



1 Definition and contract.

1.1 In this agreement "the Equipment" means the equipment supplied or specified on the front page of this document; "the Customer" means the Company, individual, or other entity receiving the services to be provided hereunder and which is identified on the front page of this document; "ECOTELE Ltd" means the maintainer or their nominated service partners or maintainers; "the Services" means the services to be provided hereunder by ECOTELE in respect of the Equipment; "the Maintenance Charges" means the charges payable hereunder by the Customer to ECOTELE for the Services.

1.2 The Services provided by ECOTELE hereunder are strictly subject to these terms and conditions unless varied by a written document signed by a Director of ECOTELE. The signing of the Maintenance Agreement by the Customer shall be an offer which will become binding on ECOTELE upon an acceptance of such order by a Director of ECOTELE.

2 Terms.

This Agreement shall commence on the Commencement Date specified and shall continue for the minimum period stated, and thereafter from year to year unless and until terminated by either party by 90 days written notice prior to the fifth or subsequent anniversary of the date of Commencement. ECOTELE will acknowledge receipt of such notice and will confirm the termination of the contract. In case of a dispute, unless proof of delivery of such written notice by the due date can be produced by the Customer (e.g. Recorded Delivery Receipts or Registered Delivery Receipts) ECOTELE will be unable to terminate the contract.

3 The Services.

3.1 ECOTELE agrees to:

3.1.1 maintain the Equipment at the installation address in the Agreement (excluding structured cabling) in efficient working order and during the continuance of this Agreement to execute by its servants, agents or contractors without charge all repairs and replacements to the Equipment arising during proper use of the Equipment or necessitated by fair wear and tear and/or faulty workmanship and/or faulty materials provided no such maintenance/Account charges are overdue or any Maintenance reports for completed remote work remain un-signed and not returned to EcoTele.

3.1.2 at the expense of the Customer to provide Service where failure of the Equipment is subsequently found to be due to mis-operation or failure of British Telecom Equipment and/or Host PBX systems and/or electricity supply and/or other network service providers (including alternative call carriers) and/or if any person not authorised by the Maintainer to do so shall have tampered with the Equipment.

3.1.3 at the expense of the Customer to move the Equipment to alternative premises where in the opinion of ECOTELE suitable service and reception facilities exist provided the Equipment does not thereby pass out of the possession or control of the Customer.

4 Maintenance Charges.

4.1 The Customer agrees during the term of this Agreement to pay the Maintenance Charges described in the Agreement in all circumstances prior to or at the time of the renewal date. If at any time should the whole or any part thereof be in arrears then the Maintainer shall be entitled to suspend all services hereunder until payment is made in full.

4.2 ECOTELE reserves the right to vary the Maintenance Charges at each anniversary by no more than 10% In the event of any price increase greater than 10% during any calendar year (unless such an increase shall be as result of supplier increases being in excess of 10% in any calendar year) the Customer shall be entitled to cancel this Agreement by giving 14 days written notice to ECOTELE.

5 Customer Obligations.

5.1 The Customer agrees to:

5.1.2 Pay the Maintenance charges in full as prescribed by any invoice request for payment

5.1.3 Notify ECOTELE immediately by fax, e-mail or orally of any fault in the Equipment or any repair which may be necessary and to provide the Maintainer at all reasonable times with access to the Equipment and allow it to carry out Maintenance of the Equipment under the Terms of this Agreement.

5.1.4 Not to maintain, relocate, service, enhance, repair, adjust, tamper or alter the Equipment and to comply with all reasonable advice given by ECOTELE. Any third party access without ECOTELE authorisation will immediately invalidate this contract & all terms & conditions, with no refund returned for unused/unexpired period of the maintenance contract.

5.1.5 Notify ECOTELE of any alteration, repair, replacement or addition to the Equipment not carried out by the Company or its representatives.

5.1.6 At its expense comply with all statutory requirements, byelaws, obligations, regulations, recommendations or instructions in relation to the use or testing of the Equipment.

5.1.7 Allow ECOTELE or its representatives unhindered access to the Equipment and shall provide at its expense mains electricity and any other

facilities and co-operation as may be necessary for the proper and prompt maintenance or repair of the Equipment to be completed.

5.1.8 Maintain an environment suitable to support efficient operation of the Equipment.

5.1.9 Observe the provisions of this Agreement failing which ECOTELE may terminate this Agreement with immediate effect by giving the Customer written notice and may retain the Maintenance Charges.

5.1.10 To pay the Maintainers standard charge on presentation of an invoice for the re-programming and/or service visits as a result of the Customer requesting service where the fault is Customer induced due to mis-use or a programming error affected by the Customer, staff agent or as a result of any unauthorised third party access including any instances of dial through/toll fraud..

5.2 Pay ECOTELE, on termination of the agreement, an amount equal to seventy five per cent of the outstanding payments for the remainder of the Agreement period or the sum of two hundred and fifty pounds, whichever shall be the greater. The Customer must also pay to ECOTELE forthwith any payments, overdue payments and interest it owes to ECOTELE under this agreement and any costs ECOTELE incurs in collecting from the Customer the payment it owes.

5.2.1 To ensure at the Customers own expense that at all times the Equipment includes the current version of any software required for it to operate.

6 Default.

If the Customer shall make or offer to make any arrangement or composition with creditors or commit any act of bankruptcy or if any petition or receiving order in bankruptcy shall be presented or made against the Customer or if, the Customer being a Limited Company, any resolution or petition to wind up the Customer (other than for the purposes of reconstruction or amalgamation) or for an administration order in respect of the Customer shall be passed or presented, or if a Receiver of the property undertaking or assets (or any part thereof) of the Customer shall be appointed, or if the Customer shall commit any breach of its obligations hereunder, then, and in any such case ECOTELE may forthwith (and without prejudice to any other right or remedy of ECOTELE;

6.1 withhold the Services (without affecting the Customers continuing liability to pay the Maintenance Charges, and

6.2 suspend or terminate this Agreement or any unfulfilled part thereof, and

6.3 stop any supplies or goods in transit or any other work in progress.

7 Liability.

7.1 ECOTELE shall not be liable for any loss of profit, loss of contracts, business or production, waste of staff time or consequential loss of any sort whatsoever and howsoever caused.

7.2 ECOTELE shall not be liable financially or otherwise for any toll fraud or dial through fraud committed via/through any VoIP/SIP/ISDN30/ISDN2 line trunks. Or any instances of telephone system fraud or hacking. This applies to any supplied or installed equipment by/via ECOTELE. Including all IPPBX/PBX/Hosted/VoIP systems.

7.3 It is solely the customers responsibility to advise their network provider, not ECOTELE, to restrict or bar any international, mobile, high or premium rate number services at BT &/or CPS level, as the company may see fit.

7.4 It is solely the customers responsibility to advise ECOTELE if additional security measures or third party devices are available to further protect against any fraudulent activity, where possible.

7.5 ECOTELE shall use reasonable endeavours to provide the Services hereunder with reasonable dispatch and to comply with response times specified (if any) but ECOTELE shall not be liable for damages for delay in providing the Services hereunder.

7.6 ECOTELE's total liability in respect of any defective service supplied hereunder or in respect of any other obligation of ECOTELE hereunder shall be limited to a sum equal to six months Maintenance Charges payable hereunder. The Customer shall have no claim against ECOTELE in respect of any defective service provided by ECOTELE hereunder provided that ECOTELE shall rectify such service within a reasonable time of being given written notice to do so .

7.7 ECOTELE shall not be liable for any defect in the Services unless the Customer shall have given to ECOTELE written notice of such defect within 7 days of the date on which such defect came to the attention of the Customer (time being of the essence for the purposes of this sub-clause).

7.8 ECOTELE shall not be responsible for non-performance in whole or in part of its obligations nor under any liability to the Customer under this Agreement if such non-performance or liability is due (whether in whole or in part) to any cause beyond the control of ECOTELE including, without limitation, Act of God, war, insurrection, riot, civil commotion, Government regulations, embargoes, explosions, strikes, labour disputes, illness, flood, fire, tempest or failure of subcontractors or manufacturers to honour their obligations to ECOTELE.

7.9 The Customer shall indemnify and keep indemnified ECOTELE against any claim made by any third party against ECOTELE arising out of or

related to the Services provided hereunder or the other obligations to ECOTELE.

- 7.10 Each foregoing sub-clause of this clause shall constitute a separate and severable agreement. The provisions of this clause shall continue in effect notwithstanding the termination or completion of this Agreement or any other matter which might otherwise cause this Agreement to become ineffective.
- 7.11 The provisions of this clause shall operate to protect every servant, agent and subcontractor of ECOTELE and ECOTELE shall be deemed to be trustee for itself and such servants, agents and subcontractors so as to make them parties to this Agreement for the purposes of this clause only.

8 Miscellaneous.

- 8.1 All pre-contract representations including (but not limited to) catalogues and advertising material (unless specifically incorporated into this Agreement) made by or on behalf of ECOTELE are hereby excluded from this Agreement and the Customer warrants that no reliance has been placed upon them in entering into this Agreement.
- 8.2 Any advice or recommendation made by ECOTELE or its employees as to the storage, use or application of the Equipment shall not be binding upon ECOTELE unless confirmed in writing signed by a Director of ECOTELE. The Customer should rely upon manufacturers manuals for all instructions and advice.
- 8.3 ECOTELE shall be entitled to engage subcontractors to perform the Services. ECOTELE shall be entitled to assign this Agreement.
- 8.4 Where the Customer consists of more than one person or company then their liability shall be joint and several.
- 8.5 No failure or delay in exercising any rights hereunder on the part of ECOTELE shall operate as a waiver of such rights.
- 8.6 The Customer shall determine the suitability of the Equipment for its intended use prior to signing this Agreement.

9 Law.

This Agreement shall be construed according to the Law of England and Wales and any disputes in connection therewith shall be tried in the Courts.

10 Scheduled Service Level Agreement (SLA)

- 10.1 ECOTELE shall clear at least 95% of service call outs within 16 working hours, and shall clear at least 95% of total system failures within 8 working hours. Hours of business: Mon-Fri 09:00 – 17:30 Unless otherwise stated in special provisions. Excludes Public & Bank Holidays.

(February 2010)

Ecotele Limited 145-157 St John Street, London EC1V 4PY