We have not approved;
  - responding to a call out where the Equipment proves not to be faulty;
  - any other failure not attributable to the Equipment.

#### 4. Termination

- This Agreement for Maintenance shall start on the Completion Date and shall continue for a minimum period equal to any lease agreement under which the Equipment is maintained by Us or where the Equipment is purchased from Us, 60 months from the date of this Agreement.
- Either party may terminate the Agreement by giving to the other 90 days notice to take effect on the next anniversary of the Agreement.
- If you terminate the Agreement early you must pay any outstanding sums due together with a charge equal to sixty five per cent of the remaining charges due under the Agreement
- If due to the lack of suitable spare parts or due to severe damage caused to the Equipment by anyone other than our own staff We reasonably form the opinion that Maintenance can no longer be economically provided, We will notify You of the options available. Should We be unable to agree on a course of action, We will be entitled to terminate the Agreement by giving You 90 days written notice in which case We will repay a fair proportion of any advance charges You have paid.

#### 5. Expenses

Annodata may charge to the Customer reasonable expenses incurred for travel and subsistence for implementation and Consultancy services. For the avoidance of doubt, the Customer shall not be charged any expenses for activities which are as a result of reactive technical support delivery to the customer under a support or maintenance contract.