



River
 Unit F7, The Bloc,
 38 Springfield Way, Anlaby,
 Hull, HU10 6RJ

Tel: 01482 272728

River Technical Services

TELEPHONE SYSTEM MAINTENANCE CONTRACT

COMPANY NAME:	
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TELEPHONE SYSTEM SITE ADDRESS:

INVOICE ADDRESS:

Address:		Address:	
Tel No:		Tel No:	
Fax No:		Fax No:	
Email Add:		Email Add:	
Site Contact:		Site Contact:	

Contract No:		Account No:	
Maintenance Cover: <small>Category</small>		Cover Details	
Contract Term:	1 Year	2 Year	3 Year
	4 Year	5 Year	
Contract Start Date:		Contract Revision Date:	
Contract Value: <small>(annual)</small>	£	Monthly Cost: <small>(ex VAT)</small>	£
Payment Method:			

This contract is subject to the Terms and Conditions as supplied with this document. This is an annual rolling maintenance contract and continues thereafter until cancelled as detailed in section 14 of the Terms and Conditions. The River maintenance team will activate the contract on receipt of a hard or soft copy bearing an authorised customer signature and date.

Post to: River Business Services Ltd, Unit F7 The Bloc, 38 Springfield Way, Anlaby, Hull, HU10 6RJ
Email: liz.white@riveruk.co.uk

On behalf of the customer

On behalf of River Business Services Ltd

PRINT Customer Name:		River Consultant:	
Customer Signature:		DDI:	
Customer Job Title:		Email:	
Company Registration No:		Date:	
VAT Number:		PRINT Name:	
Date:		Signature	

To report a system fault	01482 272728	For maintenance info call	01482 272728
To email a system fault	liz.white@riveruk.co.uk		

Terms and Conditions of the Maintenance Agreement between the Company and the Customer who's name and address is set out overleaf

1. Definitions

1.1 In this agreement unless the context otherwise requires: -

"Additional Charges" means the charges to be calculated by the company on a time and materials basis at its then prevailing rates in respect of the expected services pursuant to clause 6.2 below
"Anniversary Date" means each anniversary of the commencement date

"Commencement Date" means the date set out overleaf upon which this agreement shall commence.

"Company" means River Limited a company registered in England and Wales (Company Registration Number 08668484) whose registered office is unit F7 The Bloc 38 Springfield Way Anlaby Hull HU10 6RJ and the expression "Company" includes the Company's permitted assigns employees and agents.

"Customer" means the person, firm or company specified overleaf and any other person reasonably appearing to act within that person, firm or company's authority and includes where relevant the Customer's permitted assigns employees and agents.

"Equipment" means the items of equipment by type and serial number overleaf.

"Excepted Services" means those services referred to in clause 6.1 below which do not fall within the Maintenance Services.

"Initial Period" means the period of 12 months commencing on the Commencement Date.

"Maintenance Charges" means the aggregate annual charge for the Maintenance Services calculated in accordance with clause 3.1 below and set out overleaf.

"Maintenance Services" means the provision of maintenance services as defined in Clause 4 below.

"Place of Use" means that part of the Customer's premises at the Site where the Equipment is installed and operated.

"Site" means the Customer's address (or installation location if different) specified overleaf.

"Service Specific Conditions" means any additional terms and conditions which are to apply to this agreement as specified overleaf in respect of specific services

"Supplier" means the company that supplied the Equipment to the Customer.

2. Company's Undertakings

2.1 In consideration of the payment by the Customer from time to time of the Maintenance Charges in accordance with the provision of Clause 3 below the Company undertakes to provide the Maintenance Services in respect of the Equipment upon the terms and conditions of this agreement.

3. Maintenance Charges

3.1 The annual maintenance charge at the date hereof in respect of each item of Equipment shall be as set out overleaf. No refund of any part of the Maintenance Charges will be made once this agreement is in force.

3.2 The Company shall not be entitled to vary the Maintenance Charges during the Initial Period unless the Equipment is need of any system upgrades as referred to in clause 6.1. After expiry of the Initial Period the Company shall be entitled to vary the Maintenance Charges to reflect the changes in the quantity or type of Equipment covered.

3.3 Upon receipt of a notice of increase in the Maintenance Charges in accordance with clause 3.2 above the Customer shall be entitled to terminate this agreement in accordance with 14.1.1 below

3.4 The Maintenance Charges shall include travel, accommodation and subsistence expenses of the Company's employees (including the cost of time spent traveling) incurred in the provision of the Maintenance Services.

3.5 The Maintenance Charges shall not include the cost of any Excepted Services.

3.6 The Maintenance Charges shall be levied by the Company annually in advance. The Maintenance Charge shall be payable by the customer within 30 days of receipt of an invoice therefore.

3.7 The Company reserves the rights to charge the Customer interest in respect of the late payment of any Maintenance Charges or any Additional Charges due under this agreement (as well after as before judgment) at the rate of 4 per cent annum above the base rate from time to time of Lloyds Bank Plc from the due date therefore until Payment.

3.8 The Company reserves the right to suspend the Maintenance Services without liability in the event that the Customer fails to make payment when due of any Maintenance Charges or any Additional Charges due

under this agreement or if the Company reasonably believes that the Customer will fail to pay such amount whether the Company has issued an invoice or not.

4. Maintenance Services

4.1 Maintenance Services shall comprise the provision of [insert basic maintenance services] by the Company in respect of each item of Equipment at the place of use.

4.2 Upon receipt of a request from the Customer, the inspection testing and diagnosing (by attendance on site or remotely) by the Company of any fault reported in respect of an item of Equipment; and the carrying out by the Company of such repairs replacement of parts cleaning lubrication or adjustment as the Company shall deem necessary to remedy such fault.

5. Time for Maintenance Services

5.1 The Company shall provide maintenance according to the category selected by the Customer as shown overleaf. The Categories are as follows:

Category A - Monday to Friday 9am-5pm (except bank holidays)

Category B - Monday to Saturday 9am-5pm (except bank holidays)

Category C - 24 hours a day, 365 days a year

Category D - 4 working hour's response (except bank holidays) Monday to Friday 9am-5pm within a 60 mile area from the Centre of Kingston upon Hull.

Category E - Bespoke solutions including mixed cover across multiple sites and even Pay as you Go 24 Hour Cover.

5.2 The Company shall provide maintenance within the following time limits dependent on the severity of the failure:

Priority A - Failure of more than 20% of the Equipment in which case the Company will respond within 8 hours of being notified;

Priority B - Failure of 20% or less of the Equipment in which case the Company will respond within two working days.

6. Excepted Services

6.1 The Maintenance Services shall not include any services necessary to upgrade the Equipment or any maintenance of the upgrades of the Equipment or the correction of any fault due to:

6.1.1 The Customer's neglect or misuse of the Equipment or its failure to operate the equipment in accordance with the Supplier's instruction manuals or for the purposes for which it was designed;

6.1.2 The alteration, modification or maintenance of the equipment by any party other than the Company without the Company's prior consent;

6.1.3 The transportation or relocation of the Equipment save where the same has been performed by or under the direction of the Company;

6.1.4 Any defect or error in any software used upon or in association with the Equipment;

6.1.5 Any accident or disaster affecting the Equipment including without limitation fire, flood, water, wind, lightning, transportation, vandalism or burglary;

6.1.6 The Customer's failure, inability or refusal to afford the Company's personnel proper access to the Equipment;

6.1.7 Any electrical work external to the Equipment;

6.1.8 Any modification or alteration of or attachment to the Equipment or removal of the same;

6.1.9 The maintenance or repair of any extension wiring, any Equipment not at the Site or of anything other than the Equipment; or

6.1.10 the replacement of batteries or maintenance of any two-wire (Analogue) devices.

6.2 The Company may upon request by the Customer or in circumstances where any reasonably skilled and competent maintenance engineer would have deemed them necessary, provide all or any of the Excepted Services referred to in clause 6.1 above and shall be entitled to charge for the same by levying Additional Charges in the manner described in clause 6.3 below.

6.3 Additional Charges shall be levied by the Company monthly in arrears and shall be payable by the Customer within 30 days of receipt of an invoice therefore.

7. Customer's Obligations

7.1 The Customer undertakes to the Company throughout the term of this agreement:

7.1.1 To grant the Company such access to the Place of Use as the Company shall from time to time reasonably require in order to discharge its obligations hereunder;

7.1.2 to make available at the Place of Use such facilities as the Company shall reasonably require in order to discharge its obligations hereunder including without limitation adequate work space storage and office furniture and equipment;

7.1.3 to take all reasonable precautions to protect the health and safety of the Company's employee's agents and sub-contractors while on the Customer's Site;

7.1.4 to procure all consents, licences and permissions necessary from landlords or other third parties for the carrying out of preparation work, installation of Equipment and for the use and operation of the Equipment at the Site

7.1.5 to make available the Equipment and supply all documentation and other information necessary for the Company to diagnose any fault in relation to the Equipment; and

7.1.6 Not to add to or alter the Equipment in any way without the prior consent of the Company.

7.2 Any Director or representative of the Customer who signs on behalf of the Customer will be deemed an authorised signatory and thereby

The Company shall be entitled to rely on such signatory as binding the Customer to the obligations set out in these conditions and any relevant Service Specific Conditions in all respects.

8. Company's Warranty

8.1 The Company Warrants and undertakes to the Customer;

8.1.1 To perform the Maintenance Services and any Excepted Services with reasonable care and skill;

8.1.2 to perform any Excepted Service within a reasonable time of being so requested by the Customer or being deemed necessary by a reasonably skilled and competent maintenance engineer;

8.1.3 That it shall have a free and unencumbered title to any replacement parts for the Equipment supplied hereunder; and

8.1.4 That the Customer will enjoy quiet possession of any such replacement parts and that the same will be of satisfactory quality and reasonably fit for their purpose.

8.2 The Company does not warrant that the Maintenance Services (or the Additional Services) will cause the Equipment to operate without interruption or error.

8.3 The Company shall not maintain or repair Equipment where the Supplier or manufacturer has ceased to supply the Equipment. The Company shall notify the Customer as soon as it is aware of any cessation in supply of the Equipment and shall arrange with the Customer to either terminate the agreement on thirty (30) days notice or upgrade the Equipment at the Customer's expense.

8.4 Subject to the foregoing all conditions warranties terms and undertakings express or implied statutory or otherwise in respect of the performance by the Company of the Maintenance Services or Excepted Services hereunder are to the extent permitted by law hereby excluded.

9. Limitation of Liability

9.1 The following provisions set out the Company's entire liability (including any liability for the acts and omissions of its employee's agents or sub-contractors) to the Customer in respect of

9.1.1 Any breach of its contractual obligations arising under this agreement and

9.1.2 Any representation statement or tortious act or omission including negligence arising under or in connection with this agreement and the Customer's attention is in particular drawn to the provisions of this clause 9.

9.2 Any act of omission on the part of the Company or its employees agents or sub-contractors falling within clause 9.1 above shall for the purposes of this clause 9 be known as an "Event of Default".

9.3 Nothing in these conditions excludes or restricts the Company's liability:

9.3.1 for death or personal injury resulting from the Company's negligence or its employee's negligence while acting in the course of their employment;

9.3.2 Any proven fraudulent misrepresentation; or

9.3.3 for anything for which the Company cannot at law limit or exclude liability.

9.4 Subject to the limits set out in Clause 9.5.1 below the Company shall accept liability to the Customer in respect of damage to the tangible property of the Customer resulting from the negligence of the Company or its employee's agents or sub-contractors.

9.5 Subject to provisions of clause 9.3 above the Company's entire liability in respect of any Event of Default shall be limited to damages of an amount equal to;

9.5.1 £1,000,000 in the case of an Event of Default falling within clause 9.4 above; and

9.5.2 In the case of any other Event of Default the aggregate of the Maintenance Charges and the Additional Charges for the 12 months immediately preceding the date of the Event of Default.

9.6 Subject to clause 9.3 above the Company shall

not be liable to the Customer in respect of any Event of Default for loss of profits business savings goodwill or any type of special indirect or consequential loss (including loss or damage suffered by the Customer as a result of an action brought by a third party) whether or not the Company knew or ought to have known that such losses or damages might be incurred.

9.7 If a number of Events of Default give rise substantially to the same loss then they shall be regarded as giving rise to only one claim under this agreement.

9.8 The Customer hereby agrees to afford the Company not less than 28 days in which to remedy any Event of Default hereunder before bringing a claim against the Company under this agreement.

9.9 Except in the case of an Event of Default arising under clause 9.3 above the Company shall have no liability to the Customer in respect of any Event of Default unless the Customer shall have served notice of the same upon the Company within 2 years of the date it became aware of the circumstances giving rise to the Event of Default or the date when it ought reasonably to have become so aware, whichever date is earlier.

9.10 Nothing in this clause 9 shall confer any right or remedy upon the Customer to which it would not otherwise be entitled.

10. Customer's Warranty

10.1 The Customer warrants and undertakes to the Company that it has free and unencumbered title to the Equipment, that it is the sole owner of the Equipment and that it has full power and authority to enter into this agreement and permit the Company to perform the Maintenance Services and any Additional Services.

10.2 Without prejudice to any other rights of the Company, the Customer shall indemnify and hold harmless the Company against all liabilities, claims, damages, losses, costs and expenses whatsoever arising from any breach by the Customer of any warranties, undertakings or representations given under this agreement and or any failure by the Customer to comply with any of its responsibilities and obligations set out in these conditions.

11. Replacement of parts

11.1 Subject always to clause 8.1.4 above the Company reserves the right to supply new, second-hand or reconditioned replacement parts in the performance of its duties hereunder

11.2 Any parts of the Equipment replaced by the Company pursuant to clause 11.1 above ("Replaced Parts") shall upon replacement become the property of the Company and the Company shall have a free and unencumbered title to such Replaced Parts. Where the Equipment is leased or charged the Customer must have obtained all necessary consent and authorities to part with possession and give good title to the Replaced Parts to the Company.

12. Duration of Agreement

This agreement shall commence on the Commencement Date for the duration of the contract term stated overleaf ("Contract Term") unless terminated by either party in accordance with the provision of clause 14 below and following expiry of the Contract Term this agreement shall continue until terminated by either party in accordance with the provision of clause 14 below.

13. Customer's Representatives

The Customer shall communicate to the Company upon the date hereof the identity of the person(s) or the department within its undertaking at the Site who shall act as the sole contact point and channel of communication for the provision by the Company of the Maintenance Services during the continuance of this agreement. The Customer shall forthwith inform the Company of any change in the identity of any such person(s) or department.

14. Termination

14.1 Subject to clause 16.3 this agreement may only be terminated as follows;

14.1.1 by the Customer upon receipt of a notice of increase in the Maintenance Charges under clause 3.3 above by giving not less than 90 days notice in writing to the Company;

14.1.2 by the Customer upon giving not less than 90 days notice in writing to the Company expiring on an Anniversary Date;

14.1.3 Forthwith by the Company if the Customer fails to pay any Maintenance Charges or any Additional Charges due hereunder on the due date therefore;

14.1.4 forthwith by either party if the other commits any material breach of any term of this agreement (other than one falling within 14.1.3 above) and which (in case of a breach capable of being remedied) shall not have

been remedied within 30 days of a written request by the other party to remedy the same;

14.1.5 forthwith by either party if the other shall convene a meeting of its creditors or if a proposal shall be made for a voluntary agreement with Part 1 of the Insolvency Act 1986 or a proposal for any composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver administration receiver or similar officer is appointed in respect of all or any part of the business or assets of the other party or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other party or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction).

14.2 Any termination of this agreement pursuant to this clause shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

14.3 In the event of any termination by the Customer in accordance with either clause 14.1.1 or clause 14.1.2 above or any termination by the Company in accordance with any of clause 14.1.3, clause 14.1.4 or clause 14.1.5 above, the Customer shall indemnify the Company in full against all loss including, but not limited to, all losses incurred by the Company as a result of the Customer cancelling the Contract before the end of the Contract Term or where this agreement has continued beyond the Contract Term before the end of the relevant notice period, which will include a minimum payment to the Company of the amount of any outstanding Maintenance Charges or any Additional Charges that would have been paid by the Customer had this agreement continued for the Contract Term and/or the relevant notice period (as the case may be), costs, damages, charges and expenses incurred by the Company as a result of such changes or cancellation.

14.4 In the event that the Customer terminates this agreement in accordance with either clause 14.1.4 or clause 14.1.5 above, the Customer's liability to pay the any outstanding Maintenance Charges or any Additional Charges shall end on the date of termination of this agreement and the Customer shall not be liable to pay for any outstanding Maintenance Charges or any Additional Charges applicable for the remainder of the Contract Term or and/or the relevant notice period (as the case may be).

15. Confidentiality

15.1 Each of the parties hereto undertakes to the other to keep confidentially all information of a confidential nature (written or oral) concerning the business and affairs of the other that it shall have obtained or received during the term of this agreement or as a result of the discussions leading up to or the entering into of this agreement save for confidential information which is;

15.1.1 Already in its possession other than as a result of a breach of this clause;

15.1.2 in the public domain other than as a result of breach of this clause;

15.1.3 Required by law to be disclosed.

15.2 Each of the parties undertakes to the other to take all such steps as shall from time to time be necessary to ensure compliance by its employee's agents and sub-contractors with the provisions of clause 15.1 above.

16. Force Majeure

16.1 Neither party hereto shall be liable for any breach of its obligations hereunder resulting from causes beyond its reasonable control including but not limited to fires, strikes (of its own or other employees) insurrection or riots embargoes container shortages wrecks or delays in transportation inability to obtain supplies and raw materials requirements or regulations of any civil or military authority (an "Event of Force Majeure").

16.2 Each of the parties hereto agree to give notice forthwith to the other upon becoming aware of any Event of Force Majeure such notice to contain details of the circumstances giving rise to the Event of Force Majeure.

16.3 Notwithstanding the provisions of clause 14 above if a default due to an Event of Force Majeure shall continue for more than 12 weeks the party not in default shall be entitled to terminate this agreement and neither party shall have any liability to the other in respect of the termination of this agreement as a result of an Event of Force Majeure.

17. Waiver

The waiver by either party of a breach or default of any of the provisions of this agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either party to exercise or avail itself of any right power or privilege that is has or may have hereunder operate as a waiver of any breach or default by the other party.

18. Notices

Any notice request instruction or other document to be given hereunder shall be delivered or sent by first class post or email/facsimile transmission (such email/ facsimile transmission notice to be confirmed by letter posted within 12 hours) to the address or to the email address/facsimile number of the other party set out overleaf (or such other address email address or number as many have been notified) and any such notice or other document shall be deemed to have served (if delivered) at the time of delivery (if sent by post) upon the expiration of 48 hours after posting and (if sent by email/facsimile transmission) upon the expiration of 12 hours after dispatch.

19. Invalidity and Severability

If any provision of this agreement shall be found by any court or administration body of competent jurisdiction to be invalid or un-enforceable the invalidity or un-enforceability of such provision shall not affect the other provisions of this agreement and all provisions not affected by such invalidity or un-enforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or un-enforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or un-enforceable provision.

20. Entire agreement

The Company shall not be liable to the Customer for loss arising from or in connection with any representations agreements statements or undertaking made prior to the date of execution of this agreement other than those representations agreements statements and undertakings confirmed by a duly authorized representative of the Company in writing or expressly incorporated or referred to this agreement. The details recorded overleaf, together with these terms and conditions and any other Service Specific Conditions shall be the exclusive terms and conditions of this agreement between the parties and these conditions and any relevant Service Specific Conditions supersede and override all other terms and conditions appearing elsewhere including any terms and conditions of the Customer and any course of dealing established between the Company and the Customer.

21. Successors

This agreement shall be binding upon and ensure for the benefit of the parties hereto and their successors in title and permitted assigns and is not intended to benefit, or be enforceable by, any third party who shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

22. Assignment

Neither party shall be entitled to assign, transfer, charge or sub-contract this agreement nor any of their rights and obligations hereunder without the prior written of the other.

23. VAT

Save insofar as otherwise expressly provided all amounts stated in this agreement are expressed exclusive of value added tax and any value added tax arising in respect of any supply made hereunder shall on the issue of a valid tax invoice in respect of the same be paid to the party making such supply by the party to whom it is made in addition to any other consideration payable therefore.

24. Headings

Headings to clauses in this agreement are for purpose of information and identification only and shall not be construed as forming part agreement.

25. Jurisdiction

These conditions and any agreement to which they relate shall be governed by and construed in all respects in accordance with English law and the Customer hereby submits for all purposes of and in connection with these conditions to the exclusive jurisdiction of the English Courts.