

Preventative Maintenance Terms & Conditions
for BMS Controls

1.0 The Agreement

This agreement covers routine preventative maintenance as defined in clause 3 Scope, for the BMS system and associated control devices on the following terms and conditions.

2.0 Duration

2.1 This agreement is to operate for a period of 12 months or until the contract is completed with effect from the date of order received.

2.2 The contract may be subject to price revision on any anniversary date.

3.0 Scope

3.1 Within normal working hours the contractor proposes to carry out **0 (zero)** preventative maintenance visits during each 12 (twelve) month period covered by this agreement, based on 1 Engineer at a time. The schedule of works will be covered by the Engineers site inspection report.

3.2 The contractors contact details will be issued on receipt of an order.

4.0 Normal Working Hours

4.1 Preventative Maintenance to be carried out between the hours of 09:00 – 17:00 Mondays to Friday, excluding Bank and Public holidays.

4.2 If for any reason beyond direct control of the Contractor it is not possible to conduct the preventative maintenance visit during normal working hours and a mutually agreed time during normal working hours cannot be found within the next four weeks, the contractor has the right to carry out the visit during overtime hours and charge the Customer the difference between the prevailing standard and overtime rates for all hours worked.

5.0 Price

5.1 The services detailed in this agreement provided at an annual cost as shown in the quotation and various options.

5.2 The cost of additional services including but not limited to those covered by the exclusions in Clause 18, are not included in the agreement price and will be invoiced at standard prevailing rates at the time the goods or services are provided. These rates may vary from time to time during the term of this agreement.

6.0 Emergency Services

Emergency Service is to be available at additional costs as detailed in the quotation.

All initial emergency service requests will be responded to by our office, during normal working hours, within 4 hours at all times.

If a site visit is required, we will make every possible attempt to carry out these works on a next business day basis but this is dependent on work load and engineer availability at all times.

All such works will be invoiced at rates published under this quotation.

7.0 **Payment**

- 7.1 The payments shall be made annually.
- 7.2 All invoices submitted, either as part of this agreement, or for the work/material provided in addition, shall be payable on net monthly terms. I.e: at the end of the following month of invoice.
- 7.3 The contractor reserves the right to charge interest at the rate of 1.5% (one and a half percent) per month, for each month or part thereof that a debt remains outstanding.

8.0 **Price Variation**

The price quoted is based on the costs of materials, wages, transport and statutory obligation ruling at the date of tender. The contractor reserves the right to modify prices for works carried out additional to the contract in accordance with any increase foregoing costs prior to completion of the order for this contract.

9.0 **Works/Materials Additional to Agreement**

- 9.1 The supply of additional works/materials for breakdown/repairs, or any other reason, will be implemented upon proper authorization at the standard rates in force at the time of visit. These rates may vary from time to time during the term of this agreement.
- 9.2 If the contract is involved in additional effort and/or expense due to prevention, variation or suspension of work by Customer instructions, or due to lack of access to, or availability of the equipment, such effort and expenses shall be charged at the standard rates in force at the time of visit.

10.0 **Value Added Tax**

None of the prices quoted include VAT, our invoiced price will include and identify such VAT as is applicable to the goods and services provided.

11.0 **Limitation of Responsibility**

- 11.1 Whilst the contractor will, subject to the provisions of these conditions, undertake our responsibilities promptly and with diligence, and endeavour to put the equipment into full operation as rapidly as possible, the contractor will not be liable for any loss or damage suffered by the Customer by reason of any unforeseeable breakdown of the equipment or any reasonable delay in carrying out repairs, routine check-ups or modifications.
- 11.2 Save as expressly stated elsewhere in this agreement neither party shall be liable to the other for consequential loss of damage.

12.0 **Liability for Accident and Damage**

- 12.1 The contractor shall indemnify the customer against damage or injury to your property of person or that of others to the extent directly caused by the negligence of the contractor or subcontractor or agents, by making good such damage to property of compensating personal injury, provided that:-

12.1.1 The contractor shall not be liable to the customer for any loss of profit or of contracts, or save as aforesaid, for any loss or damage.

12.1.2 The customer assumes liability for accidents and damage caused by or arising out of modifications or additions made to the equipment by the customer, customer servants or agents, unless previously approved, in writing, by the contractor.

13.0 **Safety**

The contractor will obey all proper and reasonable safety rules and instructions, which are in force at the customer's premises where the services under this agreement are being provided. Where no such rules or instructions apply, the guidelines set out in the Health and Safety at Work Act will be adhered to.

14.0 **Customer Warranties**

14.1 The customer warrants that he has the power and the authority to enter into this agreement and to permit the contractor to perform the tasks covered in this agreement.

14.2 This agreement is made on the understanding that the equipment is in full working order and no additional expense is necessary to restore the equipment to a maintainable condition.

15.0 **Customer Obligations**

15.1 The Customer will keep and operate the equipment in a proper manner and ensure that only competent trained employees are allowed to operate/maintain the equipment.

15.2 The Customer will maintain a record of operations with particular reference to any abnormal functioning of the equipment.

15.3 For the purpose of service, the Contractor shall have full, free and timely access to the equipment at all reasonable times. The Customer will ensure that fully competent operating staff are available onsite during the service call to operate the equipment when required, demonstrate any fault and subsequently verify the equipments satisfactory operation.

15.4 The Customer shall provide adequate working space, power sockets and light, within a reasonable distance to the equipment, to be made available for the purposes of this agreement at no charge to the Contractor.

15.5 The Customer shall provide suitable permits to work/passes, where applicable, for security or under the Health and Safety at Work Act.

15.6 The Customer shall allow the Contractor to start and stop the equipment as necessary subject to prior notice to the Customer.

15.7 The Customer shall provide, in connection with maintenance or call out visits, the following free of charge:

15.7.1 Workshop or similar facilities for onsite repairs.

15.7.2 Suitable lockable office space for system/equipment/documentation etc.

16.0 **Contractor Warranties**

16.1 The Contractor undertakes to use reasonable care and skill in performing all duties covered by this or any other agreement entered into with the Customer.

16.2 The Contractor will perform any duty covered by this agreement within a reasonable time.

16.3 All parts supplied will be fit for the intended purpose and will be of appropriate merchantable quality.

16.4 The Contractor does not warrant that the equipment covered by this agreement will operate without interruption or error.

16.5 All warranties other than the aforementioned are excluded from this agreement.

17.0 **Contractor Default**

If the Contractor commits a breach of the contract and fails within 30 (Thirty) business days of written notification from the Customer, to take such steps to reasonable satisfy the Customer, the Customer can, without prejudice to any other of its rights, terminate this contract forthwith, by written notice to the Contractor.

18.0 **Exclusions**

The Contractor shall not be responsible for:

18.1 The supply and charges for materials, replacement parts, or labour relevant to the necessary repairs resulting from the service visit other than as specified.

18.2 The maintenance and inspection of electrical services, (except where indicated), ductwork and insulation, recording instruments, water supply and drains, air volume adjustments, plumbing or pipe work, or work required by Government and other codes and regulations for any services beyond those specified.

18.3 The provision fixing of any lifting tackle and/or scaffolding which may be necessary for inspection or ultimate servicing of the equipment.

18.4 Inspections, alterations or replacements require by Insurance Companies, Municipal or Government authorities excepting where any alteration or replacements are necessary through any fault or failure on the part of the Contractor.

18.5 The servicing of controls equipment that has sustained damage through:

18.5.1 Failure to report a malfunction

18.5.2 Unauthorised repairs or adjustments, accident, disaster or any other cause beyond the reasonable control of the Contractor.

18.6 The provision of labour, parts or materials other than those specifically included in this agreement.

19.0 **Excluded Works/Materials**

The Contractor may at its sole discretion; carry out additional works, which would otherwise be excluded under the terms of this agreement; such works/materials will be at an additional cost to this agreement.

20.0 **Force Majeure**

20.1 If either Party shall be unable to carry out any of its obligations under this Contract due to a circumstance of Force Majeure this Contract shall remain in

full force and effect save as otherwise provided herein both Parties obligations shall be suspended without liability for a period equal to the circumstance of Force Majeure provided that:

20.1.1 The non-performing Party gives the other Party prompt notice describing the circumstance of Force Majeure including the nature of the occurrence and its expected duration and where reasonably practicable continues to furnish regular reports with respect thereto during the period of Force Majeure.

20.1.2 The suspension of performance is of no greater scope and of no longer duration that is required by the Force Majeure.

20.1.3 No obligations of either Party that arose before the Force Majeure causing the suspension of performance are excused as a result of Force Majeure; and

20.1.4 The non-performing Party uses all reasonable efforts to remedy its ability to perform.

20.2 In the event that the circumstance of Force Majeure persists for greater than one month this contract may be terminated without any liability other than the payment of price and charges due and owing to either Party.

21.0 **Termination**

21.1 The Contractor may terminate this agreement upon 30 (Thirty) days written notice to the Customer in the event that:

21.1.1 Any sums or monies due and payable under this agreement are not paid when due; or

21.1.2 Alterations, additions, or repairs are made to covered equipment by others.

21.1.3 Any or all of the covered equipment is moved from the stated address by the Customer without the written consent of the Contractor.

21.2 The Contractor may terminate this agreement forthwith if the Customer convenes a meeting of its creditors, or, if a proposal shall be made for a voluntary arrangement within Part 1 of the Insolvency Act 1986 or, a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or, if the Customer shall be liable to pay its debts within the meaning of section 123 of the insolvency Act 1986 or, if a Trustee, Receiver, Administrative Receiver, or similar officer is appointed in respect of all or, any part of the business or assets of the Customer 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 Customers company or for the making of an administrative order otherwise than for the purpose of an amalgamation or reconstruction.

21.3 The Contractor may terminate this agreement forthwith if the Customer commits any material breach of any term of this agreement, which, in the case of a breach capable of being remedied shall not have been remedied within 30 business days of a written request to remedy the same.

21.4 In the event that the Customer decides to exercise his right of termination, as described in the Clause 2.3, the Contractor will not be liable for any reason other than those detailed in Clause 12 (Liability for Accident and Damage).

22.0 **Validity**

Our price under this quotation will be held open for acceptance for a period of 30 days.

23.0 **Law**

Unless otherwise agreed in writing these conditions shall in all respects be interpreted in conformity with the English Law.