

## **SUPPORT AGREEMENT - TERMS & CONDITIONS**

This agreement shall become effective from the contract date.

### **1. DEFINITIONS**

"CONTRACT DATE" shall mean the date on which the request made hereby by the Customer shall be accepted by Amco FM Limited as shown overleaf. "THE EQUIPMENT" shall mean the items of equipment set out in the IT Support Schedule overleaf. "PRINCIPAL PERIOD OF SUPPORT " means the hours between 9:00am and 5:30pm each day, excluding Saturdays, Sundays, Public and Bank Holidays. "THE INSTALLATION SITE" shall mean the location or locations at which the parties have agreed that the Hardware is installed. "QUALIFIED OPERATORS" shall mean persons who had training in the use and operation of the Equipment. "THE EQUIPMENT IS CERTIFIED AND READY FOR USE" shall mean the standard set of checks and tests for the time being prescribed by Amco FM Limited for the purpose of establishing that the Hardware has been installed/repaired correctly and is working satisfactorily.

"Amco FM Limited SUPPORT SERVICE" means subject to (4b) below the inspection and maintenance of the Equipment, together with the carrying out of repairs and the supply and fitting of necessary replacement parts by engineers of Amco FM Limited or its authorised agents at the Installation Site in order to keep the Equipment in good working order. Also includes the support of software, applications and configurations as defined within the IT Support Schedule and the provision of any facilities, remote diagnostics and services as detailed within the IT Support Schedule.

### **2. TERM OF AGREEMENT**

This Agreement shall have an initial term of one year commencing from the Contract Date and shall continue in effect from year to year thereafter until terminated by either party with a minimum of 90 days' notice.

### **3. CHARGES**

a) The Support Charges for the IT Support Schedule are Amco FM Limited's current charges and the customer shall pay these charges in accordance with the terms set out overleaf. i.e. Annual, Quarterly, Monthly etc.

b) All Support Charges will be paid by the Customer in advance of the first day of the period to which the payment relates. The first payment will be due and payable on the Contract Date. In the event of payment by the Customer of any Support Charges or of any other payment being overdue or of any other failure by the Customer to comply with any of its obligations under this Agreement then Amco FM Limited shall be entitled at its sole discretion to withhold Amco FM Limited Support Service on the Equipment/Services until such time as the Customer is no longer indebted to Amco FM Limited and/or has fulfilled its other obligations as the case may be, without prejudicing any other remedies to which Amco FM Limited may be entitled to under this Agreement.

c) This Agreement applies only to the Support of the Equipment and provision of services at the Installation Site. If any Equipment or supported entity is to be transferred to any other location the Customer shall notify Amco FM Limited in writing of the new address at least 30 days prior to any transfer occurring. If Amco FM Limited reasonably considers that such transfer justifies a change in the terms of this Agreement Amco FM Limited shall be entitled to terminate forthwith and will submit

to the Customer its proposals as the basis for a new Hardware Support Agreement in like form. All costs reasonably incurred by Amco FM Limited in the transfer of the Equipment/Facilities and its charges for the de-installation of the Equipment will be paid by the Customer upon being invoiced for the same by Amco FM Limited.

d) The Support Charges will be those prevailing at the Contract Date and may be varied by Amco FM Limited at any time thereafter. Amco FM Limited will give the Customer 30 days written notice prior to any such variation coming into effect. If the Customer does not accept these charges then the Customer is entitled to terminate the agreement on the items that are subject to change giving 30 days notice in writing.

e) Amco FM Limited shall have the right to charge the Customer compound interest on all sums whatsoever overdue for payment from the Customer to Amco FM Limited at a rate of 2.5% per month (compounded monthly) and calculated on a day to day basis from the date on which each sum concerned becomes overdue for payment up to the date on which Amco FM Limited receives payment.

f) Charges for any period of less than one calendar month shall rounded of to the nearest month.

g) Any United Kingdom taxes (other than those assessed on profits or gains) arising upon the sale of the Equipment or the provision of associated services shall be borne by the Customer.

#### 4. SUPPORT/MAINTENANCE SERVICE

a) Payment of the Support Charges shall entitle the Customer to the services specified in the IT Support Schedule on and in respect of the Equipment/Facilities/Software during the Principal Period of Support.

b) Amco FM Limited SUPPORT SERVICE does not include (i) changes or alterations of Hardware/Software Function; (ii) installation, re-configuration, development, moving or removal of units, options or attachments; (iii) supplies, consumables or accessories; (iv) rebuilding or refurbishing; (v) replacement of parts necessitated by or repair to damage resulting from accident, neglect, misuse, failure of electrical power or any causes other than ordinary use, (vi) replacement of CRT or Plasma displays (vii) detection and removal of infection including Virus, Spyware or Adware (viii) recovery of data from damaged media unless any such service is defined with the IT Support Schedule or Service Level Agreement (SLA).

c) Amco FM Limited will submit an estimate of its charges for replacement, repair, re-configuration, data recovery or reconditioning of Equipment within (b)(v) above and may carry out such work at the Customer's expense if so authorised by the Customer.

d) If the Customer does not authorise the replacement, repair, re-configuration or reconditioning of any item of Equipment or Software as referred to in 4(c) hereof within 30 days of the date of submission of AMCO FM's estimate for the same, Amco FM Limited shall be entitled by written notice given at any time thereafter to the Customer to exclude such items from the benefit of this Agreement and shall thereupon make a reasonable reduction in the Support Charge thereafter payable accordingly.

e) When replacement parts are fitted, the parts removed shall either become or remain the property of Amco FM Limited, as the case may be. The property in any replacement or additional parts or parts fitted or supplied by Amco FM Limited shall not pass to the Customer unless and until the property in the Equipment has so passed, pending which the customer shall hold the same on the same basis and subject to the same restrictions as it holds the Equipment.

f) Amco FM Limited reserve the right to replace faulty customer hardware with that of a different manufacturer to that of the Item to be replaced with hardware which is, in the opinion of Amco FM Limited to be of comparable specification, age, value and reliability.

g) Services outside the Principal Period of Support (or any extended cover requested by the Customer) may be provided by mutual agreement. Amco FM Limited's charges for the same will be calculated on a time basis in accordance with Amco FM Limited's then prevailing standard charges.

h) Amco FM Limited will cover if requested by the customer any equipment that carries a manufacturers warranty. In any such event the standard charges for that respective item of equipment will be adjusted to take into account the warranty supplied by the manufacturer.

i) AMCO FM Limited reserve the right to declare any equipment "beyond economical repair" if it can be proven that the manufacturer no longer supports the equipment or spares are no longer available from established sources or the equipment requires refurbishment or the age of the equipment prevents economical repair. In any such instance AMCO FM Limited will supply a quotation for a suitable replacement offering a discount not less than the annual support premium for the respective equipment.

## 5. SUPPORT/MAINTENANCE REQUIREMENTS

During the terms of this Agreement the Customer shall; (i) permit and provide for Amco FM Limited and its authorised agents full and free access to the Hardware and Software at all times during the Principal Period of Support, such access to include the provision of suitable vehicle parking facilities where reasonably applicable, free of any legal restrictions and reasonably close to the Equipment location; (ii) neither perform nor cause suffer or permit to be performed any maintenance adjustments or repair to the Equipment by person other than Amco FM Limited engineers or its authorised agents; (iii) notify Amco FM Limited immediately if the Equipment is not operating correctly; (iv) ensure that time is made available to Amco FM Limited during the Principal Period of Support for the purpose of the relevant Maintenance Service; (v) use the Equipment only by Qualified Operators and in a careful and proper manner and in accordance the manufacturers operating instructions or manuals; (vi) ensure that only such software and operating supplies as are supplied or approved for use by the manufacturers are used with the Equipment; (vii) maintain in good order the Installation Site, the accommodation of the Equipment, the cables and fittings associated therewith and the electrical supply thereto; (viii) ensure that no additional attachments, features or devices are employed or used with the Equipment and that no movement, change or alteration is made to Equipment without the prior written consent of Amco FM Limited in each case, which shall not be unreasonably withheld.

If after giving such consent it subsequently appears to Amco FM Limited that the Support of the Equipment is thereby being impaired, Amco FM Limited may revoke such consent, in which case the Customer shall forthwith and at its own expense affect the appropriate removal or alteration in strict accordance with the directions of Amco FM Limited.

## 6. LIABILITY

a) Force Majeure - Neither party shall be under any liability for failures or delays attributable to causes beyond their control.

b) Amco FM Limited will indemnify the Customer against any claim for or in respect of death or personal injury to any person if and to the extent that it is directly caused by the proven negligence (as defined under section 1(1) of the Unfair Contract Terms Act 1977) of Amco FM Limited, its employees, agents or subcontractors

c) Subject only to the provisions of 6(b) hereof, Amco FM Limited will not under any circumstances whatsoever be liable for and the Customer shall indemnify and hold Amco FM Limited harmless against any claim in respect of loss, or damage to property directly or indirectly caused by or arising from negligence (including the use of any part of the Hardware or Operating software or otherwise and in accordance with the manufacturers operating instructions or manuals or by persons other than Qualified Operators) or default (including any breach of non-compliance with any terms of this Agreement, any delay, any wrong information and any lack of required information) or the possession, operation, use or misuse, functioning or malfunctioning, furnishings or modification of any Hardware. Operating Software or other items supplied by Amco FM Limited.

d) In no event shall Amco FM Limited be liable for the loss of profits or contracts or for any indirect or consequential loss or damage caused by or arising from any of the causes, matters or things set out in 6(c) hereof.

e) It is the sole responsibility of the customer to ensure adequate copies of their software are made, and that arrangements have been made by the customer to restore and maintain any data, programs or software that is required for their equipment to function. In no event shall Amco FM Limited be responsible or liable for any loss of data, programs or software in any way.

f) Amco FM Limited warrants to perform Support Services with reasonable care and skill.

## 7. GENERAL

a) Save as provided for in 4(e) nothing in this Agreement shall cause or provide for the property in any Equipment or goods supplied to the Customer under this or any other Agreement between the parties to pass to the Customer where the property in such Equipment or goods has not so passed under the terms of such Agreement aforesaid.

b) The terms and conditions of this Agreement represent the entire Agreement between the parties. No changes or modification, variation or waiver of the same, or of any rights or obligations arising or having arisen here under shall be effective unless incorporated into a written document signed by a duly authorised officer or employee of such of the parties and annexed hereto.

c) This Agreement and all rights and obligations here under shall for all purposes be treated and construed as being separate and apart from any other agreements or any rights and obligations there under save only insofar as express provision requires to the contrary.

d) This Agreement or the benefit hereof may not be assigned by the Customer in whole or in part without the prior written consent of Amco FM Limited which will not be unreasonably withheld.

e) If the Customer being an individual or a firm (including in the latter case any partner in that firm) shall at any time become bankrupt or shall have a receiving or administration order made against him, or shall make any composition, arrangement, trust, deed, conveyance or assignment with or for the benefit of his creditors, or shall purport to do so, or if in Scotland he shall become insolvent or not our bankrupt, or any application shall be made under any Bankruptcy Act for the time being in force for sequestrating of his estate, or being a company shall pass a resolution or any court shall make an order that the company shall be made wound up (save and excepting only a member's winding up for the purpose of reconstruction or amalgamation) or if a receiver or a manager on behalf of a creditor shall be appointed, or if circumstances shall arise which entitle a court or a creditor to appoint a receiver or manager or to make a winding up order, then Amco FM Limited shall be at liberty at its sole discretion and without prejudging or affecting any right of action which shall have accrued or shall thereafter accrue to Amco FM Limited (i) forthwith or at any time thereafter to terminate this agreement by giving notice in writing to the effect to that Customer or (ii) to give any such liquidator, receiver, manager or other person the option of continuing this Agreement in such terms as may be mutually agreed.

f) Any notice or other communication required to be given here under in writing shall be sent to the relevant party at the address shown on the front of this Agreement. Any notice or other communication shall, if given by post, be given by first class prepaid letter or by telex or fax and shall be deemed to have been received in the case of a letter two days after posting and in the case of a telex or fax at the time of the despatch of such telex or fax provided that if such telex or fax is sent outside business hours, it shall be deemed to have been received on the next immediately succeeding business day.

g) This Agreement is made in and shall be governed by the Laws of England, Scotland and Wales. The parties agree to accept the non-exclusive jurisdiction of the English courts.