



SOFTWARE SUPPORT TERMS & CONDITIONS

TERMS AND CONDITIONS OF SOFTWARE SUPPORT FROM FOCUSED NETWORKS LIMITED

1. (a) These Terms and Conditions shall apply to all support services offered to be provided by Focused Networks Limited or any of its associated or subsidiary companies (hereinafter called "Focused Networks") to the customer specified in the Support/Services schedule hereto hereinafter called "the Customer").
(b) All quotations given and Contracts for support made by Focused Networks shall be deemed to incorporate these Terms and Conditions which shall be deemed to be substituted for any previously agreed Conditions contained in writing or otherwise submitted to the customer.
(c) No agreement or variation of these Conditions of whatsoever nature shall form part of or operate as a waiver to this agreement unless expressly accepted in writing by a director of Focused Networks.
(d) All Software firmware or other data be it Operating System application program or data used for any other purpose stored on any media is hereinafter called "Software".
2. **SUPPORT SERVICES**
 - (a) The support services to be provided by Focused Networks or its authorised sub-contractors (hereinafter called "the Services") shall comprise:
 - (i) response to support calls requested by authorised personnel as detailed in the Support/Services schedule.
 - (ii) Focused Networks will respond to support calls received at their offices between the hours of 09.00 and 17.00 Monday to Friday inclusive (but excluding statutory holidays). Any service which Focused Networks agrees to provide at the Customer's request outside those hours may be charged at Focused Networks then current rate in force.
 - (iii) Focused Networks will use its reasonable endeavours to provide the Services within estimated maximum response times as indicated in the Support/Services schedule.
 - (c) If Focused Networks personnel attend the Customer's premises beyond the limit of any days allotted and stated in the Support/Services schedule then Focused Networks may make a charge at the appropriate rate for all time spent by Focused Networks personnel as a result of that call and travelling to and from the Customer's premises and the provisions of this agreement shall apply to that sum as it would apply to the support charge payable under this agreement.
 - (d) All equipment test equipment nor tools which may be used in the performance by Focused Networks of the Services under this agreement shall belong to Focused Networks.
 - (e) Unless stated in the Support/Services schedule Focused Networks duties under this agreement do not include:
 - (i) changing or altering the Software from the manufacturers' specification or effecting a repair due to any inherent manufacturing or design fault of the manufacturer or the modification replacement enhancement or adjustments necessitated by such fault notwithstanding any fault directly or indirectly caused by the operating environment. This includes Year 2000 date related faults.
 - (ii) providing accessories supplies operating materials or consumables.
 - (iii) support of Software or other devices not described in the Support/Services schedule.
 - (iv) supporting repairing or servicing necessitated as a result of accident misuse fault modification or negligence on the part of the Customer its employees agents contractors or third parties operator errors or by causes external to the Software such as but not limited to failure or fluctuations of the electrical power or causes outside the control of Focused Networks and other than normal usage by the Customer.
 - (v) the saving streaming backing-up conversion patching editing re-configuring or restoration of any data program or operating system from any form of fixed or removable media or other storage device for whatever reason necessitated. A separate charge will be made for the service at Focused Networks then current rate in force.
 - (vi) Site visits, upgrades, enhancements, modifications, patching or alteration of the Software as detailed in the Support/Services schedule nor any associated components. A separate charge will be made for the service at Focused Networks then current rate in force.
 - (vii) The detection eradication removal or advice relating to computer software which might be termed a computer virus.
 - (viii) The supply of any Software for any reason including but not limited to updates.



SOFTWARE SUPPORT TERMS & CONDITIONS

(ix) Advice nor Consultancy including but not limited to advice on any aspect that is deemed by Focused Networks to be an expansion nor enhancement to any component of the system nor advice over future options for any component of the system nor the system as a whole. A separate charge will be made for this service at Focused Networks then current rate in force.

(f) Focused Networks makes no warranties with respect to Software Support and specifically disclaims implied warranties of merchantability or fitness for any purpose at all times.

3. EQUIPMENT ACCESS

During the period of this agreement the Customer shall provide at its own expense for the use of Focused Networks personnel at the premises at its own expense such ventilation light telephone and power supplies as Focused Networks may reasonably require to perform the Services.

4. SECURITY & INTEGRITY

(a) The Customer shall be solely responsible for the security integrity and reliability of all programs data and other information confidential sensitive or otherwise at the Customer's premises prior to during and after such time as Focused Networks employees agents or sub-contractors work on the Software performing the Services. It is a further condition that the customer ensures that all Software is of a release version or level which is compatible with the current level of hardware firmware and other Software and is licensed for use by the customer and that the Software is available on site and not out of date or incompatible and is installable and not damaged or corrupted.

(b) Focused Networks except that all company information is sensitive and all information will be treated as Private and Confidential at all times. Focused Networks will ensure and guarantee that no company information will be divulged to others without a specific written request.

(c) If a support contract is supplied that includes "remote dial in" this would only be permitted if requested by an authorised member of the company. At no time will Focused Networks dial in to the network (incl. routine health checks) without the permission of the company.

5. NOTICES

Any notice required to be given hereunder shall be sent by first-class recorded delivery post addressed to the party to be served or at its current registered office in relation to a limited company.

6. CONDITION OF SOFTWARE

(a) It is a condition of Focused Networks Terms and Conditions that the Software and equipment shall be in good operational condition as at the date of commencement of this agreement.

(b) If there has been any delay other than that caused by Focused Networks between the expiry of any warranty in relation to any Software referred to in the Support/Services schedule and the date when it is required to be afforded cover under this Support Agreement or if Focused Networks agrees to maintain Software which it has not supplied and such Software is not in good operational condition at that time then the provisions of this agreement shall not apply until such time as it is put into good operational condition to Focused Networks reasonable satisfaction.

(c) Focused Networks shall be entitled to make an additional charge at the then current prices for any work required under the foregoing sub-clause which may be requested to be carried out by the Customer.

7. CUSTOMER OBLIGATIONS

The Customer shall:

(a) Utilise the Software correctly in accordance with the manufacturers or suppliers' operating manuals and instructions and promptly and regularly carry out all operations support routines (if any) as are set out or referred to therein.

(b) Not allow any other person firm or company other than Focused Networks personnel or their sub-contractors to adjust repair alter or upgrade or maintain the Software except for the usual operators' support routines (if any) as specified in the foregoing sub-clause.



SOFTWARE SUPPORT TERMS & CONDITIONS

(C) Notify Focused Networks immediately if the Software develops an operating fault provided that if the Customer shall fail to notify Focused Networks in accordance with this sub-clause of any operating fault Focused Networks liability under this agreement shall be limited to such remedial work as would have been required had the fault been reported when it first arose and the Customer shall be liable for any additional services support or repairs which are necessitated as a result of the delay in reporting the defect or operating fault to Focused Networks.

(d) Not during the continuation of this contract nor within a period of two (2) calendar years from the date of termination thereof by whatever method either alone or as agent for or in association with any other person firm company or organisation to approach entice away or do business with any of the employees directors contractors or representatives of Focused Networks.

8. INSURANCE

All risks of loss of or damage to the Software and equipment or to the Customer's premises shall be borne by the Customer save as provided herein at all times.

9. ARBITRATION

Any question or difference which may at any time arise between the parties hereto concerning the provisions of this agreement or the effect thereof or the rights and duties of the parties hereto (excluding those as to payment of Focused Networks charges or support costs) shall be referred to a single arbitrator to be agreed between the parties hereto or in default of agreement be appointed by the President for the time being of the Institute of Electrical Engineers and such reference shall be deemed to be for all purposes a reference to arbitration under the Arbitration Act 1950 or any statutory modification or re-enactment thereof for the time being in force.

10. CHARGES

(a) The charges specified in the Support/Services schedule will be invoiced and are payable within a period of 30 days from the date of invoice unless an alternative payment plan has been agreed in writing. Any other charges under this agreement will be invoiced by Focused Networks to the Customer and payment shall be due within a period of 30 days from the date of invoice unless otherwise stated in the Support/Services schedule. Charges are exclusive of Value Added Tax or any other like taxes which will be payable by the Customer at the rate ruling at the tax point date.

(b) If any charge or additional charge under this agreement due from the Customer shall not be paid within seven (7) days after it becomes due then Focused Networks reserves the right to suspend the services hereunder until such time as the amount due shall have been paid in full together with interest which shall be charged at 4% above Barclays Bank PLC base rate on any balance due from time to time.

(c) Without prejudice to any other remedy Focused Networks may at any time by giving thirty (30) days written notice to the Customer vary any or all of its charges unless otherwise agreed in the Support/Services schedule.

(d) Charges payable under this agreement are subject to review at each anniversary of the commencement date of this agreement as shown in the Support/Services schedule. The reviewed charges payable shall be calculated by multiplying the charges payable at the inception of this contract by the ratio of the retail prices index at a date three months prior to such review date to the retail prices index at a date three months prior to the inception date.

(e) Any credit balance on the account relating to this contract at the anniversary of the commencement date may be carried forward as part payment against any charges for renewal of the agreement but under no circumstances shall Focused Networks be obliged at any time whether during or after the expiry of this agreement to make payment or repayment to the customer in cash in respect of any such credit balance or part thereof. Any credit balance is carried forward at Focused Networks sole discretion unless otherwise stated in the Support/Services schedule.

11. DURATION

This agreement shall commence on the inception date specified in the Support/Services schedule and shall run for a period as stated in the Support/Services schedule. The minimum period being twelve (12) calendar months. The agreement shall continue thereafter upon the same terms (unless varied either as to the terms and conditions or charges in accordance with the foregoing clause) unless terminated by Focused Networks giving to the customer not less than three calendar month's prior



SOFTWARE SUPPORT TERMS & CONDITIONS

written notice or the customer giving to Focused Networks not less than three calendar month's prior written notice expiring on any anniversary of the date of this agreement.

12. REMOVAL OF SOFTWARE DURING TERM

The customer shall in the event of wishing to remove any items of Software from the Schedule of Software be obliged to provide not less than three calendar months' prior written notice of such renewal expiring on any anniversary of the date of this agreement. Any such purported notice of removal of Software not complying with this provision shall not be valid.

13. TERMINATION

(a) Focused Networks may by giving ninety (90) days notice in writing to the Customer terminate this agreement (without prejudice to its right to recover any sum due from the Customer) if either:

- (i) any payment by the Customer shall be more than ninety (90) days in arrears or.
- (ii) the Customer shall commit any other breach of this agreement and shall not remedy the same within ninety (90) days of a written notice given by Focused Networks to the Customer requesting such remedial action.

(b) The Customer may by giving ninety (90) days notice in writing to Focused Networks terminate this agreement if Focused Networks shall commit any material breach of this agreement and shall not remedy the same within ninety (90) days of written notice given by the Customer to Focused Networks requiring such remedial action.

14. SUB-CONTRACTS

Focused Networks reserve the rights to sub-contract all or part of their services.

15. LIABILITY

(a) Clause 15 sets out the entire liability of Focused Networks to the Customer.

(b) Focused Networks shall indemnify the Customer for personal injury or death caused by the negligence of Focused Networks or its employees acting in the course of their duties.

(c) Focused Networks shall indemnify the Customer for direct damage to tangible property caused by the negligence or wilful default of Focused Networks or its employees in the provision of Services or by the breach by Focused Networks of its contractual obligations arising under these terms and conditions.

(d) Except in respect of personal injury or death (for which not limit applies) the total liability of Focused Networks shall not exceed £250,000 in respect of each event or series of connected events.

(e) In no event shall Focused Networks be liable to the Customer for any damages resulting from loss of data or use, corruption of data, loss of profits or business or any indirect or consequential loss or damage.

(f) The Customer shall indemnify Focused Networks in respect of any claim for loss damage or injury to any person or property occasioned by or arising from the possession operation use or modification of the Equipment.

(g) The warranty in Clause 15 is given in place of all warranties, conditions terms, undertakings and obligations implied by statute, common law, custom, trade, usage, course of dealing or otherwise, all of which are excluded to the fullest extent permitted by law.

16. ASSIGNMENT

The Customer may not assign the benefit of this support agreement its rights or obligations without the prior written consent of Focused Networks. Focused Networks may however assign the benefit of this support agreement its rights or obligations at any time.

17. FORCE MAJEURE

Any failure by Focused Networks to perform the Services for any cause beyond the reasonable control of Focused Networks shall not be deemed to be a breach of the provisions of this agreement by Focused Networks.

18. LAW

The validity construction and performance of this agreement shall be governed by the Law of England.



SOFTWARE SUPPORT TERMS & CONDITIONS

19. SEVERABILITY

If any clause of this agreement shall be deemed or held to be unreasonable within the meaning of the Unfair Contract Terms Act 1977, then such clause or sub-clause as the case may be shall be deemed to be a severable part of this agreement and the remainder of this agreement shall remain fully effective but be read and construed as if such offending clause or sub-clause were not present.

20. SIGNATURES

| FOCUSED NETWORKS | | CLIENT | |
|-------------------------|--|---------------|--|
| Signature | | Signature | |
| Print Name | | Print Name | |
| Position | | Position | |
| Date | | Date | |