

Hardware Support and Maintenance Agreement [AV-1]



1. DEFINITIONS AND INTERPRETATION

1.6 In this Support and Maintenance Agreement the following words have the meanings set out below unless the context otherwise requires:

"Beyond Economic Repair" means any Hardware, which has come to the end of its natural service life or which is beyond economic repair and any Hardware shall be deemed to be Beyond Economic Repair, where (i) the cost of the required parts to make the Hardware properly functional (for the avoidance of doubt, excluding any labour costs) will exceed the current list or new replacement equipment price (as determined by SCC) and/or (ii) any required spare parts or components are no longer available from the manufacturer and/or (iii) any item of Hardware experiences or suffers persistent or reoccurring faults or component failure provided always that Beyond Economic Repair will be evidenced by SCC's engineer in a written report which will state the reason(s) why the item has become Beyond Economic Repair and agreed by the Customer acting reasonably and in good faith;

"Business Day" means Monday to Friday excluding public and bank holidays in England, Wales, Scotland or Northern Ireland as appropriate, or such other times as are agreed in writing by SCC;

"Charges" means the charges to be paid by the Customer to SCC for the provision of Services in accordance with Clause 8 and as set out in the Quotation;

"Commencement Date" means the date set out in the Quotation on which the Parties agree SCC will commence the provision of the Services to the Customer;

"Confidential Information" means the terms of the Contract all sums payable under it, all information in respect of the business of a Party including, but not limited to, Know-How, other technical, business, financial and product development plans, forecasts, customer lists, strategies or other matters connected with the Services, and any other information which a reasonable person would consider to be of a confidential nature (whether or not marked as confidential) but shall exclude the Excluded Information with effect from the date that it becomes Excluded Information;

"Contract" means a contract entered into between SCC and the Customer following acceptance by SCC of a Purchase Order and incorporating the terms of the Quotation, these terms and conditions, any appendix to these terms and conditions and the Purchase Order to the extent that the terms of the Purchase Order do not conflict with the terms of this Support and Maintenance Agreement;

"Customer Obligations" means the obligations of the Customer as set out in **Clause 5** and **Appendix A** of this Support and Maintenance Agreement;

"Data Protection Legislation" means the UK Data Protection Legislation and (for so long as and to the extent that the law of the European Union has legal effect in the UK) the General Data Protection Regulation ((EU) 2016/679) ("**GDPR**") and any other directly applicable European Union regulation relating to privacy;

"Excluded Information" means information which:

- (a) was or becomes publicly known through no default or breach of this Support and Maintenance Agreement by the receiving Party;
- (b) was or becomes lawfully known to the receiving Party without restriction from a source other than the disclosing Party who itself obtained it without any confidentiality obligation or which has been

demonstrated by the receiving Party to the disclosing Party to have been independently developed by the receiving Party;

- (c) is approved for disclosure by the Party which has provided it without restriction in a document signed by a duly authorised officer of such Party;
- (d) or to the extent that the receiving Party is compelled to disclose it by a court or competent regulatory body (in which case the receiving Party shall give the Party which has disclosed the information prompt notice, to the extent permitted by law, of the relevant order).

"Force Majeure" means any cause preventing a Party from performing any or all of its obligations under this Support and Maintenance Agreement which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable contemplation and/or control of the Party including, without limitation, strikes, lockouts or other industrial disputes, protest, act of God, war, or national emergency, an act of terrorism, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fault or loss of electricity supply, fire, explosion, flood, storm, epidemic or any of the above events affecting suppliers or sub-contractors;

"Good Working Order" means a materially similar degree of functionality as existed prior to the fault being logged provided always that such degree of functionality is considered taking into account the age of the Hardware;

"Hardware" means the equipment listed in the Quotation for which the Services are being provided;

"Initial Term" means the initial term of the Contract as set out in the Quotation;

"Intellectual Property Rights" means copyright, moral rights, patents, trademarks, trade names, service marks, design rights, database rights, rights in goodwill, rights in undisclosed or confidential information (such as Know-How, trade secrets and inventions (whether patentable or not)), and other similar or related intellectual property rights (whether registered or not) and applications for such rights anywhere in the world;

"Know-How" means all information not in the public domain held in any form including without limitation that comprised in or derived from drawings, data, formulae, specifications, notes, computer software, component lists, instructions, manuals, brochures, catalogues and processed descriptions;

"Manufacturer" means the original manufacturer of the Hardware or spares or software as appropriate;

"Modifications" means any attention, modification, change, adjustment or addition to the Hardware by the Customer;

"Party" means SCC or the Customer (as appropriate) and "Parties" shall be construed accordingly;

"Purchase Order" shall mean a completed Customer purchase order for the Services referencing the applicable SCC Quotation, signed by an authorised representative of the Customer;

"Quotation(s)" means an SCC quotation for the combination of Services required by the Customer.

"Service Levels" means the service levels, if any, set out in the Quotation;

"**Services**" means the services identified in the Quotation and the corresponding Service Descriptions set out in **Appendix A** ("Service Description") of this Support and Maintenance Agreement to be provided by SCC to the Customer in accordance with the Contract;

"**Site**" means the Customer's sites where Hardware is situated as set out in the Quotation;

"**Software**" means the computer software supplied as part of the Hardware factory-built by the manufacturer, whether embodied in ROM, RAM, firmware or on disk, tape or other media;

"**SSD**" means solid state based (flash) hard drives and/or solid state based (flash) I/O cards.

"**UK Data Protection Legislation**" means any data protection legislation from time to time in force in the UK including the Data Protection Act 1998 or 2018 or any successor legislation;

"**Working Hours**" shall mean the hours between 9 am and 5.30 pm on a Business Day unless otherwise set out in the Quotation;

- 1.2 Any reference to a "Clause" or "Appendix" shall mean a clause or appendix of this Support and Maintenance Agreement unless otherwise stated.
- 1.3 The use of headings in these terms and conditions shall be for convenience only and shall not affect the interpretation of these terms and conditions.
- 1.4 Reference to any statute or statutory provision or any other regulation includes any provision which subsequently supersedes it or re-enacts it (whether with or without modification).
- 1.5 Reference to the word "including" shall mean "including without prejudice to the generality of the foregoing phrase or term" and references to "written", "in writing" or any similar expression shall include all data in written form whether represented in hand-writing, facsimile, printed or other format.
- 1.6 Reference to the Parties shall include their permitted successors and assigns.
- 1.7 Reference to an obligation on a Party not to do any act or thing shall be deemed to include an obligation not to permit or suffer the doing of that act or thing.
- 1.8 Reference to the singular include the plural, references to any gender include all other genders, and references to "persons" shall include individuals, bodies corporate, unincorporated associations, professions, businesses and partnerships.
- 1.9 In the event of any conflict or inconsistency between these terms and conditions and the terms contained elsewhere in this Support and Maintenance Agreement these terms and conditions shall prevail.
- 1.10 The Appendices shall have full force and effect as is expressly set out in the body of these terms and conditions.

2. FORMATION OF CONTRACT

- 2.1 This Support and Maintenance Agreement shall govern all Purchase Orders for Services placed by the Customer and accepted by SCC. SCC will provide the Services to Customer in accordance with the terms of this Support and Maintenance Agreement.
- 2.2 From time to time where the Customer requires the delivery of any Services then it shall request a Quotation for such from SCC. Following acceptance of the Quotation by the Customer it will provide SCC with a Purchase Order for such. The Customer shall procure that each Purchase Order is signed by a person authorised to sign a Purchase Order on behalf of the Customer.
- 2.3 Once a Purchase Order is accepted by SCC, each Purchase Order shall form a separate Contract between Customer and SCC incorporating the terms of this Support and Maintenance Agreement, the Quotation, the Purchase Order and the Service Description. In the event of any conflict between the terms of this

Agreement, the Quotation, the terms of an accepted Purchase Order and/or the terms of the Service Description, the following order of precedence shall apply: (1) Quotation (2) Service Description (3) Support and Maintenance Agreement (4) the Purchase Order.

- 2.4 All terms and conditions contained in a Customer Purchase Order, letter or other document produced or provided by the Customer are excluded and shall be of no effect to the extent they conflict with any of the terms and conditions specified in this Support and Agreement.

3. SCC'S OBLIGATIONS

- 3.1 SCC shall provide the Services to the Customer during the Working Hours within the Service Levels and in accordance with the terms of the service description(s) set out in **Appendix A**. The Customer acknowledges that time is not of the essence in the provision of the Services.
- 3.2 For avoidance of doubt, it may take up to thirty (30) days from the date of acceptance of the Purchase Order, before SCC starts providing the Services. Prior to this start date, on acceptance of the Purchase Order, SCC will use reasonable endeavours to support the Services
- 3.3 SCC warrants to the Customer that:
 - (a) the Services will be carried out with reasonable skill and care by suitably skilled and experienced personnel;
 - (b) to the extent that it is permitted to do so, it shall assign or pass on the benefit of any guarantee or warranty covering any defects in any replacement parts, spares or goods, received by SCC under an agreement with the manufacturer or supplier of the relevant products. The warranty of the manufacturer or supplier is in lieu of all other terms or conditions whether express or implied concerning the quality or fitness for purpose of the replacement parts, spares or goods. For the avoidance of doubt, SCC does not give any warranty or guarantee in respect of the replacement parts, spares or goods; and
 - (c) it has all necessary rights and licenses to enter into this Support and Maintenance Agreement and to carry out the Services.
- 3.4 The Services are intended to return the relevant item of Hardware to Good Working Order but SCC does not warrant that the Services shall cause the Hardware to thereafter operate without interruption or error.
- 3.5 SCC shall not be obliged to either carry out any repairs or work which are excluded under **Clause 4** or **Appendix A** or carry out the Services on Hardware which is not listed in the Quotation. The Customer may request that SCC carry out such excluded services on providing SCC with full written particulars of its requirements and with such further information as SCC may reasonably request in order to enable SCC to produce a written quotation. SCC shall supply such services in its sole discretion and if it agrees to supply the services it shall provide the Customer with a quotation. If such quotation is accepted by the Customer then (where applicable and unless otherwise agreed) the terms and conditions of this Support and Maintenance Agreement shall apply to the provision of such additional services.
- 3.6 For Hardware which is identified in the Quotation as receiving Hardware Maintenance Services, SCC's engineer may choose to return the Hardware to SCC's workshop for repair should on-site repair be impracticable. In such cases, if SCC's engineer believes that repair of the Hardware is not possible within the Service Levels, then at SCC's sole discretion SCC will either provide the Customer with loan equipment or a permanent replacement ("**Swap Out**"). Where SCC provides loan equipment or a Swap Out SCC shall be under no obligation to provide identical equipment but shall use all reasonable endeavours to ensure that the loan or Swap Out equipment provided will be of not less than an identical or better level of functionality. Unless otherwise agreed loan or Swap Out

equipment shall not include software. Loan or Swap Out equipment shall not be supplied where the exclusions set out in **Clause 4** below apply.

- 3.7 Where SCC provides the Customer with Swap Out equipment, then unless otherwise agreed, upon receipt of the Swap Out equipment by the Customer title to the Swap Out equipment shall pass to the Customer, and title to the Hardware SCC removes from Site shall transfer to SCC.
- 3.8 SCC agrees to use all reasonable endeavours to ensure that its employees and sub-contractors shall comply with the Customer's written security and safety procedures which are brought to the attention of SCC.
- 3.9 At the written request of the Customer, from time to time, SCC shall implement changes to the Services detailed in the Quotation, providing that such changes do not necessitate SCC using additional resources over and above the resources used at that time to provide the Services and does not impact upon SCC's ability to meet the Service Levels or the Charges, or the timescales detailed in the Contract ("**Minor Changes**"). Any change requested by the Customer, which is over and above the Minor Changes shall be dealt by agreement between the parties in accordance with **Clause 6**.
- 3.10 Where the Customer's responsibilities are listed in the Service Descriptions, these should be read in conjunction with and are without prejudice to the Customer's other obligations set out in this Support and Maintenance Agreement.
- 3.11 SCC and the Customer will carry out a general review of the Service Levels and reports provided on a regular basis, time intervals to be agreed, but not to be less than once per year or more than once per month.
- 3.12 All amendments to Service Levels shall be agreed by the Parties in accordance with **Clause 6**.
- 3.13 During the term of the Contract, changes, for example, projects, upgrades and additions to the Hardware may occur that may have an impact on the Service Levels. However, SCC will use its reasonable endeavors to ensure that the current operational Service Levels is not affected by the change. Where SCC reasonably considers it impossible to do so, then SCC may apply in writing, for the suspension of the Service Levels for a limited period only, explaining the reasons for the change and detailing the effects of the change.
- 3.14 As soon as reasonably practicable, after the Customer has received the application, SCC and the Customer shall meet to agree the effects (if any) of the change to the Service Levels.

SSD Equipment

- 3.15 All SSD equipment should be clearly declared in the Hardware inventory and should include part number and description details. All SSD equipment requiring support will be priced or clearly marked as included as part of a host system, any SSD equipment not marked as such will not be supported under the Contract. SCC reserve the right to audit any system containing SSD based items at a mutually agreed time.
- 3.16 Subject to Clause 3.15, support for SSD Equipment is provided for hardware malfunctions. SSD Equipment requiring replacement that has reached its maximum supported lifetime and/or the maximum usage limits as set forth in the manufacturer's operating manual will not be supported under the Contract and can be supplied on a chargeable basis.

4. EXCLUSIONS

Services

- 4.1 For the avoidance of doubt, the Customer hereby agrees and acknowledges that the Services do not include:
 - (a) repairs or replacement as required as a result of any accident,

relocation to another site, installation, neglect, or misuse of the Hardware by any party other than SCC including operation in a manner contrary to the Manufacturer's operating instructions; or

- (b) works requested by the Customer for rearrangement including additional wiring, relocating any part of the Hardware or repairing a previously prepared site to make it operational; or
 - (c) repairs or replacement as required as a result of any Modification to the Hardware other than in accordance with **Clause 5.4(b)**; or
 - (d) repairs, support, or maintenance of the Hardware by any party other than SCC without SCC's prior consent; or
 - (e) repairs or replacement of Hardware which has suffered physical loss or damage whatsoever caused by any factor outside the control of SCC including but not limited to fire, theft, vandalism or accidental/deliberate damage or destruction; or
 - (f) repairs required as a result of any failure or fluctuation of electricity supply, climate control or other environmental conditions; or
 - (g) repair of any external or cosmetic damage to the Hardware or any other goods affected by a defect in the Hardware, electrical work external to the Hardware, refurbishment or repair of any casing; or
 - (h) replacement of consumable items with a limited life expectancy including but not limited to the consumable items specifically designated by the Manufacturers as consumables, and/or as described in **Appendix A**; or
 - (i) repairs to items of Hardware which have come to the end of their natural service life, or which are, in the reasonable opinion of SCC, Beyond Economic Repair, or for which spare parts are no longer readily available; or
 - (j) any supply of parts or work which is required because of the failure of the Customer promptly to inform SCC of any faults in the operation of the relevant items of Hardware or the adding or removal of any accessories, attachments or other devices; or
 - (k) repairs to items of Hardware which are not in Good Working Order at the commencement of this Support and Maintenance Agreement; or
 - (l) repairs to items of Hardware which are required as a result of a Manufacturers' product recall whether in relation to a complete piece of Hardware or a component part thereof. Product recalls shall constitute an additional service which shall be charged at SCC's then current time and materials rates; or
 - (m) Software, firmware updates, patches and fixes for HP servers, storage and networking product ranges ("HP Equipment") are excluded from the Services under this Agreement unless;
 - (i) the HP Equipment is still within its OEM manufacturer warranty period; and/ or
 - (ii) the Agreement specifically states that such Software, firmware updates, patches and fixes are included as part of the Service;
- For avoidance of doubt the above restriction does not apply to any Software, firmware updates, patches and fixes which HP considers to be required for ILO, I/O, safety or security purposes;
- (n) any service not specifically stated in the Quotation or **Appendix A** to form part of the Services.

Service Levels

- 4.2 Without prejudice to any exceptions to the Service Levels set out elsewhere in the Contract, SCC shall not be in breach of the Contract including without limitation the Service Levels in the following situations:
 - (a) where the Customer fails to comply with its obligations as set out in this Support and Maintenance Agreement and in the Service Descriptions to the extent that such failure directly or

- indirectly causes SCC to fail the Service Levels;
- (b) where the Service requested falls within one of the exceptions set out in **Clause 4** and/or in the Service Descriptions in **Appendix A**;
 - (c) faults referred to vendors and Manufacturers will not be included in the measurement of performance against Service Levels, unless the vendors or manufacturers are authorised sub-contractors of SCC;
 - (d) where system restoration time frames (applications and data) are extensive, that is it is not possible to restore the system within the Service Levels;
 - (e) where the Customer invokes a change to an incident therefore resolution needs to be rescheduled at the request of the Customer;
 - (f) User is not available when their input is required to resolve the call. A minimum of three attempts should be made to contact the user before suspending the call.

5. CUSTOMER OBLIGATIONS

- 5.1 The Customer shall be responsible for the Customer Obligations as set out in **Appendix A**.
- 5.2 The Customer shall be responsible for and shall ensure that any programs or data stored on the Hardware are virus free and full back up copies of all such programs and data are made and retained by the Customer. SCC shall not be liable for any loss of data howsoever caused.
- 5.3 The risk of any accidental/deliberate damage, loss, destruction or theft of any loan equipment provided by SCC shall pass to the Customer on delivery of the loan equipment to the relevant site and the Customer must insure, for its full replacement value, such loan equipment from that date and provide on request by SCC evidence of such insurance. Title to loan equipment shall at all times remain vested in SCC. The Customer shall ensure that any loan equipment provided by SCC is returned to SCC in the same condition in which it is supplied to the Customer (taking in to account reasonable wear and tear). If this is not the case, the Customer shall indemnify SCC for any losses suffered by SCC including but not limited to replacement of the loan equipment.
- 5.4 The Customer shall:
 - (a) ensure that proper environmental conditions are maintained for the Hardware and shall maintain in good condition the accommodation of the Hardware;
 - (b) give SCC 10 working days prior written notice of any Modification to the Hardware prior to such Modification being carried out. SCC shall notify the Customer if such Modification is accepted by SCC (such acceptance not being unreasonably withheld or delayed) SCC shall acknowledge the Modification in writing and shall notify the Customer of any proposed alteration to the Charges due to such Modification. Any Modification should be made in accordance with industry standards and the Customer shall only use products and parts approved by the Manufacturer or SCC;
 - (c) not request, permit or authorise anyone other than SCC to carry out any adjustments repairs or maintenance to the Hardware (or any part) without the prior consent of SCC;
 - (d) keep and operate the Hardware in a proper and prudent manner in accordance with the operating instructions of SCC and the Manufacturer and ensure only competent trained and authorised employees are permitted to use the Hardware;
 - (e) ensure the external surfaces of the Hardware are kept clean and in good condition;
 - (f) use only such operating supplies as SCC or the Manufacturer shall recommend;
 - (g) not move Hardware or any part of it to another Site without the prior notification in writing of SCC for the avoidance of doubt, this clause does not apply to mobile Hardware;

- (h) provide SCC with full and safe access to the Site and to the Hardware for the purposes of carrying out its obligations under the Contract and shall make available to SCC such staff, facilities, assistance and services as reasonably required by SCC to perform the Services including without limitation safe and clean facilities and working space, storage space suitable to carry out the Services, telephone facilities and access to electricity supply; and
 - (i) ensure that when a service call is made that it relates to the Hardware. For the avoidance of doubt, if a service call is made relating to a fault other than in relation to the Hardware or for a service which falls outside of the Services, SCC will be entitled to charge for any labour and parts used at its then current time and materials rates.
- 5.5 The Customer warrants to SCC that it:
- (a) will provide SCC with such information as it may reasonably need concerning the Customer's operations and answers to queries, decisions and approvals which may be reasonably necessary for the SCC to undertake the Services. The Customer is responsible for ensuring that such information and answers are accurate and complete. SCC will, to the extent reasonably practicable, give the Customer reasonable prior notice of any information or answers it requires in accordance with this **Clause 5** and will notify the Customer promptly in writing if it considers the Customer to have failed to provide information or answers in accordance with this **Clause 5** or if it has reason to suspect that any information is inaccurate or incomplete. If any information is deemed to be inaccurate or incomplete, SCC shall not be deemed to be in breach of any Service Levels or other obligations under the Contract;
 - (b) shall ensure that all personnel assigned by it to provide assistance to SCC shall have the requisite skill qualification and experience to perform the tasks assigned to them;
 - (c) shall keep and operate the Hardware in a proper and prudent manner in accordance with the operating instructions of SCC and the Manufacturer and ensure only competent trained and authorised employees are permitted to use the Hardware; and
 - (d) is the owner of the Hardware and any Software which may form part of the Hardware and that it has the power and authority to enter into the Contract and permit SCC to perform the Services or, where the Customer does not own the Hardware or any Software that may form part of the Hardware, that it has all powers, right, authority and licences necessary to enter into the Contract and to permit SCC to perform the Services.
- 5.6 The Customer will defend, indemnify and hold SCC harmless against all losses, liabilities, damages, claims, costs (including legal and other professional costs) and expenses which SCC may suffer or incur arising out of or in connection with any breach of the warranty set out in **Clause 5.5(d)** above.

6. CHANGE CONTROL

- 6.1 SCC reserves the right to modify the Contract without notice to the extent necessary to ensure compliance with any regulatory or legislative requirement. Subject to **Clause 6.2**, all other variations to the Contract shall be subject to the prior written agreement of both Parties, such consent not to be unreasonably withheld.
- 6.2 For the avoidance of doubt, if the Customer requests any changes to the Sites and/or the Hardware the Customer should request such change in writing providing at least 30 days notice. SCC shall respond to such request, within a reasonable period, detailing their acceptance (which shall not be unreasonably withheld) of the request or details of any change to the Charges necessary due to such change. SCC shall not be deemed to be acting unreasonably if it refuses any such change request during the final 3 months of either the Initial Term or any extended period or at any time after written notice to terminate the Contract has been served by either Party upon the other. SCC may terminate the Contract, on written notice, if the Parties fail to reach agreement on the change request or the Charges.

7. DURATION OF CONTRACT AND TERMINATION

- 7.1 The Contract shall commence on the Commencement Date and shall continue for the Initial Term and shall remain in force thereafter unless and until terminated by either Party giving to the other not less than 3 months' written notice expiry on the last day of the Initial Term or on the last day of each subsequent anniversary of the Initial Term (as applicable) but shall be subject to earlier termination as provided under this **Clause 7**.
- 7.2 For the term of the Contract the Customer shall not engage either directly or indirectly any third party to provide in whole or part any of the Services or any services similar to the Services in relation to the Hardware without the prior written consent of SCC.
- 7.3 Except as provided in this **Clause 7.3**, the Customer shall not be entitled to cancel the Contract prior to the expiry of the Initial Term without SCC's prior written consent. If SCC does consent to early termination of the Contract, such consent shall be subject to the Customer paying an early termination charge to SCC calculated as a sum equal to the average of the Charges paid by the Customer in the previous three (3) months (or the Charges paid in the previous month if less than three (3) months of the Initial Term have expired) multiplied by the number of months remaining in the Initial Term.
- 7.4 Either Party may by notice in writing served on the other Party terminate the Contract immediately if the other Party:
- (a) is in material breach of any of the terms of the Contract and, where the breach is capable of remedy, the other Party fails to remedy such breach within 30 days service of a written notice from the Party not in default, specifying the breach and requiring it to be remedied; or
 - (b) shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part I 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 other shall be unable 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 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 a bona fide amalgamation or reconstruction); or the equivalent of any of the above occurs under the jurisdiction to which the Parties is subject.
- 7.5 SCC may terminate the Contract in writing without notice if the Customer has a change in its management and/or control as defined by section 1124 of the Corporation Tax Act 2010.
- 7.6 The termination of the Contract howsoever arising is without prejudice to the rights, duties and liabilities of either the Customer or SCC accrued prior to termination and the conditions which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.
- 7.7 On termination of the Contract all provisions in the Contract which expressly or impliedly have effect after termination shall remain in effect.

8. CHARGES AND PAYMENT

- 8.1 SCC will invoice the Customer for the Services in accordance with the Quotation.
- 8.2 The Customer shall pay the Charges within thirty (30) days from the date of SCC's invoice.
- 8.3 All Charges shall be stated in pounds sterling and shall be exclusive of Value Added Tax and all other sales taxes whether in addition to or in substitution unless otherwise stated in the Quotation.

- 8.4 All payments to be made by the Customer under the Contract will be made in full without any set-off, restriction or condition and without any deduction or withholding for or on account of any counterclaim or any present or future taxes, levies, duties, charges, fees, deductions or withholdings of any nature, unless the Customer is required by law to make any such deduction or withholding.
- 8.5 If any sum payable under the Contract which is not the subject of a bona fide dispute is not paid by the due date then (without prejudice to SCC's other rights and remedies), SCC reserves the right to charge interest on such sum on a day to day basis (after as well as before any judgment) from the date or last date for payment thereof to the date of actual payment (both dates inclusive) at the rate of four percent (4%) per annum over Barclays Bank plc base rate (or such other London Clearing Bank as SCC may nominate) from time to time in force. Such interest shall be paid on demand by the Customer.

- 8.6 SCC reserves the right to vary its charges on not less than 30 days written notice where such variations are to take into account any factors outside of its reasonable control. Such factors shall include but shall not be limited to, changes in the Manufacturers terms and conditions in relation to rebates for warranty repairs and costs incurred in relation the Contract due to the implementation into English Law of the Waste Electrical and Electronic (Producer Responsibility) Regulations.

9. LIABILITY

- 9.1 The following provisions of this **Clause 9** set out the total liability of SCC under or in connection with the Contract whether in contract, tort (including negligence) for breach of statutory duty or otherwise.
- 9.2 Nothing in the Contract shall limit or exclude either Party's liability:
- (a) for fraud; or
 - (b) for death or personal injury resulting from negligence; or
 - (c) to the extent not permitted by law.
- 9.3 SCC's total liability in respect of loss of or damage to tangible property shall not in any circumstances exceed one million pounds (£1,000,000).
- 9.4 SCC's total liability in respect of any other loss or damage arising under the Contract shall not in any circumstances exceed fifty thousand pounds (£50,000) or a sum equal to the Charges payable under the Contract in the 12 month prior to the breach whichever is the lesser.
- 9.5 SCC shall not have any liability in respect of the provision of any Services which is alleged to be defective unless notice of any claim in respect of such Services is given to SCC by the Customer within 14 days of the date upon which the relevant Services were performed. Where such notice is validly given, SCC's only obligation shall be to re-perform the relevant Services and SCC shall have no further liability in relation to such alleged defective Services.
- 9.6 Neither Party will have any liability under or in connection with the Contract in respect of:
- (a) loss of profits, loss of business, loss of revenue, loss of contract, loss of goodwill, loss of anticipated earnings or savings (whether direct, indirect or consequential); or
 - (b) loss of use or value of any data or equipment including software, wasted management, operation or other time (whether direct, indirect or consequential); or
 - (c) any indirect or consequential loss, howsoever arising.
- 9.7 SCC shall not be liable for any losses or damages suffered by the Customer arising from the Customer's failure to make adequate provision for recovery of lost or corrupted data, files, or programs.

9.8 Where SCC is unable to access the Site and/or the Hardware for any reason (other than due to the default of SCC) and as a result is unable or is delayed from providing the Services, SCC shall not be deemed to have breached any of the terms of the Contract.

9.9 The Charges have been set by SCC on the basis of the exclusions and restrictions of liability in this **Clause 9** and would be higher without those provisions. In the circumstances, the Customer agrees that those provisions are reasonable and will accept the risk and/or insure accordingly.

9.10 Except as otherwise specifically provided in this Support and Maintenance Agreement, SCC hereby excludes to the fullest extent permissible in law, all conditions, warranties, terms and stipulations, express (other than those set out in this Support and Maintenance Agreement) or implied, statutory, customary or otherwise which, but for such exclusion, would or might subsist in favour of the Customer.

10. INTELLECTUAL PROPERTY

10.1 All Intellectual Property Rights in or in relation to the Services (including any manuals and operating documentation relating thereto) or in any materials (including software) provided by SCC during the course of supplying the Services shall vest in SCC or its suppliers as the case may be. The Customer shall have no title to or interest in any such Intellectual Property Rights except to the extent specifically set out in this Support and Maintenance Agreement.

11. CONFIDENTIALITY

11.2 The Parties will keep confidential any and all Confidential Information that they may acquire pursuant to the Contract.

11.2 Neither Party will use the Confidential Information for any purpose other than to perform its obligations under the Contract. Each Party will ensure that its officers and employees comply with the provisions of this **Clause 11**.

11.3 The Customer acknowledges that SCC does not have any knowledge of the quantity or value of the data or software used by the Customer in utilising the Services. The Customer shall take all reasonable steps to mitigate the risks of data and software loss inherent in its use of the Services. The Customer agrees that SCC shall not be liable for loss of Customer data or software to the extent that the Customer data or software has changed since the time that SCC was last required to perform a backup pursuant to this Agreement.

11A. DATA PROTECTION

11A.1 In this Clause, the terms "**Controller**", "**Personal Data**", "**Processed**", "**Processor**", "**Processing**" and "**Data Subject**" have the meanings given to them in the Data Protection Legislation.

11A.2 The Parties acknowledge that the Customer is a Controller and SCC is a Processor in relation to the Personal Data processed by SCC pursuant to the Contract.

11A.3 The Personal Data which could be Processed by SCC in performing the Services (including where the Processing is related to the storage and transfer of data used by the Customer in the course of carrying on its business within its equipment, systems or applications which SCC services, hosts or provides compute infrastructure for) will be specified in the Contract or, where not so specified, could relate to any individual anywhere in the world with whom the Customer and its users are communicating, doing business, providing a service to, employing (either potentially or historically) and anyone related to such individuals or other individuals. Unless specified in the Contract, the Personal Data could be any type of personal data or special category of sensitive Personal Data that is Processed in connection with such systems, equipment or applications or on emails, information or other documents sent to or from the Customer or its users or created by them, all as determined by the Customer or the Customer's users. The Personal Data will be Processed for the duration of the

Contract. Where the Customer requests, the Parties may agree to set out in a schedule to the Contract the specific subject matter and duration, nature and purpose of particular Processing activities under the Contract, the type of Personal Data being Processed and the specific categories of the Data Subjects concerned.

11A.4 SCC shall:

- (a) Process the Personal Data only on the documented instructions of the Customer as set out in the Contract, in order to perform its obligations under the Contract and shall ensure it takes steps to ensure that its personnel only Process the Personal Data on documented instructions from the Customer as set out in the Contract, unless required to do otherwise by applicable law;
- (b) ensure that its personnel who are authorised to Process Personal Data are under obligations of confidentiality that are enforceable by SCC;
- (c) take all measures required pursuant to Article 32 of GDPR;
- (d) assist the Customer, by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Controller's obligation to respond to requests for exercising the Data Subject's rights under Chapter III of GDPR;
- (e) assist the Customer in ensuring compliance with the obligations pursuant to Articles 32-36 of GDPR taking into account the nature of the Processing and the information available to SCC;
- (f) at the written election of the Customer, either delete or return the Personal Data (including all copies of it) at any time upon request by the Customer or promptly upon termination or expiry of the Contract; and
- (g) make available to the Customer all information necessary to demonstrate compliance with the obligations in Article 28 of GDPR and allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer.

11A.5 The Customer shall:

- (a) ensure it has all necessary authority to Process Personal Data and to disclose or make available such Personal Data to SCC and to allow SCC to conduct the relevant Processing activities required in order to provide the Services for the Customer, in each case in accordance with all applicable Data Protection Legislation; and
- (b) be responsible for ensuring that appropriate technical and organisational measures are in place for all Personal Data Processed within the Customer's IT environment by the Customer and SCC. The Parties agree that it is not appropriate for SCC to be responsible for determining appropriate technical and organisational measures related to the Customer's IT environment wherever it may be located unless the implementation of such measures are within the scope of the Services to be provided by SCC.

11A.6 The Customer acknowledges and agrees that, taking into account the nature, scope, context and purposes of the processing of Personal Data that may be carried out by SCC in the course of the provision of the Services provided under the Contract, it is not appropriate for SCC to implement and SCC shall not implement, unless expressly agreed by SCC in the Contract or via the Change Control Procedure, specific back-up, pseudonymisation or encryption measures in respect of Personal Data Processed by SCC when performing the Services.

11A.7 The Customer consents to the Processing of Personal Data by SCC's affiliate company Specialist Computer Centres Vietnam Company Limited, for the purpose of providing out of hours support or for assistance with other services sub-contracted by SCC to Specialist Computer Centres Vietnam Company Limited on the terms located at the following hyperlink <https://www.scc.com/wp-content/uploads/2018/06/Data->

Exporter-Agreement-SCC-Vietnam.pdf (the “**Model Clauses**”). The Parties shall execute those Model Clauses at the same time as the Contract (or upon request by either Party following execution of the Contract) and with SCC agreeing those Model Clauses in its capacity as agent, acting on behalf of Specialist Computer Centres Vietnam Company Limited. SCC shall not otherwise Process or transfer Personal Data outside of the European Economic Area without the prior written further consent of the Customer, (and where further consent is given such further consent will be set out in the Contract) and without putting in place adequate protection for the Personal Data to enable compliance by the Customer and SCC with their obligations under applicable Data Protection Legislation. Prior to any such further transfer or Processing of Personal Data outside of the European Economic Area or to a country without a finding of adequacy, the Customer and SCC shall enter into a further data transfer agreement on the terms of the standard contractual clauses approved by the European Commission from time to time (or as required under applicable law where the United Kingdom is no longer part of the European Economic Area).

11A.8 The Customer consents to the appointment by SCC of sub-processors as necessary for SCC to provide the Services.

12. PERSONNEL

12.1 The Parties consider and intend that the commencement of the provision of the Services by SCC will not constitute the transfer of an undertaking for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any provisions replacing or amending these provisions (the “**Transfer Regulations**”) and, accordingly, the contracts of employment of any employees of the Customer or any contractor who are assigned to work in connection with the Services (the “**Customer Employees**”) and any rights and liabilities attaching thereto will not have effect from that date as if originally made between the Customer Employees and SCC or any of its subcontractors.

12.2 If any Customer Employee asserts or establishes that his or her employment or any claim right or liability in connection with his or her employment or the termination of that employment has transferred to SCC or any of its subcontractors upon commencement of the Services pursuant to the Contract under the Transfer Regulations:

- (a) the Customer shall indemnify SCC and any of its subcontractors and keep them fully indemnified at all times against all liabilities to or in respect of or on behalf of such Customer Employee incurred by SCC and any of its subcontractors (including pay, redundancy payments, protective awards, compensation for wrongful or unfair dismissal or discrimination, or any other order for damages or compensation for any failure to perform any duty imposed under the provisions of the Transfer Regulations or otherwise) arising out of the employment of or the termination of employment of such Customer Employee and against all and any costs, expenses or damages incurred by SCC and any of its subcontractors in contesting any claim in respect thereto; and
- (b) SCC or any of its subcontractors shall be entitled to terminate the Customer Employee’s employment and SCC and any of its subcontractors shall be indemnified by the Customer in respect of all awards, losses, damages, costs, liabilities, expenses and legal fees which they may sustain arising under or in connection with Customer Employee’s contract of employment and/or the termination of his or her employment.

12.3 The Parties acknowledge that each has incurred significant costs in the recruitment and training of its employees engaged in connection with the Services. Accordingly the Parties agree with each other that it will not, and it will ensure that its associated companies will not, solicit or approach in any way, any of the other’s employees who are engaged in connection with the Services with a view to offering them employment or to solicit services from them on their own account (whether for

itself or another party) during the period of the Contract and for a period of six (6) months after the termination or expiration of the Contract.

12.4 If any employee leaves the employment of SCC or Customer (as appropriate) (the “**Non-Breaching Party**”) as a result of a breach by the other Party or its associated companies (the “**Breaching Party**”) of **Clause 12.3** and commences employment with, or provides services to the Breaching Party, the Breaching Party shall pay to the Non-Breaching Party 50% of the higher of:

- (a) the annual salary (including any benefits-in-kind, bonus payments, commissions and other emoluments) of the employee at the date that they ceased to be an employee of the Non-Breaching Party; or
- (b) the annual salary of the employee at the time they commence employment with the Breaching Party and the Parties acknowledge that any such payment is by way of liquidated damages and is reasonable and genuine pre-estimate of the Non-Breaching Party’s losses.

13. DISPUTE RESOLUTION PROCEDURE

13.1 All disputes, differences or questions arising in relation to the Contract shall be referred in the first instance to the Account Director of SCC and the nominated equivalent representative of the Customer (as notified to SCC) who shall meet together and attempt to settle the dispute (acting in good faith) within 10 Business Days.

13.2 If the persons appointed in **Clause 13.1** are unable to resolve the dispute, it shall be referred to the Managed Service Director of SCC and the nominated equivalent representative of the Customer (as notified to SCC) who shall meet together and attempt to settle the dispute (acting in good faith) within 10 Business Days.

13.3 If the persons appointed in **Clause 13.2** are also unable to resolve the dispute within 10 Business Days, the Parties shall have no further obligation to follow this dispute resolution procedure.

13.4 Neither party may initiate any legal action until the procedure set out in **Clauses 13.1, 13.2 and 13.3** has been completed except that in no event shall the provisions of this **Clause 13** operate to prevent a Party seeking interim relief in respect of any dispute or differences.

14. FORCE MAJEURE

14.1 SCC will not be deemed to be in breach of the Contract or otherwise liable to the Customer in any manner whatsoever for any failure or delay in performing its obligations under the Contract due to Force Majeure.

14.2 If the SCC’s performance of its obligations under the Contract is affected by Force Majeure:

- (a) it will give written notice to the Customer, specifying the nature and extent of the Force Majeure, as soon as reasonably practicable after becoming aware of the Force Majeure and will at all times use all reasonable endeavours to bring the Force Majeure event to an end and, whilst the Force Majeure is continuing, mitigate its severity, (without being obliged to incur any expenditure); and
- (b) subject to the provisions of **Clause 14.3**, the date for performance of such obligation will be deemed suspended only for a period equal to the delay caused by such event.

14.3 If the Force Majeure in question continues for more than three months, either party may give written notice to the other to terminate the Contract. The notice to terminate must specify the termination date, which must not be less than 15 Business Days after the date on which the notice is given, and once such notice has been validly given, the Contract will terminate on that termination date.

15. NOTICES

- 15.1 All notices that are required to be given under the Contract shall be in writing and shall be sent to the addresses set out in the Contract by first class pre-paid letter or by hand and shall be deemed to have been received:
- (a) by first class post, 48 hours after the date of mailing;
 - (b) by hand, the following Business Day.

16. GENERAL

- 16.1 Each right or remedy of a Party under the Contract is without prejudice to any other right or remedy of the Party under the Contract.
- 16.2 If any condition or part of the Contract is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from the Contract and will be ineffective without, as far as is possible, modifying any other provision or part of the Contract and this will not affect any other provisions of the Contract which will remain in full force and effect.
- 16.3 No failure or delay by a Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.
- 16.4 SCC may assign, delegate, license, hold on trust or sub-contract all or any part of its rights or obligations under the Contract.
- 16.5 the Contract is personal to the Customer who may not assign, delegate, license, hold on trust or sub-contract all or any of its rights or obligations under the Contract without SCC's prior written consent (which shall not be unreasonably withheld or delayed).
- 16.6 A person who is not a party to the Contract shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. This clause does not affect any right or remedy of any person that exists or is available otherwise than pursuant to that Act.
- 16.7 the Contract contains all the terms which SCC and the Customer have agreed in relation to the Services. For the avoidance of doubt, no terms or conditions endorsed upon, delivered with or contained in any Customer documentation will form part of the Contract unless specifically agreed in advance, in writing by SCC. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of SCC which is not set out in the Contract.
- 16.8 The Parties shall use all reasonable endeavours to mitigate losses, damages and expenses that it may suffer or incur as a result of any breach by the other Party of its obligations under the Contract or otherwise and in respect of which it desires to make recovery in whole or in part from the other Party.
- 16.9 Neither Party shall be entitled to recover from the other Party under the Contract more than once to the extent and in respect of the same liability of the other Party or its own loss.
- 16.10 Unless otherwise expressly agreed, all communications between the Parties shall be in the English language.

17. LAW AND JURISDICTION

- 17.1 The formation, existence, construction, performance, validity and all aspects whatsoever of the Contract will be governed by English law.
- 17.2 The English Courts will have exclusive jurisdiction to settle any disputes which may arise out of or in connection with the Contract.

Appendix A Service Descriptions

Where the Quotation states that a Service or combination thereof is included then such Services shall be delivered in accordance with the corresponding Service Description in this Appendix A below;

Service Group:	Hardware Support & Maintenance
Service Description:	Incident Management
<p>i) Service to be provided</p> <p>This Service Description will include:</p> <ul style="list-style-type: none"> • SCC shall provide Customer with access to a designated telephone number and/or a designated e-mail address for all communication from the Customer's helpdesk. • SCC shall manage incidents submitted to SCC via the agreed methods, during the Working Hours. • SCC will log the call on SCC's incident management system and advise Customer of the incident number. This number will be used as the following: <ul style="list-style-type: none"> ○ Confirmation that the Service Levels are now active, except where the Service is to be provided on an appointment basis where, the agreed Service Levels for the performance of the Service shall commence at the time SCC attends the Site in accordance with the appointment. ○ As a point of reference for both parties when communicating further about the incident. • SCC shall update the Customer via agreed methods with regular incident updates, and will provide proactive management of the incident through to closure regardless of the resolver group. <p>ii) Customer Obligations</p> <p>In order for SCC to carry out this Service Description, the Customer shall comply with the following:</p> <ul style="list-style-type: none"> • Ensure all incidents are submitted in the agreed forms. • Ensure that all incidents assigned to SCC have been reviewed by the Customer service desk and have followed a level of diagnostics prior to assignment. • Ensure all agreed information is passed to SCC at time of incident logging, and allow the rejection of the incident by SCC if insufficient information has been provided to enable SCC to progress to resolution of the Incident. • Ensure that where Working Hours extend beyond 09:00 to 17:30 (GMT) on a Business Day the agreed incident logging process is followed by all authorised callers. 	

Service Group:	Hardware Support and Maintenance
Service Description:	Hardware Maintenance
<p>i) Service to be provided</p> <p>Following acceptance by SCC of a Hardware Maintenance request from the Customer (in accordance with the procedures and requirements specified in the Incident Management Service Description), SCC shall using its reasonable endeavours to;</p> <ul style="list-style-type: none"> • Perform such actions as SCC deems necessary so as to return the Hardware to Good Working Order within the applicable Service Level. • If SCC determines that repair of the Hardware on Site within the Service Levels is not possible, then SCC at its sole discretion shall either swap out the Hardware with a permanent replacement or provide temporary loan equipment in accordance with Clause 3.5 of the Support and Maintenance Agreement; • Arrange and expedite repairs of Hardware via SCC or third parties making full use of Manufacturer's warranties where possible and where the same have been provided to the Customer by the manufacturer concerned. • The Services are limited to the Sites in the United Kingdom as specified within the Quotation. <p>ii) Notes or Exceptions to Service Description</p> <p>In addition and without prejudice to the exclusions set out in Clause 4.1 of the Support and Maintenance Agreement, the following shall not be provided as part of Service and provision of such services and/or materials shall only be provided in accordance with Clause 3.4 of Support and Maintenance Agreement:</p> <ul style="list-style-type: none"> • The cost of materials resulting from any malfunction of parts or other supplies that are deemed to be consumable by the original manufacturer which shall include but are not limited to: 	

- CD's, Diskettes, Ozone filters, Toner cartridges, Dot matrix print heads, Ribbons, Ink cartridges, Gear Train Assemblies, Any non standard components not declared on supported inventory (communication cards etc), Batteries (after warranty period), Internal pointing devices, Internal keyboards, External pointing devices, External keyboards, Keycaps, Anti- glare screens, Touch screens, Fuser Units, Developers, Paper Trays, Pick-up transfer rollers, Platen Knobs, User Damage Items; -, Display Enclosures, Access Covers, Base Covers, Front Covers, Top Covers, Rear Covers, Hinges & Bezels, Membrane panels
- Other components declared as consumable by the operators manual (e.g. maintenance kits)
- Where whole units are exchanged SCC will notify the Customer any details of any chargeables identified in our repair centre within 30 days.

iii) Customer Obligations

In addition to the obligations of the Customer set out elsewhere in the Contract, in order for SCC to carry out this Service Description, the Customer shall comply with the following:

- Ensure that appropriate procedures are in place for individual data backup and recovery following Hardware repair.
- Ensure that appropriate procedures are in place and enforced within the user base and that users have all required documentation to operate the software and hardware correctly.
- Only use the supported version of software.
- If relevant arrange for the transportation of Hardware from a home worker's location to a relevant Site and back, the event that a fault or software problem cannot be resolved remotely.

Service Group:	Hardware Support and Maintenance
Service Description:	Hardware Support
i) Service to be provided	
<p>Following acceptance by SCC of a Hardware Support request from the Customer (in accordance with the procedures and requirements specified in the Incident Management Service Description), SCC shall using its reasonable endeavours;</p> <ul style="list-style-type: none"> • Perform such actions as SCC deems necessary so as to return the Hardware to Good Working Order within the applicable Service Level provided that no spare or replacement parts are required to perform such action. • If SCC determines that repair of the Hardware is not possible, then SCC shall swap out the Hardware with a permanent replacement if one has been provided by the Customer. • Arrange and expedite repairs of Hardware via the Customers third party support contracts making full use of Manufacturer's warranties where possible and where the same have been provided to the Customer by the manufacturer concerned. • The Services are limited to the Sites in the United Kingdom as specified within the Quotation. 	
ii) Notes or Exceptions to Service Description	
<p>The Support service does not include the provision by SCC of spare/ replacement parts or swap units, these services are the responsibility of the Customer to provide. In addition and without prejudice to the exclusions set out in Clause 4.1 Support and Maintenance Agreement, the following shall not be provided as part of Service and provision of such services and/or materials shall only be provided in accordance with Clause 3.4 of Support and Maintenance Agreement:</p> <ul style="list-style-type: none"> • The cost of materials resulting from any malfunction of parts or other supplies that are deemed to be consumable by the original manufacturer which shall include but are not limited to: <ul style="list-style-type: none"> ○ CD's, Diskettes, Ozone filters, Toner cartridges, Dot matrix print heads, Ribbons, Ink cartridges, Gear Train Assemblies, Any non standard components not declared on supported inventory (communication cards etc), Batteries (after warranty period), Internal pointing devices, Internal keyboards, External pointing devices, External keyboards, Keycaps, Anti- glare screens, Touch screens, Fuser Units, Developers, Paper Trays, Pick-up transfer rollers, Platen Knobs, User Damage Items; -, Display Enclosures, Access Covers, Base Covers, Front Covers, Top Covers, Rear Covers, Hinges & Bezels, Membrane panels ○ Other components declared as consumable by the operators manual (e.g. maintenance kits) 	
iii) Customer Obligations	
<p>In addition to the obligations of the Customer set out elsewhere in the Contract, in order for SCC to carry out this Service Description, the Customer shall comply with the following:</p> <ul style="list-style-type: none"> • Ensure that spare parts and swap units are available if the Customer wishes SCC to use these 	

- Ensure that repair or warranty contracts are in place with the relevant third parties to cover logistics and repair services
- Ensure that appropriate procedures are in place for individual data backup and recovery following Hardware repair.
- Ensure that appropriate procedures are in place and enforced within the user base and that users have all required documentation to operate the software and hardware correctly.
- Only use the supported version of software.
- If relevant arrange for the transportation of Hardware from a home worker's location to a relevant Site and back, in the event that a fault or software problem cannot be resolved remotely.

Service Group:	Hardware Support and Maintenance
Service Description:	Hardware Replacement
<p>i) Service to be provided</p> <p>Following notification of an Incident via the SCC incident management system, SCC shall perform Incident diagnosis in order to determine the course of action that will be required to return the Hardware and/or Software to Good Working Order:</p> <p>Following diagnosis, where it is deemed that the Incident is due to a fault with the Hardware. SCC shall arrange for delivery of replacement Hardware at the relevant Site within the Service Levels.</p> <p>On completion by SCC of the applicable activity above, the Incident will be deemed resolved and closed on the SCC incident management system.</p> <p>ii) Customer Obligations</p> <p>In addition to the obligations of the Customer set out elsewhere in the Contract, in order for SCC to carry out this Service Description, the Customer shall comply with the following:</p> <ul style="list-style-type: none"> • Decommission the faulty Hardware • Return faulty Hardware to equipment supplier (as detailed on consignment note) within ten days of receipt of replacement Hardware • Install and configure the replacement Hardware and advise SCC of the serial number of the replacement Hardware. • Undertake all Hardware and Software maintenance activities in accordance with the instructions contained in the applicable maintenance guides advised by SCC. • Maintain full control and management responsibility for the Hardware, the configuration of the unit and control of the network. • Ensure that appropriate procedures are in place for the Customer to enable individual data backup and recovery following Incident resolution. 	