

- This is an agreement (**Agreement**) for the maintenance of the telecommunications equipment listed on this document (the **System**). It will be made between you and TSI (Ireland) Limited Trading as Rainbow Telecom, a company registered in Northern Ireland with company number NI034069 and with registered address at Aisling House 50 Stranmillis Embankment Belfast BT9 5FL (**Rainbow**).
- Please read this Agreement carefully before you sign it. Check that all appropriate sections have been fully completed.
- Ensure that you understand the terms and conditions and the costs involved.
- Check that all aspects of this Agreement fully correspond with the arrangements which you had envisaged, and in particular, your understanding of any written or oral quotation given by the salesperson or negotiator with whom you have been dealing. The only terms which will apply are those referred to in this Agreement.

Fault Reporting

If a fault occurs we are committed to dealing with it as quickly and efficiently as possible. With a strong local engineering presence, technical support desks, backed up by 3rd level manufacturer support, and complemented by a quality focused customer care team (**Rainbow Customer Care**), our resources ensure effective resolution of customer issues. Rainbow has a wealth of experience both in the provision of service and fault resolution. Already supporting many large and service critical sites, Rainbow has a proven track record of quick and efficient resolution of faults. An excellent relationship has been developed with major network providers and manufacturers and these partnerships help deliver comprehensive customer support.

We use support systems which give staff access to customer information, agreed service levels, target response times, previous fault and call history and any live calls currently on the System. This system will ensure automatic prioritization using required response and resolution targets, based on the service levels applying to the category of maintenance support you select.

Escalation

At any time if you feel you need to escalate an issue, Rainbow Customer Care have clearly defined processes which will enable an issue to be escalated to the relevant management level within the organization. Process and escalation charts are available for review on request.

Complaints

Rainbow strives to maintain a high standard of service, with customer satisfaction our first priority. Despite this, we accept that sometimes things do go wrong and when they do, we want to put them right as quickly as possible. We encourage customers to make us aware of any complaint they may have with our service. All complaints are taken extremely seriously and will be fully investigated. A member of Rainbow Customer Care will use all reasonable endeavours to ensure that each complaint is resolved as quickly and efficiently as possible.

A copy of our Complaints Policy is available on request.

Fault Control Freephone: 0808 14 11 150

Customer Services Freephone: 0808 018 80 82

Contract No:		Start Date:	
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1. APPLICATION

An agreement made between the Customer detailed below (the **Customer**) and Rainbow, to provide for the maintenance of equipment once installed and brought into service.

2. CUSTOMER

Company:
Address:
Town:
Post Code:
County:
Tel No:

3. SITE ADDRESS:

Company:
Address:
Town:
Post Code:
County:
Tel No:

4. AUTHORISED MAINTENANCE PROVIDER

Company: Rainbow Telecom
Address: Rainbow Telecom House, 286 Ballygowan Road
Town: Belfast
Postcode: BT23 6BL
Tel No: 028 9037 9000

5. MAINTENANCE TERMS:

The maintenance service chosen by Customer:		
Standard	5 Day Service (help desk available 9am-5pm, Monday – Friday but excluding Northern Ireland public holidays).	
Principle	As per Standard Service, but including Saturday.	
Executive	As per Principle Service, but 24 hour coverage. Rainbow will use all reasonable endeavours to ensure that all major and critical faults will receive a response within 4 hours of contact.	
Emergency	As per Executive Service, but including Sunday. Rainbow will use all reasonable endeavours to ensure that all faults will receive a response within 4 hours of contact.	
AD-HOC	Maintenance services provided as requested by the Customer, with all time and parts/materials being charged to Customer at Rainbow’s rates from time to time in force.	

6. ADDITIONAL PROVISIONS:

7. MAINTENANCE COSTS:

Year 1	£	Annually/Quarterly/Monthly	For first twelve months
Subsequently	£	Annually/Quarterly/Monthly	
Minimum Term		Years/Quarters/Months	

8. SIGNATURE OF CUSTOMER:

Duly Authorised Signature	Print	Date

9. ACCEPTANCE SIGNATURE OF RAINBOW:

Signature	Date of Agreement

10. MAINTENANCE COVER EQUIPMENT SCHEDULE

1 EFFECT –The terms and conditions of this Agreement shall prevail over any terms or conditions implied by law (to the extent that the law may allow), trade custom, practice or course of dealing. The Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other document shall not form the basis of this Agreement.

Rainbow's failure to object to any other terms proposed by the Customer shall not be deemed a waiver of that condition.

Execution by the Customer of this Agreement constitutes an offer by the Customer to purchase the maintenance services indicated as selected by the Customer in section 2 of this Agreement (**Maintenance Services**) and to be provided by Rainbow. This Agreement becomes effective when accepted by a duly authorised Rainbow signatory.

2 TERM

2.1 This Agreement begins on the date given as the Start Date at the top of page 1. Upon expiry of the minimum period detailed in section 7 of this Agreement (**Minimum Period**), the Agreement will automatically renew for successive twelve month periods (each **Year**). The Agreement may be terminated:

- (i) during the Minimum Period by either party giving the other party written notice at least one month before the end of the Minimum Period. Upon such notice being given this Agreement will terminate upon the expiry of the Minimum Period; or
- (ii) after the Minimum Period by either party giving the other party written notice at least 14 days before the end of the relevant Year. Upon such notice being given this Agreement will terminate at the expiry of the relevant Year; or
- (iii) at any time in accordance with paragraph 13 below.

2.2 If the Customer seeks to terminate this Agreement other than in accordance with paragraph 2 and Rainbow accepts such termination, the Customer shall promptly pay to Rainbow all sums due from but unpaid by the Customer at the date of termination, together with:

- (i) (where such termination occurs during the Minimum Period), all payments due for the remainder of the Minimum Period; or
- (ii) (where such termination occurs in any Year), all payments due for the remainder of such Year.

3 EXTENT OF MAINTENANCE SERVICES

3.1 Throughout the term of this Agreement Rainbow shall maintain the System in efficient working order and shall provide the Maintenance Services.

3.2 The categories of Maintenance Services are defined in section 5 of this Agreement.

3.3 The Maintenance Services do not include:

- (i) any alteration of the System to meet a change in the Customer's requirements or in the standards or requirements of British Telecom or other relevant telecommunications network operator, or to enable the use of any equipment, networks, and/or software not provided by Rainbow;
- (ii) any electrical or other work external to the System;
- (iii) moving and re-installing the System;
- (iv) the cost of repair or replacement or extra service time made necessary by accidental damage, criminal damage, misuse, negligence or failure to observe Rainbow's recommendations, or those of the manufacturer of any part of the System, or those of British Telecom or other relevant network operator or for causes external to the System (including, but not limited to, failure or fluctuation of electrical power or air-conditioning or any defect or failure in the relevant public telecommunications network or any peripheral equipment, networks, software not provided by Rainbow);
- (v) replaceable items (including without limitation batteries) which suffer progressive degeneration in use;
- (vi) System programming, recordings, PBK/LAN integration changes.

Rainbow reserves the right to charge the Customer for any such extra services and costs at Rainbow's then current charges.

3.4 If the System is not prior to the Start Date:

- (i) already maintained by Rainbow, or
- (ii) within the scope of an express warranty given by Rainbow

then Rainbow will inspect the System and may, in its sole discretion, undertake such repair work as may be reasonably necessary to put the System in good working order. The Customer shall pay for such inspection and repair at Rainbow's then current charges.

If during the term of this Agreement any unauthorised alterations are made to the System or if there are any unauthorised attachments, Rainbow shall have the right in its absolute discretion to suspend any Maintenance Services on the System until the alterations and/or attachments have been rectified or removed to the satisfaction of Rainbow. The suspension of such Maintenance Services will not affect the obligation of the Customer to pay the Maintenance Charges, and any other charges, which may be due. Rainbow will not be liable for any losses, damages or expenses suffered by the Customer as a result of such suspension.

In the event that Rainbow agrees to accept any such unauthorised alterations or attachments, Rainbow may in its absolute discretion raise additional charges for any work which may be involved in carrying out the provision of the Maintenance Services.

3.5 If Rainbow reasonably forms the opinion that the System or any part of it can no longer be economically maintained on site to the necessary high standards it will notify the Customer of Rainbow's estimate of the cost of reconditioning or replacing all or part of the System. Should the Customer fail to make the System available for reconditioning or replacement, or the parties fail to agree on the appropriate charges, then Rainbow shall be entitled by written notice to cease provision of the Maintenance Services without liability to the Customer.

4 CUSTOMER'S RESPONSIBILITIES

4.1 The Customer is responsible for ensuring that the environment conditions at the installation site (whether approved by Rainbow and/or British Telecom or other relevant network operator prior to installation) are maintained at all times. The Customer will for the term of this Agreement provide at the relevant premises (at its sole expense) heat, light, ventilation, electric and outlets sufficient for the use of Rainbow's maintenance personnel, its employees and authorised representatives. The Customer will not permit any persons, other than authorised Rainbow representatives, to perform any maintenance on the System.

4.2 For the purposes of providing the Maintenance Services Rainbow engineers shall have full free and timely access to the System. The Customer shall provide adequate working and storage space and such other facilities as Rainbow engineers may reasonably require, and will ensure that the System is readily accessible without the need for specialist access equipment or specialist access staff.

4.3 The Customer shall comply with all legal and regulatory requirements applicable to its use of the System, to the location of the System upon its premises and to Rainbow's access to the System (including without limitation all health and safety legislation from time to time in force).

4.4 The Customer shall indemnify Rainbow against all claims, costs, liabilities and/or expenses claimed by third parties as a direct and/or indirect result of the fact that

- (i) Rainbow is unable to keep the System in good working order due to causes within the control of the Customer; or
- (ii) the Customer allows the System to be altered, adjusted or interfered with by other than Rainbow's authorized engineers or agents attachments are fitted without Rainbow's agreement.

5 LIMITATIONS

5.1 Unless otherwise agreed in writing by Rainbow the System must not in any circumstances be altered, adjusted or interfered with except by Rainbow authorized engineers.

5.2 Rainbow will not be liable for failure to provide the Maintenance Services if the failure results from any of the following (whether happening in the United Kingdom or elsewhere) namely 'force majeure' such as but not limited to act of God, refusal of licence or other governmental act, fire, explosion, lightening, accidental industrial dispute, difficulty in obtaining materials, act of any telecommunications operator or other competent authority or any cause beyond its reasonable control.

THE CUSTOMER'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF CONDITION 5.3

5.3 Rainbow does not limit its liability (if any) in respect of fraud, or in respect of the death of, or personal injury to, any person caused by Rainbow's negligence, or for any other liability to the extent that the same may not be limited under applicable law. Subject to the foregoing:

- (i) Rainbow's total aggregate liability in contract, tort (including without limitation negligence or breach of statutory duty), misrepresentation or otherwise arising in connection with the performance or contemplated performance of this Agreement shall be limited to the amount paid by the

		<p>(ii) Customer to Rainbow under this Agreement; Rainbow shall not, without limitation, be liable to the Customer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, loss of contract, loss of data, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the provision of the Maintenance Services;</p> <p>(iii) the prices charged by Rainbow have been set on the basis of the exclusions and restrictions of liability detailed in this paragraph 5.3 and would be higher without those provisions. In the circumstances, the Customer agrees that those provisions are reasonable and will accept risk and/or insure accordingly; and</p> <p>(iv) Rainbow shall not be liable for any claim unless made with reasonable details in writing to Rainbow no later than 180 days (or such longer period as may be reasonable in the circumstances) after the date the claimable event first comes to the notice of the Customer, its employees, agents or sub-contractors.</p>
6	WARRANTY	
6.1	Rainbow warrants that it will exercise all reasonable care and skill in the provision of the Maintenance Services. To the maximum extent permitted by law, and except for the warranties expressly set forth in this Agreement, Rainbow disclaims any and all other warranties and conditions, whether express, implied, or statutory, including but not limited to implied warranties (if any) of merchantability, fitness for a particular purpose and satisfactory quality.	
7	PAYMENT OF MAINTENANCE CHARGES	
7.1	The initial charge for the Maintenance Services (the Maintenance Charge) shall be as specified in section 7 of this Agreement, and shall be payable in accordance with the frequency specified, in section 7 of this Agreement. A separate direct debit form is available upon request.	
7.2	Any additional payment that may become due during the term of the Agreement which is not Maintenance Charges shall be paid within 14 days of the date of Rainbow 's invoice.	
7.3	<p>If the Customer shall fail to pay any of Rainbow's invoices on their due date Rainbow may, at its entire discretion and without prejudice to any other right or remedy which Rainbow may have:</p> <p>(i) suspend the provision of the Maintenance Services, and any other services agreed to be performed, until the Customer has paid all sums due in full; or</p> <p>(ii) terminate this Agreement forthwith providing Rainbow has served notice pursuant to paragraph 13 and the Customer has failed to make payment. If Rainbow suspends the provision of the Maintenance Services in accordance with this paragraph, the Customer will not be entitled to any rebate in relation to the Maintenance Charges suffered as a result of such suspension. The parties have agreed that this is reasonable given that the Maintenance Charges are calculated based upon, without limitation, the resource required by Rainbow for the duration of this Agreement.</p>	
8	ADJUSTMENT	
	<p>The Maintenance Charges may be adjusted at any time in the event that:</p> <p>(i) the level of Maintenance Services provided for the System is changed for any reason;</p> <p>(ii) an increased charge is required by Rainbow to be made to meet the requirements of British Telecom, or of any other network provider, or of the manufacturer of the System (provided that the Maintenance Charges shall in this event be adjusted by such an amount as is reasonable);</p> <p>(iii) in the event that further equipment is added to the equipment schedule comprising the System (and any such increase will occur a year after the date of install);</p> <p>(iv) Rainbow's standard hourly rates for the provision of maintenance services increase (provided that any such increase shall be adjusted by such an amount as is reasonable).</p>	
9	ANNUAL REVIEW	
	Rainbow may at any time following the first anniversary date of the Agreement adjust the Maintenance Charges. Subject to any adjustments made in accordance with paragraph 8, such adjustments will not be made at intervals more frequent than once in any twelve month period and Rainbow shall certify that such an increase is due to an increase in the costs of labour and or materials.	
10	CONDITIONS	
	<p>Rainbow reserves the right to make a charge for the time and expenses incurred by its personnel being called out due to faults not on the System (e.g. British Telecom or other network operator line faults, power supply fluctuation, PBX/LAN faults, etc) or if the System is reported as faulty and proves to Rainbow's reasonable satisfaction not to be so.</p> <p>In addition to the Maintenance Charges, the Customer shall pay to Rainbow all additional charges for maintaining the System which arise other than as a result of normal fair wear and tear.</p> <p>Rainbow shall be under no obligation to provide the Maintenance Services so long as any sum due is in arrears for more than 15 days and any additional charges incurred by the consequent delay in carrying out the Maintenance service shall be paid by the Customer.</p> <p>Rainbow reserves the right to make a charge for the time and expenses incurred by its personnel being called out due to faults outside the normal contracted hours as specified in section 5 of this Agreement. The out-of-hours charge shall be double the Rainbow standard hourly rates, with a minimum call-out time of 2 hours.</p> <p>Rainbow reserves the right to make a charge for the time incurred by its personnel to provide telephone support or remote diagnostic programming due to faults outside the normal contracted hours as specified in section 5 of this Agreement. The charge to provide telephone support or remote diagnostic programming shall be £50 per 0.5 hour or part thereof, with a minimum support time of 0.5 hours.</p>	
11	INTEREST –Any money due or payable to Rainbow under this Agreement which is 10 days or more overdue shall bear interest on a day to day basis at the rate of 2% above the base lending rate from time to time of Ulster Bank Limited from due date until date of payment and monies received may be applied by Rainbow at its option against such interest prior to application against other monies due to the Customer.	
12	V.A.T – The Maintenance Charges and other sums payable in accordance with this Agreement do not include Value Added Tax, which shall be payable in accordance with the statutory rate applicable from time to time.	
13	<p>DEFAULT AND TERMINATION – if either:</p> <p>(i) the Customer commits any material breach of this Agreement, or of any other Agreement with Rainbow, and fails to remedy it within fourteen days of receiving written notice from Rainbow; or</p> <p>(ii) the Customer suffers distress or execution or commits an act of bankruptcy or goes or is put into liquidation (except for purposes of genuine amalgamation or reconstruction) or if it enters into an arrangement or composition with creditors or if a receiver is appointed over any part of the Customer's business, or in the case of a partnership any of the partners is declared bankrupt</p> <p>Rainbow may terminate this Agreement forthwith (in addition to any other rights or remedies in law and notwithstanding that Rainbow may have waived its rights under this paragraph on some previous occasion). Upon such termination the Customer will promptly pay to Rainbow all such sums as are due from the Customer and unpaid. Any and all accrued rights of either party existing at the date of termination shall survive such termination.</p>	
14	LEGAL CONSTRUCTION – The Agreement shall be governed by Northern Ireland law and be subject to the jurisdiction of Northern Ireland courts.	
16	GENERAL – This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties other than the contractual relationship expressly provided for in this Agreement. Rainbow may assign all or any of the benefit of this Agreement. The Customer shall not assign all or any of its rights or obligations under this Agreement without the prior written consent of Rainbow. If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement. No amendment or modification to the Agreement shall be effective or binding unless it is in writing signed by duly authorized representatives of the parties.	