



**2020 VISION SYSTEMS LIMITED**

and

.....  
**MAINTENANCE AND SUPPORT AGREEMENT**

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**THIS AGREEMENT** is made on 200...

**BETWEEN:-**

**2020 VISION SYSTEMS LIMITED** (CRN: 02703107) whose registered office is at 28 Northumberland Square, North Shields, Tyne & Wear, NE30 1PW (the "Supplier"); and

.....(Full Name) (CRN: .....) whose registered office is  
at / of .....  
.....(Address) (the "Customer").



IT IS AGREED as follows:-

1. **DEFINITIONS AND INTERPRETATION**

- 1.1 In this Agreement the following terms shall have the following meanings:-
- |   |  |
|---|--|
| <p>"Agreed Service Levels"</p> <p>"Commencement Date"</p> <p>"Confidential Information"</p><br><p>"System"</p> <p>"Hardware"</p><br><p>"Initial Period"</p> <p>"Maintenance Year"</p><br><p>"Maintenance Package"</p><br><p>"Premises"</p> <p>"Price"</p> <p>"Retail Prices Index"</p><br><p>"RPI Percentage"</p><br><p>"Services"</p><br><p>"Software"</p> | <p>the service levels specified in the Maintenance Package (and any revision to such service levels agreed in writing by the parties);</p> <p>the date of this Agreement;</p> <p>in relation to each party, all information in respect of the business and financing of that party including any ideas, business methods, finances, prices, business, financial, marketing, development or manpower plans, customer lists or details, computer systems and software, know-how or other matters connected with the products or services manufactured, marketed, provided or obtained by that party, and information concerning either party's relationships with actual or potential customers and the needs and requirements of such persons;</p> <p>the Hardware and the Software;</p> <p>the hardware and other peripheral items referred to in the Schedule, together with any other equipment agreed between the parties to be maintained by the Supplier from time to time pursuant to this Agreement;</p> <p>the period set out in the Schedule;</p> <p>the 12 month period beginning on the Commencement Date and each successive period of 12 months beginning on each anniversary of the Commencement Date;</p> <p>the Supplier's Maintenance Package proposal documentation as provided to the Customer [on the date set out in the Schedule][and as attached to this Agreement];</p> <p>the premises referred to in the Schedule;</p> <p>the charges set out in the Schedule, as amended from time to time in accordance with clause 5.2;</p> <p>the General Index of Retail Prices for all items which is published in the United Kingdom in the Monthly Digest of Statistics by the Office for National Statistics or any replacement of it;</p> <p>a percentage increase equivalent to the increase in the Retail Prices Index over a 12 month period calculated using the following formula:-</p> <p><math display="block">[(\text{Later RPI} - \text{Earlier RPI}) / \text{Earlier RPI}] \times 100</math></p> <p>where:-</p> <p>"Later RPI" is the most recent figure appearing in the Retail Prices Index at the time that the increase in the Price is calculated; and</p> <p>"Earlier RPI" is the figure appearing in the Retail Prices Index 12 months prior to the Later RPI.</p> <p>the services in accordance with the relevant services package as set out in the Schedule and as more particularly described in the Maintenance Package; and</p> <p>all operating systems, compilers, utilities and other programs, object codes and source codes and associated documentation to be maintained by the Supplier under this Agreement together with any other Software agreed to be maintained by the Supplier from time to time in accordance with this Agreement.</p> |
|---|--|
- 1.2 In this Agreement:-
- 1.2.1 any gender includes any other gender and the singular includes the plural and vice versa;
  - 1.2.2 references to persons include bodies corporate, unincorporated associations, governments, states, partnerships and trusts (in each case, whether or not having separate legal personality);
  - 1.2.3 references to clauses, paragraphs and the Schedule are to clauses and paragraphs of and the schedule to this Agreement;
  - 1.2.4 the Schedule forms part of this Agreement and the expression "this Agreement" includes the Schedule;
  - 1.2.5 any reference to a statutory provision includes a reference to any modification, consolidation or re-enactment of the provision from time to time in force and all subordinate instruments, orders or regulations made under it;
  - 1.2.6 the headings in this Agreement are for convenience only and shall not affect the interpretation of this Agreement;
  - 1.2.7 "subsidiary" and "holding company" shall have the meanings given to them by section 736 and section 736A of the Companies Act 1985 and "subsidiary undertaking" shall be construed in accordance with section 258 of the Companies Act 1985;
  - 1.2.8 references to a person acting "directly or indirectly" include acting alone or jointly with or by means of any other person.

2. **AGREEMENT TO MAINTAIN AND SUPPORT**

- 2.1 With effect from the Commencement Date the Supplier agrees to provide the Services at the Premises on the terms set out in this Agreement.
- 2.2 The Supplier shall perform the Services irrespective of whether they fall within the scope of any manufacturer's or supplier's warranty. At the Customer's request, the Supplier shall administer on behalf of the Customer any warranty claims that may arise against third party suppliers.
- 2.3 For the avoidance of doubt, repair and maintenance required as a result of:-
- 2.3.1 any vandalism or wilful or accidental damage to the System by the Customer or any third party;
  - 2.3.2 any fault or defect in the System or any part thereof arising from any hardware or software supplied by the Customer; or
  - 2.3.3 any fault or defect in any part of the System arising from abnormal working conditions,
  - 2.3.4 any failure to follow the Supplier's instructions (whether oral or written) or maintenance recommendations;
  - 2.3.5 any misuse or alteration or repair of the System without the Supplier's prior approval in writing;
  - 2.3.6 improper installation or connection (unless the Supplier carried out the installation and connection) or the System being removed, relocated or tampered with by the Customer or any third party following its installation, without the Supplier's prior approval in writing;
  - 2.3.7 any failure in or the operation of any third party networks or services, including without limitation electricity, wireless communication services, telecommunication systems or internet; or
  - 2.3.8 any failure of any cables or wiring installed within the fabric of the Customer's premises or buried underground, prior to the Commencement Date;
  - 2.3.9 any act, omission, fault or negligence of the Customer or any other third party (their employees, agents or sub-contractors); or
  - 2.3.10 any other cause beyond the Supplier's reasonable control and not caused by its lack of reasonable care (including without limitation flood, fire, civil commission, war, attempted burglary, moisture, dampness, chemically composed paints);
- [and the provision of consumables (including without limitation camera and monitor tubes, washers, wipers, illuminator lamps, bulbs and access cards)] does not fall within the scope of the Services and where such additional services are provided by the Supplier, the Customer shall pay, in addition to the Price, the Supplier's standard rates from time to time for such additional services together with the cost of any replacement Hardware or Software provided.
- 2.4 The Supplier warrants that the Services:-
- 2.4.1 will be provided so as to comply with the Agreed Service Levels; and
  - 2.4.2 will be provided using reasonable skill and care.
- 2.5 The Supplier shall use its reasonable endeavours to ensure that the Services shall be carried out during the Customer's normal working hours. The Customer acknowledges and agrees that it may be necessary from time to time for the Supplier to provide some Services outside of normal working hours and the Customer shall co-operate with the Supplier in respect of reasonable access to its premises in such circumstances.

3. **DURATION**

This Agreement shall commence on the Commencement Date and (unless terminated at an earlier date pursuant to clause 8) shall continue in force for the Initial Term and shall be automatically renewed on expiry of the Initial Term for a further period of 1 year unless either party gives written notice to the other party not later than 3 months prior to the expiry of the Initial Term or any subsequent extension of it to terminate this Agreement at the end of the Initial Term or such subsequent extension, as the case may be.



4. **CUSTOMER'S OBLIGATIONS**

- 4.1 The Customer shall:-
- 4.1.1 provide to the Supplier's authorised personnel (at all reasonable times and with prior agreement) such access to the Customer's premises as may be necessary for the performance by the Supplier of its obligations under this Agreement;
  - 4.1.2 ensure that the System is operated by competent, suitably trained personnel in accordance with the Supplier's instructions and handbooks;
  - 4.1.3 provide the Supplier with as much information as is practicable regarding any part of the System that the Supplier did not install;
  - 4.1.4 ensure that the premises where the Services are to be carried out, are safe and without risk to the Supplier's employees and sub-contractors, in particular that they are free from unnecessary equipment, obstructions and clutter to enable the Supplier (its employees and sub-contractors) to operate safely within the Health and Safety at Work Act 1974;
  - 4.1.5 provide and maintain a 240 volt AC unswitched power supplies to each part of the System and ensure such supply:-
    - (a) is safe;
    - (b) has been installed by a suitably qualified electrician; and
    - (c) complies with all relevant regulations and standards;
  - 4.1.6 advise the Supplier without delay:-
    - (a) of any fault or defect in the System;
    - (b) if the System shows signs of damage;
    - (c) if any part of the System is missing;
    - (d) if the System has been exposed to any unusual or exceptional environmental conditions; and
    - (e) of any change to the integrity of the cables and power services referred to in sub-clause 4.1.5; anddispose of any part of the System replaced by the Supplier, in accordance with all applicable regulations.
  - 4.1.7
- 4.2 The Customer shall not:-
- 4.2.1 interfere with, modify, alter, replace or attempt to move the System or any part of it; or
  - 4.2.2 permit any person other than a representative of the Supplier to interfere with, modify, alter, replace or attempt to move the System or any part of it.

5. **PRICE AND PAYMENT**

- 5.1 Unless otherwise provided in the Schedule or agreed in writing by the Supplier, the Customer shall pay the Price yearly in advance and not less than ..... days prior to the end of each Maintenance Year, the Customer will pay the Price due for the subsequent Maintenance Year.
- 5.2 The Price shall be increased annually for the subsequent Maintenance Year by the RPI Percentage.
- 5.3 The Price includes all travel, accommodation, subsistence and other expenses incurred in the provision of the Services unless otherwise agreed in writing by the parties.
- 5.4 The Price and all other costs, charges and licence fees referred to in this Agreement are exclusive of any value added tax but shall include any customs or excise tax, import or other duties and transportation and delivery costs.
- 5.5 In respect of any other payments due, such amounts will be invoiced by the Supplier. All such additional charges payable by the Customer under this Agreement will be paid within ..... days after the date of the Supplier's invoice.
- 5.6 The customer shall pay the Price and any other payments due without deduction or set off.

6. **CHANGE CONTROL PROCEDURES**

- 6.1 At any time during the term of this Agreement the Customer may request and the Supplier may recommend variations to any part of the Services.
- 6.2 The Supplier shall, free of charge, notify the Customer within a reasonable period of time of the effect on this Agreement (including the Price) of implementing such variation.
- 6.3 The Supplier shall submit to the Customer as soon as reasonably practicable a full written quotation for such variation specifying the increase or decrease (if any) which will be required to the Price and the changes (if any) which will be required to this Agreement.
- 6.4 Upon receipt of such quotation the Customer may elect either:-
  - 6.4.1 to accept such quotation in which case this Agreement shall be amended in accordance with such quotation; or
  - 6.4.2 to withdraw or reject the proposed variation in which case, subject to clause 8.6, this Agreement shall continue in force unchanged.
- 6.5 Until such time as any variation is formally agreed between the parties in accordance with this clause 6 the Supplier will, unless otherwise agreed in writing, continue to perform and be paid as if such variation had not been required. For the avoidance of doubt, the Supplier agrees that the preparation of a quotation under clause 6.3 will not cause any delay in the provision of the Services.

7. **EXTENT OF LIABILITY**

- 7.1 The following sets out the entire financial liability of the Supplier to the Customer in respect of:-
  - 7.1.1 any breach by the Supplier of this Agreement;
  - 7.1.2 non or incomplete performance or contemplated performance by the Supplier of this Agreement;
  - 7.1.3 negligence for which the Supplier is liable; and
  - 7.1.4 any representation or statement arising under or in connection with these Terms or by or on behalf of the Supplier.
- 7.2 The total liability of the Supplier to the Customer and in respect of all claims arising under any of the matters set out in clause 7.1 shall not exceed £.....
- 7.3 The Supplier shall in no circumstances be liable to the Customer for any loss of profits, loss of business or production, depletion of goodwill and any Indirect Loss.
- 7.4 Notwithstanding anything to the contrary, the Supplier's liability to the Customer for:-
  - 7.4.1 death or personal injury resulting from the negligence of the Supplier, its employees, agents or sub-contractors;
  - 7.4.2 damage for which the Supplier is liable to the Customer under Part I Consumer Protection Act 1987 or equivalent; and
  - 7.4.3 fraud;shall not be excluded or limited.

8. **TERMINATION**

- 8.1 A party (the "Non-Defaulting Party") may terminate this Agreement with immediate effect by written notice to the other party (the "Defaulting Party") on or at any time after the occurrence of an event specified in clause 8.2.
- 8.2 The events are:-
  - 8.2.1 the Defaulting Party is in material breach of these Terms and that breach cannot be remedied;
  - 8.2.2 the Defaulting Party is in material breach of an obligation under these Terms which can be remedied but the Defaulting Party fails to do so within [30] days starting on the day after receipt of written notice from the Non-Defaulting Party;
  - 8.2.3 the Defaulting Party commits more than one breach of these Terms and the cumulative effect of such breaches is such that the Non-Defaulting Party reasonably believes that the Defaulting Party would continue to deliver a substandard performance in relation to a substantial portion of its obligations under these Terms over the ..... month period immediately after the service of the written notice specified in clause 8.1;
  - 8.2.4 the Defaulting Party stops payment of its debts or is unable to pay its debts as they fall due or is deemed unable to pay its debts;
  - 8.2.5 the Defaulting Party becomes or is declared insolvent or a resolution is passed for the winding up of the Defaulting Party or the Defaulting Party convenes a meeting of its creditors or makes or proposes to make any arrangement or composition with its creditors or any person takes any step to appoint an administrator or a liquidator, an administrative receiver, a receiver, manager, trustee, custodian or analogous officer is appointed in respect of all or any part of its property, undertaking or assets;
  - 8.2.6 it becomes unlawful for the Defaulting Party to perform all or any of its obligations under these Terms; or
  - 8.2.7 the Defaulting Party (being a natural person) shall die or become mentally incapacitated, or (being a partnership or other unincorporated association) shall be dissolved or become subject to any bankruptcy or analogous insolvency procedure in any jurisdiction.
- 8.3 For the purposes of clauses 8.2.1 and 8.2.2:-
  - 8.3.1 a breach is capable of remedy if time is not of the essence in performance of the obligation and if the Defaulting Party can comply with the obligation within the ..... day period; and
  - 8.3.2 a breach can be material irrespective of whether any actual loss has been incurred or will be incurred as a consequence of the breach or intended breach; and
  - 8.3.3 a breach of clause the Customer would be a material breach.
- 8.4 Any expiry or termination of this Agreement for whatever reason shall not affect rights, remedies or liabilities which have accrued on or before the date of termination or expiry.
- 8.5 The provisions of this Agreement expressed to have effect after termination or expiry shall do so following termination or expiry for whatever reason.
- 8.6 Where the Supplier recommends changes to the System in accordance with clause 6 for the replacement of faulty or unserviceable parts of the System, which the Supplier considers necessary for the correct operation of the System or to eliminate damage to the System, and the Customer does not accept the Supplier's recommendations in accordance with clause 6.4.1, the Supplier may terminate this Agreement by notice in writing to the Customer at any time.



9. **NOTICES**

- 9.1 Any communication given under this Agreement shall be in writing and delivered personally or by facsimile transmission (facsimile transmission to be confirmed by letter posted within 12 hours) or pre-paid recorded, special delivery or first class post (or air mail post if to an address outside the United Kingdom) to the address or facsimile number of the party who is to receive such communication as set out on page 1 or to such other address or facsimile number in the United Kingdom as may from time to time be specified in writing by the relevant party as its address for the purpose of this clause 9.
- 9.2 Each party undertakes to notify the other party in accordance with this clause 9 if the address or facsimile number specified in this clause 9 is no longer an appropriate address for the service of communications.

10. **CONFIDENTIALITY**

- 10.1 Except as permitted by this Agreement, neither party shall use or disclose to any third party any of the other party's Confidential Information without the prior written consent of that other party.
- 10.2 The provisions of clause 10.1 shall not apply to:-
- 10.2.1 any information which is or becomes public knowledge otherwise than through any breach of this Agreement or any other contract between the Supplier and the Customer;
  - 10.2.2 any information which can be demonstrated by documentary evidence to have been in the possession of the receiving party thereof before being divulged to it by the other (disclosing) party;
  - 10.2.3 any information obtained from a third party who is free to divulge it without breaching any duty of confidentiality; or
  - 10.2.4 any information which is ordered to be disclosed by a court or tribunal of competent jurisdiction.
- 10.3 The Supplier shall divulge Confidential Information only to those of its employees who are directly involved in this Agreement and shall ensure that such employees are aware of and comply with these obligations as to confidentiality and that its sub-contractors are bound by the requirements of this paragraph as if they were a party to this Agreement.
- 10.4 The provisions of this clause 10 shall continue in force notwithstanding the termination of this Agreement for any reason.

11. **ENTIRE AGREEMENT**

- 11.1 This Agreement includes any document specifically referred to in it and any representations or statements made by the Supplier in connection with this Agreement or its subject matter and constitutes the entire agreement and understanding between the Customer and the Supplier relating to its subject matter but without prejudice to the rights and liabilities of the parties accrued before the date of this Agreement.
- 11.2 Each of the parties acknowledges and agrees that:-
- 11.2.1 in entering into this Agreement and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this agreement or not) other than as expressly set out in or referred to in this Agreement;
  - 11.2.2 its only remedy in respect of statements, representations, warranties or understandings made or repeated in this Agreement or in relation to this Agreement shall be for breach of contract; and
  - 11.2.3 all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 11.3 Nothing in this clause 11 shall operate to limit or exclude any liability for fraud.

12. **GENERAL**

- 12.1 No failure to exercise or any delay in exercising any right or remedy under this Agreement shall operate as a waiver of it or of any other right or remedy under it. No single or partial exercise of any such right or remedy shall prevent any further or other exercise of it or the exercise of any other right or remedy. Any waiver given by a party must be in writing and expressly stated by an authorised employee of such party to be a waiver. Such a waiver will only apply to the specific events to which it is stated to relate and not to any other events, whether past or future.
- 12.2 The rights and remedies provided by this Agreement are cumulative and are not exclusive of any rights or remedies provided by law or available under this Agreement.
- 12.3 Neither party shall without the prior written consent of the other party (which shall not be unreasonably withheld or delayed) assign, transfer, charge, dispose of or deal in any other manner with this Agreement or any of its rights or beneficial interests under it, or purport to do any of the same, nor sub-contract any or all of its obligations under this Agreement except that the Supplier shall be entitled to assign and transfer its rights and obligations in whole or in part to any one or more of its subsidiaries, to its holding company or to any one or more of the subsidiaries of its holding company.
- 12.4 Nothing in this Agreement or any arrangement contemplated by it shall constitute either party a partner, agent, fiduciary or employee of the other party.
- 12.5 No amendment or variation of the terms of this Agreement or any documents entered into or delivered in accordance with its provisions shall be effective unless made or confirmed in writing and signed by the Customer and the Supplier.
- 12.6 If any provision of this Agreement shall be found by any court or body or authority of competent jurisdiction to be invalid or unenforceable, such provision shall be severed from the remainder of this Agreement which shall remain in full force and effect to the extent permitted by law.
- 12.7 If any provision of this Agreement is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification as may be necessary to make it valid.
- 12.8 The rights and remedies provided by this Agreement are cumulative and (unless otherwise provided in this Agreement) are not exclusive of any rights or remedies provided by law.
- 12.9 This Agreement does not create, confer or purport to create or confer any benefit or right enforceable by any person not a party to it (except that a person who is a permitted successor to or assignee of the rights of a party to this Agreement shall be deemed to be a party to this Agreement).

13. **COUNTERPARTS**

- This Agreement may be executed in any number of counterparts all of which taken together constitute one and the same document and any party may execute this Agreement by signing any one or more of such counterparts.

14. **GOVERNING LAW AND JURISDICTION**

- 14.1 This Agreement is governed by and shall be construed in accordance with the laws of England and Wales.
- 14.2 Each party irrevocably agrees that the courts of England and Wales shall have [non-exclusive] jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with this Agreement.

