

AMA Business Systems Ltd

Standard Terms for the Supply of Network Support & Hardware Maintenance

These terms are supplemental to the General Terms and Conditions of Software Hardware and Consultancy Supply (the “General Terms”)

1. Agreement to Maintain

1.1. We agree to maintain the hardware (“the System”) stated in the quotation as being subject to a maintenance agreement subject to the General Terms and these terms and conditions (“the maintenance agreement”).

1.2.

2. Assignment

2.1. We may by notice assign the whole of this maintenance agreement to any other person who in our reasonable opinion is capable of carrying out its terms.

2.2. Any assignment under this clause is without prejudice to any other contractual arrangement between us.

3. Maintenance Provided under this Agreement shall Include

3.1. Maintenance provided includes hardware hotline support. We will respond to problems telephoned or emailed to our hotline which is available during our normal working hours (*which exclude public holidays and weekends*). We use our best endeavours to respond to Urgent or Critical calls within 2 hours, normally within 1 hour. Other calls, within 8 working hours, normally within 4 hours. We prioritise support into urgent and non-urgent problems. An urgent problem is

3.1.1. significant degradation or failure of the System,

3.1.1.1. hardware failure rendering any major subsystem of the System inoperable or significantly degraded.

Any other problem is classified as non-urgent.

3.2. We shall, if specified in the quotation provide out-of-hours support.

3.3. Our support staff will attempt to solve a problem as quickly as reasonably possible, taking into account that urgent problems have priority over non-urgent problems. When appropriate, we will try to give an estimate of how long a problem may take to resolve. We will always try to keep you informed of the progress of problem resolution.

3.4. In the course of solving a problem we may issue you with a workaround which will enable you to continue working (albeit with possibly reduced functionality) which may cause your problem to be reclassified as a non-urgent problem.

3.5. We agree to provide on-site support if specified in the quotation and where appropriate, in the event telephone support does not resolve the problem. Otherwise, you agree to dispatch whichever items we identify to us at your cost and risk for maintenance at our premises.

3.6. We shall charge at our usual applicable hourly rates for any hardware maintenance other than maintenance provided under this agreement.

3.7. This agreement does not cover software support which may be available at extra cost and subject to our Standard Terms for the Supply of Software Support.

3.8. This Agreement, unless supplied in conjunction with our Disaster Recovery Service, does not oblige us to install, configure, reinstall or reconfigure any software or to reinstate or reload any data and our obligation under it is limited to placing the System in an operable condition ready for the reloading or reconfiguration of backed-up software or data. You acknowledge that diagnosis and maintenance may result in the corruption or erasure of software or data and you must

therefore ensure that you keep careful, up-to-date verified backups of software and data using a rotation system and regularly replaced media.

4. Your obligations

- 4.1. You must submit sufficient material and information and assistance throughout the time that the problem subsists to enable our maintenance staff to duplicate the problem.
- 4.2. You agree to provide us with basic assistance in the installation of user-installable items of hardware and in user-reconfiguration.
- 4.3. Where the hardware covered by this agreement is dependent upon other hardware not covered by the agreement (“supplementary hardware”) you must ensure that the supplementary hardware is included within this agreement (for which we may levy an additional charge) or by another maintenance agreement the terms and supplier of which are approved by us, failing which we may decline to provide maintenance for the hardware in question.
- 4.4. You must ensure that all reasonable steps are taken to protect your network from hackers and viruses. If your network security is compromised, we reserve the right to charge for any recovery work, if your anti-virus, anti-spam, anti-malware or operating system service packs are not installed or out of date. If you have a network support contract with us, we’ll monitor this for you.
- 4.5. We may provide you with support or diagnostic software (the “Support Software”), in which case you agree:
 - 4.5.1. To install the Support Software at our direction and make it available for our maintenance staff to use;
 - 4.5.2. not to copy the Support Software, other than for the purposes of back-up, nor otherwise to reproduce it;
 - 4.5.3. not to translate, adapt, vary or modify the Support Software without our written consent;
 - 4.5.4. to maintain accurate and up-to-date records of the number and location of all copies of the Support Software;
 - 4.5.5. to supervise and control use of the Support Software in accordance with the terms of this agreement and of the Support Software in accordance with the software licence;
 - 4.5.6. to replace the current version of Support Software with any upgraded version forthwith upon receipt;
 - 4.5.7. to reproduce and include the copyright notice contained in or on the Support Software on all and any copies made, whether in whole or in part, in any form, including partial copies or modifications of any software;
 - 4.5.8. not to provide or otherwise make available the Support Software in whole or in part (including but not limited to program listings, object code, source program listings and source code), in any form to any person other than your employees or authorised contractors without our written consent ; and
 - 4.5.9. within 14 days after the date of expiry or termination of this maintenance agreement (however such termination comes about) give us a certificate, certifying that the main copy and all backup or other copies of all Support Software and related documentation (in whole and in part), in any form including partial copies or modifications of such software received from us or made in connection with this Agreement, have been destroyed, (unless we give you prior written authorisation to retain one copy of it and upon whatever conditions we may think fit).

5. Remote Support

- 5.1. You will, make available a Broadband Internet connection, for on-line problem resolution.
- 5.2. You will ensure that we have access to administrative or other passwords to enable us to carry out maintenance. We undertake to take reasonable steps to keep such passwords confidential, but you are advised that you should employ a prudent password policy involving regular changes of passwords and the use of non-obvious or guessable passwords.

6. Correction of Hardware Defects

- 6.1. If hardware maintenance is included in your contract, we shall generally replace defective hardware on a “like-for-like” basis. However, so long as the functionality and compatibility of the replacement hardware is no less than the original hardware (which includes its entry on a relevant software providers’ hardware compatibility lists) we may replace defective hardware with quality second-user or remanufactured hardware. The faulty parts become our property on removal and any replacement parts become your property on installation.
- 6.2. A “software provider’s compatibility list” referred to in clause 6.1 above is relevant only where it applies to systems software supplied with the machine as an OEM product when you bought it; software supplied by us or software which is covered by a software support agreement with us.
- 6.3. We may replace hardware under this clause as part of a preventive maintenance programme irrespective of whether the hardware in question is proven defective at the time of replacement.
- 6.4. Where it does not materially affect the performance or operation of the System, we may specify software patches or workarounds to deal with hardware problems.
- 6.5. We may provide you with temporary parts or fixes because a complete repair is not immediately available. In this case, the temporary parts remain our property and you agree to take good care of them. You agree to comply with all reasonable instructions we may give you in relation to them. Note that the temporary parts may not appear on a software provider’s compatibility list, but we will endeavour to ensure that they function effectively.
- 6.6. Equipment over 3 years old is covered on a ‘best endeavors’ basis only. I.E. If we can no longer source a replacement part, & the machine becomes ‘uneconomical to repair’, it is your responsibility to replace it.

7. Maintenance not Included

- 7.1. The following are not covered by the maintenance agreement (unless explicitly stated otherwise) and work carried out in respect of them will charged for on a time and materials basis at our usual charge-out rates.
 - 7.1.1. Support of other software, accessories, attachments, machines, systems or other devices not supplied by us or listed in the quotation as being covered by this maintenance agreement (or otherwise covered by agreement).
 - 7.1.2. Rectification of lost or corrupted data arising for any reason other than our own negligence.
 - 7.1.3. Support made more difficult because of any changes, alterations, additions, modifications or variations to the hardware covered by this agreement, the System or operating environment and made without our written consent or at our instructions.
 - 7.1.4. Attendance to faults caused by using or storing the software or hardware outside design or other specifications or outside the provisions laid down in any instructions documentation or manual relating to the software or hardware.

- 7.1.5. Diagnosis and/or rectification of problems not associated with the hardware covered by this agreement.
- 7.1.6. Loss of or damage to the hardware covered by standard “all-risks” insurance.
- 7.2. Unless explicitly stated in the quotation, this agreement does not cover the maintenance or replacement of consumables. The term “consumables” includes, but is not limited to, paper, toner, ink, ribbons, media, drive belts, print heads, filters, print drums and any other items which it is reasonable to expect would be replaced from time to time during the life of the item in question.

8. Duration

- 8.1. This maintenance agreement shall subsist for one year from its date, and from year to year thereafter.

9. Maintenance Charges

- 9.1. The maintenance charges are as specified in the quotation and as notified to you from time to time under this maintenance agreement (“Maintenance Charges”).
- 9.2. Maintenance Charges are payable annually in advance upon receipt of our invoice unless we agree otherwise in writing (or it says otherwise in the quotation). No support will be provided until we have received payment. The quotation may specify that you are required to pay by direct debit in which case we shall debit your account near to the date of this maintenance agreement and each renewal date with the Maintenance Charges which are in force at the time the debit is made.
- 9.3. Maintenance Charges are subject to review no more than once in each 12 month period (excluding agreed additions and alterations to hardware covered by this agreement). We will give you at least 30 days’ notice before the new Maintenance Charges take effect.
- 9.4. Within 30 days after you have been notified of amended Maintenance Charges in accordance with clause 9.3 above you may, if the charges have been increased, notify us of your intention to terminate this maintenance agreement in which case this maintenance agreement will terminate (and all maintenance services will cease) on the day immediately before the increased charges were due to take effect. Termination of this maintenance agreement shall not by itself cause any other agreement between us to terminate.
- 9.5. If you alter your hardware configuration from that contemplated in the quotation (or as accepted by us from time to time) or there is any other significant change in the hardware to be maintained (*for example, a change in its location*) you must notify us immediately in which case:
 - 9.5.1. We will notify you what the amended Maintenance Charges will be and you have 30 days in which to reject by notice the new charges, failing which you are considered to have accepted them.
 - 9.5.2. If you reject the new charges notified to you in accordance with the preceding clause, you will be deemed to have served notice terminating the agreement in accordance with clause 8.1 above and the old maintenance charges will remain in effect. However, in this case we shall not be required, for the remainder of the contractual period, to provide maintenance services in excess of those we were required to provide before we were notified of the changes. *For the avoidance of doubt, the 30 day notice period still applies. In other words, if you reject new charges within 30 days of an anniversary of this agreement, the agreement will not terminate on that anniversary, but the next one following it.*

10. Our Liability

- 10.1. We shall not be liable to you for any loss or damage arising directly or indirectly in connection with this maintenance agreement, the Software, any Support Software, modem or other hardware, its use, the System or other equipment, property or otherwise except to the extent that such liability may not be lawfully excluded unless we have explicitly agreed to accept that liability in our quotation.
- 10.2. Notwithstanding the generality of 10.1 above, we expressly exclude liability for consequential loss or damage which may arise in respect of the Software, any Support Software, any modem or other hardware, its use, the System or other equipment or property or for loss of profit, business, revenue, goodwill or anticipated savings unless we have explicitly agreed to accept that liability in the quotation.
- 10.3. In the event that any exclusion or other provision contained in this agreement is held to be invalid for any reason and we become liable for loss or damage that could otherwise have been limited, that liability shall be limited to the amount you were required to pay us for hardware maintenance or support services over the last year before termination.

11. Termination

- 11.1. In addition to provisions for termination contained elsewhere in this agreement, we may, by notice to you, terminate this maintenance agreement if you are in breach of any term, condition or provision and fail to remedy it (if it is capable of remedy) within 30 days of having received notice of the breach from us.
- 11.2. Upon termination, you will pay us all costs and expenses, including legal and other fees incurred and all arrears of charges or other payments arising in respect of the hardware, any Support Software or hardware, its support, this agreement or otherwise and shall comply with your obligation undertaking specified in clause 4.4.9 (*which requires you to certify you have destroyed the support software*) above.
- 11.3. Any remedies or rights which we have against you shall continue after termination for any reason.
- 11.4. Termination of this agreement shall not (by itself) terminate other agreements that there may be between us.
- 11.5. Either of us may notify the other that it wishes to terminate the agreement, with at least 30 days written notice of any anniversary.