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**INFORMATION TECHNOLOGY  
MAINTENANCE AGREEMENT**

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DATED THE \_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_

ABC Company Limited

SAMPLE

## INFORMATION TECHNOLOGY MAINTENANCE AGREEMENT

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_\_.

**BETWEEN:** ABC Company Limited of 1 Smith Lane London WC2A 1PL (the “Service Provider”);

**AND:** Sample Company Limited of 52 Chance Lane London WC2A 1PL (the “Customer”).

### RECITALS

- A. The Service Provider has presented a proposal (the “Proposal”) to the Customer for the provision of maintenance and support for the Customer’s information technology requirements (the “Services”). The Proposal is for the provisions of the Services and has been prepared based upon an inspection by the Service Provider of all of the computer hardware and software used by the Customer in the ordinary course of the Customer’s Business conducted at the Customer’s Premises.
- B. The Proposal has also been prepared after a full and complete disclosure (the “Disclosure”) by the Customer of all of its needs and requirements in respect of Information Technology requirements of the Customer’s Business.
- C. A copy of the Proposal and the Disclosure are respectively Schedule One and Schedule Two to this Agreement.
- D. The Service Provider and the Customer have entered into this Agreement to set out the terms on which the Service Provider will maintain and support the Customer’s Information Technology requirements.

### BY THIS AGREEMENT THE PARTIES AGREE AND DECLARE AS FOLLOWS

#### 1. DEFINITIONS

These words and phrases have the following meanings:

**Agreement** means this agreement together with any amendments or modifications that might at any time be made to it and includes all Schedules and other attachments to it.

**Business** means the business currently conducted by the Customer at the Premises.

**Confidential Information** means:

- (a) all the Customer’s information of whatsoever kind or nature that is expressed to be confidential either by the use of words such as “private”, “in confidence”, “strictly confidential”, “not to be disclosed,” and all other information which is by its nature is confidential, including but not limited to business records, employment records,

agreements or arrangements with customers, suppliers and/or contractors and advices and/or reports to the Customer;

- (b) all information of whatsoever kind or nature relating to the affairs of third Parties in the possession of the Customer and to which the Service Provider may have access to at any time during the Term.

Confidential information *excludes* all information which is or becomes at any time in the public domain except where such information comes into the public domain as a consequence of any act or omission by a Party constituting a breach of this Agreement.

**Customer** means the company or individual named and described as such as a Party to this Agreement and includes all his or her or its lawful successors, or assigns.

**Fees** means the fees and rates set out in Item One of Schedule Three which the Customer must pay to the Service Provider for the provision of the Services.

**Information Technology** means all current software, programs, systems, electronic document retention, storage and retrieval processes and all other information technology of whatsoever kind or nature reasonably required by the Customer in order to efficiently conduct the Business and includes all additional information technology which the Customer may acquire, develop or create during the Term and which the Service Provider agrees in writing to maintain and support under this Agreement.

**Intellectual Property** includes all of the intellectual property of the Customer.

**Law(s)** means all applicable laws that in any way govern or regulate the terms of this Agreement, or anything done or to be done under it. Law includes all relevant statutes, regulations, codes of practice and/or by-laws together with all amendments.

**Maintenance Program** means a program prepared by the Service Provider to provide the Services having regard to the Business, the Proposal and the Disclosure, and includes any agreed amendment or modification to the Maintenance Program made during the Term.

**Party** means a Party to this Agreement and includes, its, his or her lawful successors or assignees.

**Premises** means 52 Chance Lane London WC2A 1PL or such other place to which the Customer may move the Business at any time during the Term of this Agreement.

**Schedule** means a schedule to this Agreement.

**Service Provider** means the company or individual named and described as such as a Party to this Agreement and includes all its lawful successors, or assigns.

**Services** means all the maintenance, support, advice and consulting services to be provided by the Services Provider to the Customer during the Term pursuant to the Proposal in respect of the Information Technology requirements.

**Term** means the period set out in Item Two of Schedule Three commencing from the date hereof provided that the Term may be a shorter period if this Agreement has been lawfully and properly terminated by a Party pursuant to this Agreement.

## **2. APPOINTMENT OF SERVICE PROVIDER**

2.1. The Customer hereby appoints the Service Provider to provide the Services for the Term and the Service Provider hereby accepts its appointment and agrees to provide the Services to the Customer during the Term. Both Parties agree that the express provisions of this Agreement shall govern all of their respective rights and obligations to each other and no terms shall be implied into this Agreement unless by Law they cannot be excluded.

2.2. The Customer acknowledges that the Service Provider has in entering into this Agreement relied upon the Disclosure made by the Customer and that the Disclosure fully and comprehensively sets out all of the needs and requirements of the Customer in respect of the Information Technology.

## **3. THE SERVICES**

3.1. The Service Provider shall within 30 days of the date hereof prepare the Maintenance Program and shall submit it to the Customer for approval. The Customer shall be deemed to have approved the Maintenance Program if no objection or request for a change is made within 14 days of the Maintenance Program being provided to it.

3.2. The Maintenance Program will set out the basis upon which the Services will be provided by the Service Provider to the Customer during the Term.

3.3. Unless otherwise stated in the Maintenance Program the Service Provider will:

- (a) attend the Premises during ordinary office hours at least once per month to perform the Services including any pre-emptive maintenance of the Information Technology;
- (b) in cases of emergency breakdowns use its best endeavours to attend the Premises within 24 hours of the next working day (in ordinary office hours) after being required by the Customer by telephone or email to do so. The Customer must when reporting the breakdown provide the Service Provider with all reasonable details and information required by the Service Provider of the breakdown.

- 3.4. The Service Provider may (but is not obliged) from time to time make recommendations, directions and/or give advice to the Customer in respect of upgrades or uses of Information Technology, hardware, componentry, software generally, and any available alternatives for the use and /or storage of electronic information.
- 3.5. The Service Provider may use employees or consultants to provide the Services. Where the Service Provider uses employees or consultants to carry out the Services, the Service Provider must ensure that they are all competent, experienced, trained and otherwise suitable to perform the Services. The Service Provider will be exclusively responsible for all the acts, omissions and conduct of its employees and consultants.
- 3.6. Where the Customer acquires upgrades, new software systems, new hardware or other computer componentry without consulting the Service Provider, the Service Provider may refuse to maintain such new electronic systems and hardware under this Agreement, or may increase the Fees to cover any additional maintenance requirements.
- 3.7. The Customer must ensure that all its employees that are permitted users of its Information Technology are competent, trained and do not misuse or recklessly or negligently damage the Information Technology.
- 3.8. In the event that the Customer ceases to carry on Business at the address of the Premises at the date of this Agreement and moves the Business to another address (the New Premises) and the New Premises are located more than twenty-five kilometres from the Premises then in that event the Service Provider may, if such relocation involves the Service Provider's personnel in having to travel a greater distance to perform the Services, terminate this Agreement by giving the Customer three months' prior written notice to that effect. A termination of this Agreement under this clause will not constitute a breach of the Agreement and will not entitle the Customer to any compensation or damages whatsoever.
- 3.9. The Service Provider will from time to time as reasonably requested by the Customer conduct acceptance testing of all Services, namely such tests as either Party may reasonably require to ensure that the Information Technology continues to meet with the Customer's requirements. In the event that acceptance testing is unsuccessful, the Service Provider will remedy the fault/s pursuant to the Services set out in this clause. Acceptance testing will form part of the Fees. In the event that the Service Provider is unable to remedy any fault within a reasonable period, the Customer may terminate



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