



**12” and 15” Terminal models TS38,  
TS40, TS40IP  
Support and warranty agreement**

This document comprises a support, service and warranty agreement provided by Brightec Time AB (“Brightec Time”).

**Contact Information**

Post- and delivery address: Hammarbacken 4A, 191 49 Sollentuna, Sweden

Warranty & Support [support.time@brightecgroup.com](mailto:support.time@brightecgroup.com)

Ordering of spares parts & agreement termination: [order.time@brightecgroup.com](mailto:order.time@brightecgroup.com)

Phone +46 (0) 8 522 046 60

## 1 Scope

The purchase of a TimeSpot® terminal includes the end users right to use the hardware and operating system required for the terminals to function according to specification.

The purchase provides the customer Support and warranty as specified in this document and appendixes.

In the event that locally or regionally Brightec Time may not act as the 1<sup>st</sup> line for Support and warranty, Brightec Time retain the right to act as a 2<sup>nd</sup> line of support to an authorized reseller or third party service partner who perform the 1<sup>st</sup> Line Support and warranty obligations as described below

The agreement consists of this document to be read in conjunction with Appendix 1 for pricing, Appendix 2 for Recycling, Appendix 3 for Maintenance and Appendix 4 for Service.

If there should be conflicting information between these documents, they should be interpreted in the following order:

1. This document
2. Appendix 1. Price
3. Appendix 2. Recycling
4. Appendix 3. Maintenance
5. Appendix 4. Services

## 2 Terminals

1. This agreement comprises a terminal support and warranty to the given prices in Appendix 1.
2. All terminals belong to the TimeSpot® family.
3. Software development, manufacturing, assembly and support are carried out by Brightec Time or it's partners.

## 3 Software

1. All terminals are equipped with software designed to be agnostic to web solution suppliers time reporting, workforce management applications. The software in all terminals, except TimeSpot® 40, are Linux operating software.
2. Brightec Time develops the software continuously and provides updates when required subject to time reporting applications compatibility.
3. For TimeSpot® 40 terminals which are built on the Windows® platform, the same routines apply regarding support. Further development and communication software is handled according to the standard set by Microsoft®

#### **4 Brightec Time commitment**

1. The firmware used in the terminal, except TimeSpot 40, is developed by Brightec Time and is maintained through a correction of errors or bugs as and when they occur or are reported.
2. Updates to the firmware are deemed as and when required, with exception to cases where an application from the 3rd party solution supplier has received an extensive alteration that affects the terminals' ability to interact with the application.
3. The repair or replacement of hardware to function as fit for purpose, subject to the availability of parts.
4. Costs for labour, parts, applicable firmware upgrades and return shipment to the end user are included in the first year of warranty and for the following years subject to prices in Appendix 1.
5. The terminal should be sent to Brightec Time according to the routine described in this document and on the Brightec Time [website](#).
6. Inbound shipment costs to the Brightec Time Service (or appointed service), are not included and are the responsibility of the end user.
7. Support questions are answered Monday to Friday, except on Swedish public holidays, during office hours 08.30am-4.30pm CET. Any changes to this will be posted on the Brightec Time website.
8. Notifications can be sent to us 24/7 via e-mail [support.time@brightecgroup.com](mailto:support.time@brightecgroup.com)
9. Brightec Time are unable to take responsibility or liability for changes or updates made by Microsoft® to their Operating system used in the Timespot 40® models
10. With the ability for both parties to opt-out, a Support and warranty extension is automatically activated commencing from the second year of ownership. For price information see Appendix 1.

#### **5 Response time**

1. Support consists of any verbal or written support related to terminal installation, functionality, updates and upgrades of the Linux firmware and Authentication Management Service
2. Brightec Time Support responses are reviewed (4) four working hours from written receipt (see 6.2) In cases where the question or error is reported outside office hours, the response time is counted from the following work day starting at 08.30am CET.
3. Unless otherwise communicated to the reseller or end user, repaired terminals are dispatched to the sender from either Brightec Time Service or Brightec Times approved local Service partner within  
(3) three working days of arrival.
4. Repair times are subject to the availability of parts and accessories to enable repair or replacement.
5. Notification of the dispatch with relevant shipment information will be communicated to the reseller or end user.

## 6 End User commitments

During the period of validity, the end user shall:

1. Have installed the terminal according to the instructions provided by Brightec Time.
2. Include in the [RMA-serviceorder](#) a report and description of errors and issues, thereafter send it by email to [support.time@brightecgroup.com](mailto:support.time@brightecgroup.com)
3. **Before** shipping the terminal to Brightec Time, the end user **must receive a RMA Number** from Brightec Time which will be issued in the form of an authorised [RMA-serviceorder](#)
4. If required to return the defective terminal to Brightec Time; or to the appointed local service partner, the associated **power supply (and or PoE)** is to be included, plus a copy of the **RMA document showing the issued RMA Number.**

## 7 Agreement period

1. Warranty and support commence from the invoice date for a period of (12) twelve months.

## 8 Support and warranty extension

1. To ensure the continuous Support and product warranty, Brightec Time operates a Opt-Out policy.
2. Unless Opted-out of or terminated (see point 9) the Support and Warranty extension will continue and repeat each subsequent year for a (12) twelve-month period thereafter.
3. The Support and Warranty extension is subject to advance payment (see point 10)

## 9 Support and warranty extension termination (opt-out)

1. The end user has the right to opt-out and terminate the Support and warranty extension no later than 90 days in advance of the annual expiry date.
2. Termination of the Support and warranty extension must be sent in writing to [order.time@brightecgroup.com](mailto:order.time@brightecgroup.com) referencing the applicable Support Agreement number.
3. The terminal serial number, Mac address or original purchase invoice number may also be used as reference.
4. Brightec Time reserves the right to terminate the Support and warranty extension no later than 90 days in advance of the annual renewal date. Termination will be by email.
5. Failure by each party to terminate the Support and warranty extension within 90days of the annual renewal period does not void each parties' obligations to this commitment.

**10 Support and Warranty payment**

1. Brightec Time will automatically issue an invoice to cover the following (12) twelve months Support and warranty extension.
2. Brightec Time will issue the invoice 30 days prior to the Support and Warranty expiry renewal date
3. Payment terms are 30days net from the invoice date.
4. Payment details will be included in the invoice.

## Appendix 1

### Prices

From the terminal purchase invoice date, the first (12) twelve months product Support and warranty is included in the terminal purchase price.

Thereafter, the following (12) twelve month Support and warranty extension prices are :

- a) TimeSpot® 38 Linux (12"/15") at £215, €250, \$295 per terminal per year (invoiced annually in advance)
  - b) TimeSpot® 40 Windows Standard or IP65 (15") £235, €270, \$325 per terminal per year (invoiced annually in advance)
1. Prices exclude applicable sales tax, customs duties.
  2. Support and warranty extension is invoiced and to be paid in advance of the 12 (twelve) month period it covers.
  3. Within the Warranty and Support and Warranty extension periods, any required repairs due to miss-handling, malicious damage, accident, act of god, unauthorised modification, warranty seal damage or damage during in-bound shipping will be invoiced to the end user at a cost of £72, €79, \$93 per hour labour plus parts, return shipping, duties, parts and sales tax.
  4. Quotations to repair are available on request subject to a fee of £65, €75, \$80 excl sales tax.

### Out of warranty prices

1. In the event a terminal is out-of warranty and requires repair, the following charges apply : £130, €155, \$170 per hour labour, plus return shipping, parts and sales tax.
2. Payment is in advance.

Brightec Time reserves the right to change the prices subject to 30 days written notice.

## Appendix 2

### Recycling

1. Recycling of irreplaceable or unrepairable terminals is carried out according to the rules by the Swedish Environmental Protection Agency.
2. The Swedish Environmental Protection Agency has assigned 'El-kretsen' to monitor the destruction of all electronic equipment sold in/from Sweden. For this service Brightec Time is obliged to pay an annual fee and fee per recycled terminal. Thereby we offer a final disposal of the product according to the official environmental directives.
3. In the case of returning or the replacement of dis-functional terminals, Brightec Times commits to the recycling costs of said terminals at the nearest recycling station.
4. REPA is, under the Environmental Protection Agency's supervision, but for the recycling of packing materials. Brightec Time is obliged to pay a fee for packing material, thereby we take our responsibility to recycle packing material.
5. The costs and fees related to both El Kretsen and REPA are aggregated within the Terminal purchase price
6. In the event you do not return any unrepairable terminals to us, subject to the laws or environmental guidelines set in your country, we assume you will follow those at your expense to ensure a safe and greener environment. Brightec Time does not accept any recycling costs outside of Sweden.
7. The return transportation cost of any terminals requiring recycling, including costs related to the Import, handling or any other taxes are the responsibility for payment by the sender.

# General Terms and Conditions

## IT Maintenance version 2014

Published by IT&Telekomföretagen 2014

These general terms and conditions are intended for use when the Supplier maintains machine and software products and/or customisations or developed systems. Maintenance may include services such as corrective maintenance, standard software updates/versions and telephone support.

Where the Supplier is also going to provide further development of a software product or customisation, the parties shall enter into a separate agreement in this respect.

These general terms and conditions constitute an appendix to the agreement entered into between the parties. In the event of any conflicting information in the Agreement, the parts of the Agreement prepared by the parties shall take precedence over these general terms and conditions.

### 1. Definitions

- 1.1 Unless the context or circumstances clearly require otherwise, the following words and phrases shall have the meanings specified below:

**Agreement**

The agreement, including appendices, entered into between the parties.

**Product**

See Maintenance Object below.

**Product Supplier**

The company who manufactured the relevant Product.

**Software Product**

See Maintenance Object below.

**Start Date**

The date on which the maintenance obligation for each Maintenance Object starts in accordance with clause 5 below.

**Specification**

The specification of the contents of the Maintenance contained in the Agreement.

**System**

See Maintenance Object below.

**Third Party Product**

See Maintenance Object below.

**Maintenance**

The services to be performed by the Supplier under the Agreement

**Maintenance Object**

**Maintenance Object(s)**

Each separate Product and/or System to be maintained by the Supplier in accordance with the Agreement.

**Product(s)**

The machine products, network components and other equipment and Software Products to be maintained by the Supplier in accordance with the Agreement.

**Software Product(s)**

The standard software products to be maintained by the Supplier in accordance with the Agreement.

**System**

The system or developments, for example customisations, to be maintained by the Supplier in accordance with the Agreement.

**Third Party Product**

A Third Party Product is (a) a Software Product the copyright to which clearly belongs to a company other than the Supplier or a company within the Supplier's group of companies, and nothing else follows from the Agreement, or (b) Maintenance Objects specified as Third Party Products in accordance with the Agreement.

### 2. Supplier's undertaking

- 2.1 From each agreed Start Date, the Supplier shall perform Maintenance in accordance with the terms and conditions of the Agreement. The contents of the Maintenance are set out in the Specification. In the absence of a Specification, Maintenance means that the Supplier, during the term of the Agreement, shall remedy functional faults in Maintenance Objects and provide remote support. As regards Software Products, faults are remedied by correction, if this is possible for the Supplier, or by instructions for a work-around which cannot be deemed to cause the Customer inconvenience that is more than insignificant. Remote support, for example telephone or e-mail support, means that where there is a fault, or suspected fault, in a Maintenance Object, the Supplier shall assist the Customer by replying to questions from persons specifically appointed by the Customer, provided the time required to answer them is reasonable. Unless otherwise follows from the Specification, remote support shall be provided in accordance with the Supplier's customary methods. As a condition for remote support the Customer must have the required competence.
- 2.2 The Supplier shall maintain an organisation with employees that are appropriate, qualified and competent to perform Maintenance. The Supplier shall perform the Maintenance in a professional manner.
- 2.3 Maintenance will be provided during the Supplier's normal working hours. Maintenance outside the Supplier's normal working hours requires a separate agreement.
- 2.4 Unless the parties have agreed otherwise, Maintenance of Software Product only applies to the current version of the Software Product and the version immediately preceding the current version. If the Customer decides to keep a version of a Software Product that is not included in the Supplier's Maintenance obligation under this sub-clause 2.4, the Supplier and Customer shall conclude a separate agreement relating to the continued Maintenance.
- 2.5 The Supplier may engage a subcontractor to perform the agreed Maintenance. The Supplier is liable for the subcontractor's work as if it were its own.



2.6 Where the Supplier has agreed to supply Maintenance for a Third Party Product, the Supplier's obligation includes, unless the parties have agreed otherwise, remote support under sub-clause 2.1 and an obligation to try to remedy faults relating to the Third Party Product in a professional manner. In the event the Supplier cannot remedy the fault because the Supplier does not have access to the source code, required tools or other items necessary to remedy the fault, or does not have the right to remedy faults in the Third Party Product, the Supplier shall fulfil its obligation to remedy the fault by immediately notifying the fault to the Product Supplier and forwarding any solution provided by the Product Supplier to the Customer. The Supplier shall furthermore monitor that the Product Supplier fulfils its obligations under the applicable agreement with the Supplier or, as the case may be, with the Customer. The Supplier has no other responsibility for Maintenance of the Third Party Product.

### 3. Exceptions from the Supplier's obligations

3.1 The Supplier's obligations and the stated fees do not include faults that were caused by the circumstances listed below, unless otherwise follows from the Specification, or as a result of the Supplier's obligation regarding remote support pursuant to clause 2.1:

- (a) Faults caused by the Customer using the Maintenance Object with equipment, accessories or software that were not approved by the Supplier, in a manner that affects the function of the Maintenance Object;
- (b) Faults caused by changes to or interference with the Maintenance Object carried out by the Customer without the approval of the Supplier or due to the Customer's negligence;
- (c) Faults caused by a virus or other security interference, provided that the Supplier has implemented security measures in accordance with any agreed requirements or, in the absence of such requirements, in accordance with professional standards, or faults otherwise caused by a third party or that are due to other circumstances beyond the Supplier's control, such as faulty equipment, accessories or software that do not constitute a Maintenance Object.

3.2 If, because of a new update/version of a Software Product, changes need to be made in a different Maintenance Object, the Supplier's obligations and the stated fees do not include the work relating to such changes, unless otherwise follows from the Specification. If the Supplier has reason to suspect that a new update/version of a Software Product will require changes in another Maintenance Object, the Supplier shall notify the Customer immediately.

3.3 With regard to machine products, the following shall also apply in addition to sub-clause 3.1: The Supplier's obligations and the stated fees do not include the following, unless otherwise follows from the Specification:

- (a) Procurement of add-ons, consumables and other equipment;
- (b) Maintenance of consumables, add-ons and other equipment.

### 4. Customer's undertaking

4.1 4.1 The Customer shall designate a contact person, and have the agreed competence, and, when required for the performance of the Maintenance, have available any documentation regarding the relevant products that has been provided by the Product Supplier.

4.2 When Maintenance relates to remedying of faults, the Customer shall, when reporting the fault, state, and if necessary demonstrate, how the faults presents itself. When the Customer has entered into an agreement regarding

remedying of faults in Third Party Products, the Customer shall provide the Supplier with the relevant agreement (see clause 2.6).

4.3 On the request of the Supplier, a representative of the Customer shall be available during the Supplier's work. If necessary, the relevant Maintenance Objects shall be made available to the Supplier. When a Software Product shall be made available to the Supplier, the Customer is responsible for ensuring that the necessary Software Product agreement has been concluded for the performance of the Maintenance. If the parties have agreed that the Supplier may perform Maintenance via external access, the Customer shall facilitate the Supplier's access to the Maintenance Object. The Customer and Supplier shall mutually adopt procedures for external access.

4.4 When Maintenance is performed at the Customer's premises, the Customer shall, at its own expense, provide the work space necessary for the performance of the Maintenance, within a reasonable distance of the relevant Maintenance Object.

4.5 The Customer is responsible for backup and safekeeping of data storage media.

4.6 After performing Maintenance on a Maintenance Object, the Customer is responsible for restarting the Customer's relevant system, unless the parties have agreed otherwise. The Supplier shall be prepared to assist the Customer in this regard, should the Customer request such assistance. In such event remuneration shall be paid in accordance with clause 8.4.

4.7 Unless the parties have agreed otherwise, the Customer is responsible for implementing patches and updates of Software Products. The Supplier shall be prepared to assist the Customer in this regard, should the Customer request such assistance. In such event remuneration shall be paid in accordance with clause 8.4.

### 5. Start Date for Maintenance service

5.1 The Supplier shall deliver the Maintenance for each respective Maintenance Object from and including the date expressly agreed. If such a date has not been agreed, Product Maintenance will start from the date of the signature of the Agreement or, if later, the date the Product is installed at the Customer's premises. With regard to a Product that constitutes a part of a System that shall be developed by the Supplier or a different supplier in accordance with a separate agreement, and with regard to Systems, Maintenance will start from the acceptance date of the relevant System pursuant to the relevant project agreement, albeit at the latest from the date on which the Customer uses the system in its business. The Customer shall notify the Supplier immediately when the approval date has passed, or, as the case may be, the Customer uses the System in its business.

### 6. Service levels

6.1 The parties may enter into a separate agreement regarding applicable service levels for Maintenance. If such an agreement has not been concluded in respect of remedying functional faults, such Maintenance shall be delivered with the urgency required by the circumstances.

### 7. Changes to Maintenance

7.1 If the Customer wishes to change the nature or scope of the Maintenance, the Customer must submit a request for change to the Supplier in writing.

The Supplier shall, within a reasonable time from receipt of a request for change, provide written notification as to whether the change has been accepted and what changes this entails in relation to the agreed service levels, effects on quality, technical conditions or other items caused by

the request for change. The Supplier shall not object to the Customer's request for a change or an amendment, unless it can demonstrate an objective reason for doing so.

The parties shall conclude an agreement regarding the change and any agreed financial changes and other terms and conditions as a result of the change.

## **8. Remuneration, fees and terms of payment**

### **8.1 Fees**

In consideration of the Supplier's performance of Maintenance, the Customer shall pay the remuneration specified in the Agreement.

Unless otherwise follows from the Agreement fees shall, when Maintenance is performed on current account, be charged in accordance with the Supplier's price list as applicable at the time of the order. Travel time outside the Supplier's normal working hours will be charged at half of the agreed hourly rate.

The Supplier may invoice fixed fees regularly in advance. When the work is performed on current account, the Supplier may invoice monthly in arrears.

The Supplier may, annually as from the start of a new calendar year, change the agreed fees/hourly rates in accordance with the changes in the Statistics Sweden's index: Labour Cost Index för tjänstemän (LCI tjm) preliminärt index, SNI 2007 kod J (Informations- och kommunikationsverksamhet).

The fees are exclusive of VAT and other additional taxes that were fixed after the Agreement was entered into..

### **8.2 Travel expenses**

Unless the parties have agreed that travel costs shall be included in the agreed fees/hourly rates, the Supplier, when travelling from the Supplier's permanent base, is entitled to remuneration for the costs of subsistence and travel relating to travel by private car in accordance with the Supplier's from time to time applicable price list and for the costs of accommodation and travel relating to travel by means other than a private car on the basis of costs incurred.

### **8.3 Work outside normal working hours**

Unless otherwise follows from the Agreement, the Supplier is entitled to remuneration for work outside normal office hours in accordance with the following: Agreed work to be performed outside normal working hours but after 06:00 and before 20:00 on normal working days Monday - Friday shall be debited at the hourly rate multiplied by a factor of 1.5. Agreed work to be performed outside normal office hours during other times shall be debited at the hourly rate multiplied by a factor of 2.

### **8.4 Other remuneration**

In the event that the Supplier incurs extra work or additional costs due to circumstances for which the Customer is responsible, the Customer shall remunerate the Supplier for such extra work and additional costs in accordance with the Supplier's current price list. The Supplier shall inform the Customer if the Supplier has been able to establish that the work to be performed by the Supplier falls outside the scope of the Supplier's obligation. In such event, the Supplier shall not carry out any further work of significance without the approval of the Customer.

### **8.5 Final invoice**

The Supplier shall, at the latest within 12 months of

expiry of the respective month of service, submit an invoice to the Customer that includes all outstanding items for that month of service. If the Supplier fails to submit such an invoice, the Supplier loses its right to remuneration for the services or work performed, including the remuneration referred to in clause 8.4, except with regard to its right of offset.

## **8.6 Delay**

Payment shall be made within 30 days of the date the invoice was issued. In event of a delay in payment, default interest and other compensation shall be paid in accordance with law.

If the Customer's payment is delayed and the Supplier has requested the Customer in writing to pay the amount due, the Supplier may, 30 days after a written request to the Customer with reference to this clause, withhold further work until the Customer has paid all amounts due and outstanding.

## **9. Documentation**

9.1 In respect of corrective Maintenance, the Supplier shall document what measures have been taken and provide the Customer with the documentation.

## **10. Specific terms and conditions regarding Maintenance of machine products**

10.1 The owner of the machine product shall have the title to any parts installed in the machine product. The Supplier shall have the title to any exchanged parts.

10.2 The Customer shall provide the consumables and data storage media necessary to perform Maintenance at the Customer's premises.

## **11. Specific terms and conditions regarding Software Products and Systems**

11.1 The Customer's rights and obligations regarding updates of Software Products provided and work performed during the Maintenance are the same as its rights and obligations regarding the original version of the Software Product and the original work carried out with the System.

## **12. Confidentiality**

12.1 Each party undertakes not to disclose, without the other party's consent, to a third party, during the term of the Agreement or for a period of three years thereafter, any information regarding the other party's business that may be considered a business or professional secret or which according to law is subject to a duty of confidentiality. Unless otherwise follows from law, the Supplier's pricing information or other information that a party specifies as confidential shall always be regarded as a business or professional secret. The confidentiality obligation does not apply to information that the party can demonstrate has become known to the party other than through the performance of the Agreement or which is publicly known. Furthermore, the confidentiality obligation does not apply when a party is required to disclose such information by law, court or government order or binding stock exchange regulations. Where a party is required to disclose information in such a way, it shall notify the other party prior to disclosure.

12.2 A party shall ensure that confidentiality is maintained as set out above by entering into confidentiality agreements with employees or taking other appropriate measures. A party shall also ensure that subcontractors and subcontractors' employees that participate in the performance of the Maintenance sign confidentiality obligations on equivalent terms.

### 13. Security and the Personal Data Act

- 13.1 When performing Maintenance, the Supplier shall comply with any security provisions in the Agreement and otherwise follow its internal security regulations.
- 13.2 If Maintenance is performed by external access, the Customer and Supplier shall mutually adopt procedures for external access. If the Supplier performs work at the Customer's premises, or performs Maintenance by external access, the Supplier shall comply with any security directives notified by the Customer. If the Customer amends the security instructions after entering into the Agreement and the Supplier's costs for performing Maintenance thereby increase, the Customer shall compensate the Supplier for the additional costs and, if reasonable, the Supplier shall be entitled to an adjustment of the terms.
- 13.3 When processing data within the scope of the Maintenance, the Customer is the data controller and the Supplier is the data processor. As data controller it is the Customer's responsibility that personal data is processed in accordance with applicable legislation. The Supplier undertakes that it will only process personal data in accordance with the Agreement and the Customer's written instructions. Where the requested action does not follow from the Agreement, the Supplier shall be remunerated for following the Customer's written instructions. If the Supplier processes personal data on the Supplier's equipment, the Supplier shall implement the agreed technical and organisational measures to protect the personal data. If the Supplier processes personal data on the Customer's equipment, the Customer shall ensure that the technical and organisational measures necessary to protect the personal data are implemented. To facilitate the performance of Maintenance, personal data about the Supplier's employees may be processed, for example, by publication on intranet. The Supplier is responsible for obtaining any required consents and for informing the employees of such data processing. When using a subcontractor (a "subprocessor") who processes the Customer's personal data, the Supplier, as the Customer's representative, shall sign an agreement with the subprocessor, according to which the subprocessor, as data processor, undertakes towards the Customer to comply with the provisions of this clause 13. If personal data will be transferred to a country outside of the EU/EEA, the Supplier shall ensure that the subprocessor signs the EU's standard agreement clauses for transferring personal data to a third country. The Supplier shall be entitled to sign the agreement as a representative of the Customer. Prior to using a subprocessor for the processing of personal data, the Supplier shall notify the Customer of the subprocessors it intends to use and which country personal data will be processed in. On the Customer's request, the Supplier shall send the Customer a copy of any agreements signed by the Supplier under this sub-clause 13.3

### 14. Liability for Maintenance

- 14.1 In the event of defective performance of its Maintenance obligation, the Supplier shall, on receipt of a complaint from the Customer, remedy the notified defects, at its own expense and with the urgency required by the circumstances. This obligation includes remedying defects in materials and workmanship in parts installed in machine products or other equipment included in the Maintenance.
- 14.2 If, due to the Supplier's non-fulfilment of its obligations under sub-clause 14.1, the Customer's use of the Maintenance Object is affected more than insignificantly, the Customer shall, where the remuneration is a fixed fee, be entitled to a deduction for the duration of the non-fulfilment, up to a maximum of 90 days, with an amount

equal to the part of the fee that pertains to the Maintenance Objects in question. Where Maintenance is performed on current account, the Customer shall be allowed a reasonable deduction of the remuneration for the defective Maintenance.

If the Supplier has not fulfilled its obligations under sub-clause 14.1 due to negligence, the Supplier is liable for damages with the limitations set out in clause 15.

Where the Maintenance defect is significant and the Supplier does not remedy it after a written notice from the Customer specifying a final reasonable deadline, the Customer may terminate the Agreement in writing with immediate effect in respect of the Maintenance Object in question and in respect of any other Maintenance Objects if their functionality has been affected more than insignificantly.

- 14.3 If the parties have entered into an agreement regarding agreed service levels, the Customer is entitled to price deduction or liquidated damages in accordance with the terms and conditions of the service level agreement. Other than as just stated, the Customer is not entitled to any damages or other compensation due to deviation from the agreed service levels, other than in the event of intent or gross negligence.
- 14.4 Other than in the event of intent or gross negligence, the provisions of this clause 14 exhaustively regulate the Supplier's liability for Maintenance.
- 14.5 The Customer may only invoke remedies under clause 14, if the Customer has notified the Supplier in writing to this effect no later than 90 days after the Customer became aware, or should have become aware, of the grounds for the claim. With respect to Maintenance performed on current account, the Supplier's liability for Maintenance only includes complaints put forward no later than 90 days from the time the Maintenance was or should have been performed.

### 15. Limitation of liability

- 15.1 If a party is prevented from fulfilling its obligations under the Agreement due to a circumstance beyond the party's control, including but not limited to lightning strike, labour dispute, fire, natural disaster, changes in regulations, governmental actions and/or a failure or delay in services provided by a subcontractor due to a circumstance stated herein, then this shall constitute a ground for release resulting in an extension of the deadline for performance and release from damages and other remedies. If a circumstance pertains to the Supplier or a condition on Supplier's side in accordance with the above and the Customer therefore is unable, entirely or in part, to use the Maintenance Object, the Customer is entitled to a deduction of the maintenance fee for that period for the Maintenance Object in question. If the performance of the Agreement in substantial aspects is prevented for a period exceeding 30 days due to a certain circumstance stated above, either party shall have the right to terminate the Agreement in writing without incurring any liability for compensation.
- 15.2 The Supplier is liable for damage to property caused by the negligence of the Supplier or its employees. For each event of damage, the Supplier's liability for damage to property is limited to an amount equal to the price base amount specified in the Swedish Social Insurance Act (SFS 2010:110), as applicable at the time the damage occurred, multiplied by 35.
- 15.3 Other than as regards damage to property, a party's liability for damages is limited to a sum equal to 12 months' Maintenance fees for the relevant Maintenance Object, up to a maximum of 30% of 12 months' Maintenance fees for all Maintenance Objects.



- 15.4 A party is not in any event liable for loss of profit or any other indirect damage or loss of data. Furthermore, a party's liability does not include the other party's possible liability towards a third party. The limitation of liability in sub-clauses 15.2 and 15.3 does not apply to personal injuries or in the event of intent or gross negligence.
- 15.5 A party does not have the right to make a claim for damages, unless such claim is made within 6 months from the time the damage occurred.

## **16. Moving and modifying Maintenance Objects**

- 16.1 The Customer shall, if it intends to move or modify a Maintenance Object, notify the Supplier in writing in advance. If the move or modification results in increased maintenance costs, the Customer shall compensate the Supplier for the additional costs and/or the Supplier shall be entitled to an adjustment of the terms.

## **17. Principles of Business Ethics**

- 17.1 The Supplier undertakes to use principles of business ethics that comply with the IT&Telekomföretagen's basic principles on business ethics.

## **18. Term of Agreement**

- 18.1 This Agreement takes effect when signed by the parties. The term of Agreement, extension period and notice period shall be specified in the Agreement. Unless the parties agree otherwise, either party may terminate the Agreement no later than 90 days before the expiry of the current Agreement term. Otherwise the Agreement is extended each time by the agreed extension period. In the event that an Agreement or extension period has not been agreed, the Agreement continues to apply with a mutual notice period of 90 days. The Agreement expires at the calendar month end following the expiry of the notice period. Termination of the Agreement shall be made in writing.

## **19. Early Termination, Cancellation**

- 19.1 In addition to the Customer's right to terminate the Agreement in respect of certain Maintenance Objects in accordance with clause 14.2, each party is entitled to terminate the Agreement:
- (a) if the other party commits a significant breach of its obligations under the Agreement and does not remedy such breach within 30 days of a written notice that is addressed to the party in question and contains a reference to this clause; or
  - (b) if the other party enters into bankruptcy, initiates composition negotiations, is subject to a business reorganisation or is otherwise insolvent.

- 19.2 If the parties have agreed a certain term of Agreement, the parties may also agree that the Customer may terminate the Agreement, without cause, in respect of certain Maintenance Objects ("cancellation"). Such agreement shall include terms regarding notice periods, compensation to the Supplier in the event of such cancellation and repayment of advances paid etc.

- 19.3 Termination shall only be valid if made in writing.

## **20. Winding up the Cooperation**

- 20.1 In order to achieve a transfer that disrupts the Customer as little as possible, the Supplier shall, to a reasonable extent, assist the Customer if the Customer will provide an equivalent service to the Maintenance, either itself or through another company designated by the Customer. If the Supplier has prepared specific documentation for Maintenance, such documentation shall be handed over to the Customer, to the extent it does not contain any business secrets pertaining to the Supplier. The Supplier shall be entitled to reasonable remuneration for such work or any investment which is required in accordance with the Supplier's applicable price list. The Customer's obligation to pay for an investment only arises if the Customer requests such an investment.

## **21. Notices**

- 21.1 Notice of termination and/or other notices shall be sent by courier, registered post or electronic message to the other party's contact person at the address specified by such party.

The other party shall be deemed to have received such notice:

- (a) at the time of delivery, if delivered by courier;
- (b) 5 days after dispatch, if sent by registered post;
- (c) at the time the electronic message arrived at the recipient's electronic address, if sent by electronic message.

## **22. Assignment**

- 22.1 The Agreement may not be assigned without the approval of the other party.
- 22.2 Notwithstanding the above the Supplier may assign the right to accept payment under the Agreement without the approval of the Customer.

## **23. Governing law, Disputes**

- 23.1 This Agreement shall be governed by Swedish law, without application of its conflict of laws principles.
- 23.2 Any disputes arising out of the Agreement shall be settled in the general courts.



# General Terms and Conditions

## Services 2009

Published by Almega 2009

These general terms and conditions are intended to apply in conjunction with agreements relating to services.

These general terms and conditions constitute an appendix to an agreement reached by the parties.

The agreement and its appendices are hereinafter referred to as the "Agreement".

### 1. Scope of the Service

- 1.1 The supplier shall perform the agreed Service.
- 1.2 Where the description of the Service consists of different documents, any discrepancy between the information contained in such documents shall be resolved by the most recently prepared document having precedence.

### 2. Performance of the Service

- 2.1 The Parties shall co-operate and consult each other in conjunction with the performance of the Service. Each party shall appoint its own contact person who will be responsible for the co-operation regarding the Agreement.  
The other party shall be informed of the choice of contact person. The authority of contact persons to represent the respective parties shall be set forth in the Agreement
- 2.2 The supplier shall perform its obligations with employees who are suitably qualified and skilled, and in a professional manner.  
Unless otherwise specifically agreed, the supplier shall be entitled to engage sub-consultants for the performance of the Service, provided such does not relate to the whole or a major part of the Service. In the event the supplier engages sub-consultants, the supplier shall be primarily liable for the work of such sub-consultants. The supplier undertakes to inform the customer in the event that he intends to engage sub-consultants or cause an employee other than the agreed, named person, to perform the work within the framework of the Service.
- 2.3 The customer shall provide the supplier with access to the information and material regarding the customer's operations, and access to the customer's premises, which is required for the performance of the Service. The supplier shall comply with the prevailing security regulations in conjunction with the performance of the Service.  
The customer shall ensure that personal information is treated in accordance with current legislation. The supplier shall comply the customer's instructions regarding the treatment of personal information.

- 2.4 A party shall immediately inform the other party upon learning of circumstances which may give rise to a material change in the performance of the Service

### 3. Liability

- 3.1 Subject to the limitations set forth below, the supplier shall be liable for any loss suffered by the customer due to negligence.
- 3.2 With the exception of the provisions of sections 5 and 6, a party's liability in damages shall be limited to the amount specified in the Agreement. Where a maximum amount has not been specified in the Agreement, the liability in damages shall be limited to a total of 25 statutory basic amounts, however not more than the fee for the Service. In conjunction with engagements on open account basis, the fee shall consist of the fee for the last 12 months of the Service. In the event the agreed fee for the Service is less than one statutory basic amount, a party's maximum liability in damages shall be limited instead to an amount equal to one basic amount. "Statutory basic amount" means a basic amount in accordance with the National Insurance Act (SFS 1962:381) in force when the loss occurs. A party shall not be liable under any circumstances for loss of profit or other consequential loss including the other party's liability to pay compensation to a third party or for loss of data. The limitation in respect of a party's liability in damages in accordance with section 3.2 shall not apply in the event that the loss is caused intentionally or by gross negligence.
- 3.3 In the event the supplier has been negligent in the performance of the Service (hereinafter referred to as Fault in this section 3.3), the supplier shall, without unreasonable delay, rectify the Fault complained of by the customer in accordance with section 3.4 below. The supplier's responsibility shall not extend to situations in which the correction of the Fault would cause the supplier to suffer inconvenience or incur costs, the extent of which are unreasonable in proportion to the significance of the Fault for the customer. In the event

the supplier does not rectify the Fault, the customer shall be entitled to a reasonable reduction in compensation for the deficient work.

- 3.4 In order to preserve its rights to commence proceedings, a party must submit a claim for compensation not later than three (3) months from such time that the party discovered or should have discovered the basis of the claim, however not later than fifteen (15) months after performance of the work.

#### **4. Rights**

The customer shall be granted a non-exclusive right for an indefinite term to exploit for the agreed purpose, and in conjunction with such exploitation, modify and reproduce for its own use, the results of the work performed by the supplier within the framework of the Service. In the event the work performed by the supplier contains components which the supplier has stated belong to a third party, the customer may not modify such components without the consent of the proprietor.

#### **5. Procurement of Rights**

- 5.1 A party which provides material shall be responsible for obtaining from the rights holder any rights which are required for the performance of the Service in accordance with this Agreement.
- 5.2 As regards such material, the supplier shall be liable to ensure that the material provided by him within the scope of the Service does not require any additional licences or require royalties in order to use the service in accordance with the Agreement over and above what is specified in the Agreement.

#### **6. Infringement of Intellectual Property Rights**

The supplier undertakes, at its own expense, to defend the customer in the event that a demand is made or legal proceedings commenced against the customer on the basis of the customer's use in Sweden and other agreed countries of the result of the supplier's work and the infringement relates to the work or material provided by the supplier. In addition, the supplier undertakes to reimburse the customer for any costs and damages which the customer is required to pay as a result of a settlement or judgment. The supplier's obligation shall only apply provided that the supplier is informed by the customer in writing within a reasonable time of the claim made or the legal proceedings commenced, and that the supplier shall be solely entitled to conduct the defence in respect of such legal proceedings and conduct negotiations regarding an agreement or settlement. In the event an infringement is ultimately deemed to exist and the supplier, in the manner specified above, has been permitted to participate in the legal proceedings or settlement or where, in the opinion of the supplier, it is probable that such infringement exists which relates to the supplier's work or materials supplied by the supplier, the supplier shall, at its own expense, guarantee the customer's further use of the work provided by the supplier or replace the infringing part with other material which the customer may reasonably agree to, and the use of which does not constitute infringement or alters such parts use that infringement no longer exists. The supplier shall not be liable in respect of claims for infringement which are based on material supplied or provided by the customer (compare section 5.1). The supplier's liability for infringement of intellectual property rights is limited to the provisions of this section.

#### **7. Third-Party Products**

In the event the supplier provides Third-Party Products in conjunction with the performance of the Service, the licensing terms and conditions for the Third-Party Products shall have precedence over the provisions of this agreement. 'Third-Party Products' means contents, software, or tools which are specifically stated as being Third-Party Products.

#### **8. Confidentiality**

- 8.1 During the performance of the Service or for a period of three years thereafter, each party undertakes that it shall not disclose to any third party, without the other party's consent, such information regarding the other party's operations which may be considered as a business or professional secret, or information which is covered by a duty of confidentiality as prescribed by law. 'Business and professional secrets' shall at all times be treated as information which a party has stated as being confidential. The duty of confidentiality does not apply to such information which a party is able to demonstrate became known to him in a manner other than through the Service, or which is in the public domain. Nor does the duty of confidentiality apply where a party is liable to provide such information according to law. In the event that a party is obliged by law to provide such information, the other party shall be informed in respect thereof prior to such disclosure.
- 8.2 Both parties shall ensure that confidentiality in accordance with the above is maintained through confidentiality undertakings with employees or other appropriate measures. A party shall ensure that engaged sub-contractors and the employees thereof who are affected by the Service also sign a confidentiality undertaking containing equivalent provisions to the benefit of the other party.

#### **9. Compensation**

##### **9.1 Fees**

Unless otherwise agreed, the customer shall pay compensation on open account basis at an hourly rate, overtime compensation, etc. as set forth in the Agreement.

Where no such agreement has been entered into, charges shall be made in accordance with the supplier's price list as applied from time to time. Half of the agreed hourly rate shall be charged for travel time outside the supplier's ordinary working hours.

Unless otherwise specified in the Agreement, the supplier shall be entitled, from and including the new calendar year, to adjust the agreed hourly rate in accordance with the changes and in accordance with SCB's weighted Services Index.

The fees are exclusive of VAT and other, additional taxes levied on the services following execution of the Agreement.

##### **9.2 Overtime**

Unless otherwise specified in the Agreement, the supplier shall be entitled to compensation for overtime in accordance with the following.

In consideration of agreed work which shall be performed outside ordinary working hours after 6 a.m. and before 8 p.m., weekdays Monday to Friday, the agreed hourly rate shall be charged in accordance with section 9.1, multiplied by 1.5 per hour.

In consideration of agreed overtime work during other times, the agreed hourly rate shall be charged in accordance with section 9.1, multiplied by 2.0 per hour.

### 9.3 Expenses, Travelling Expenses

The supplier shall be entitled to reimbursement for expenses according to a separate agreement.

The supplier shall be entitled to compensation for per diem expenses as well as travel and boarding and lodgings, according to agreement.

In the absence thereof, to the extent the Service is performed outside the work area specified by the supplier in the Agreement, the supplier shall be entitled to compensation for per diem expenses and travel expenses in respect of travel in own car in accordance with the supplier's prevailing price list, and for board and lodgings expenses and travel expenses in respect of travel by means other than own car and incurred costs.

### 9.4 Other compensation

Where, as a consequence of actions by the customer, the supplier is unable to utilise allocated personnel, the supplier shall be entitled, after having notified the customer's contact person with respect thereto, to charge compensation in respect of the allocated time which was not utilised. The aforementioned shall apply to the extent that the supplier is unable to reassign the allocated personnel for other work. The supplier shall, in order to preserve its right to commence legal proceedings, submit a written demand for compensation to the customer as a result of being unable to utilise allocated personnel within a period of three months following the occurrence of the delay.

## 10. Payment

10.1 Unless otherwise agreed, the supplier shall be entitled to receive payment once a month for performed and reported work, as well as for costs incurred

10.2 Payment shall be made against invoice. Where payment is to be made in respect of reported work, the invoice shall set forth the nature and scope of the work performed during the time period to which the invoice relates, the expenses incurred during the period, as well as other compensation which has been separately agreed, and shall specify the number of hours worked, together with the hourly rate for all persons or categories of employees who have been engaged in the Service.

Payment shall be made not later than 30 days after the date the invoice was issued.

The supplier shall submit an invoice to the customer within a period of six months following the completion of the Service, containing all outstanding claims regarding the Service. In the event of a failure in respect thereof by the supplier, he shall forfeit his right to compensation for work performed, with the exception of his right of setoff.

10.3 In the event the customer is in default of payment, and the supplier has informed the customer in writing in respect of the amount due and payable, the supplier shall be entitled, 30 days following a written notice to the customer with respect thereto referring to this section – with the right to compensation in accordance with section 9.4, to suspend further work until the customer has paid any outstanding claims.

## 11. Termination

11.1 As regards parts of the Service which have not been performed, the customer shall be entitled to terminate this agreement without specifying any ground therefor, whereupon compensation shall be payable for work performed proven, necessary costs. In addition, the supplier shall be entitled to charge the customer for allocated and unutilised personnel. The aforementioned shall apply to the extent the supplier is unable able to reassign the allocated personnel to other work. The provisions of section 13 shall apply in the event of termination due to a force majeure event.

11.2 The Agreement may also be summarily terminated in accordance with the following:

a) Either party shall be entitled to summarily terminate the Agreement where the other party commits a material breach of its obligations in accordance with this Agreement and does not, within a period of 30 days following notification, addressed to the recipient with reference to this section, undertake rectification or a party demonstrates that he has taken measures to obviate the breach of contract.

b) Either party shall be entitled to terminate this Agreement in the event that the other party is placed into insolvent liquidation, enters into composition negotiations, or is otherwise insolvent.

11.3 In conjunction with the supplier's termination pursuant to section 12.2, the supplier shall be entitled to compensation in accordance with the principles of section 12.1. In conjunction with the customer's termination pursuant to section 12.2, the customer shall be entitled to a reasonable price reduction for any negligently performed work, and to compensation in accordance with the provisions of section 3.

11.4 Termination must take place in writing in order to be valid.

11.5 Where the Agreement is terminated in accordance with section 12.1, or where the supplier has terminated the Agreement pursuant to section 12.2, the supplier shall be obliged to report upon and deliver the results of the work performed not later than when payment is received



## 12. Force majeure

Where a party is prevented from fulfilling its obligations in accordance with this Agreement due to circumstances which are outside the party's control such as lightning, employment disputes, fire, amendments to rules of public authorities, intervention by public authorities, as well as errors or delays in services from subcontractors as stated herein, such circumstances shall constitute an excuse which occasions a postponement of the time for performance and release from liability in damages and other penalties. Each party shall be entitled to terminate the Agreement in writing where performance of the Agreement is materially prevented for a period in excess of three months as a result of any circumstances as specified above. In the event of such termination, the supplier shall be entitled to compensation according to the Agreement for work performed and proven, necessary costs.

## 13. Assignment

- 13.1 This Agreement may not be assigned without the other party's written consent
- 13.2 However, the supplier may, without the customer's consent, assign its rights to receive payment in accordance with this Agreement.

## 14. Disputes

Disputes regarding the construction or application of this Agreement and the legal relations relating thereto shall be determined by arbitrators in accordance with Swedish law. Where, in the event of a dispute, the value of the claim does not exceed the applicable statutory basic amount in accordance with the National Insurance Act (SFS 1962:381), the dispute shall be determined by a court of general jurisdiction.