



# BUSINESS

## MANAGED SERVICES AGREEMENT -GENERAL TERMS AND CONDITIONS OF SALE -

### ART. 1 – SCOPE

1.1. The **Integrator** shall undertake to provide all the hardware services described in this contract and hereinafter called the installation.

1.2. The services covered by this contract and its annexes shall exclusively concern the installation, as described in this contract in part A.1 Agreement by name, under CMDB.

### ART. 2 – DEFINITIONS

For the purposes of this contract, the following definitions shall apply:

#### 2.1. Base system

This shall comprise:

- processor(s) (CPU) and multi gateway components for the minimum functions required for telephone traffic, excluding peripherals.
- operator positions,
- power supplies, excluding backup batteries,
- equipment for remote diagnostics,
- base software, excluding any enhancements (added functions) to this software.
- operating system(s) and communications protocol(s) that form an integral part of the base system.

#### 2.2. Operating System

The operating system is software that controls the interaction between applications, processor(s) (CPU) and its peripherals. It also controls resource allocation, priorities, input/output and data management.

#### 2.3. Communications protocol

Standardized description of rules and conventions describing how parts of a network exchange information.

#### 2.4. Peripherals and applications

“Peripherals and applications” shall be taken to mean each application and/or servers connected to the base system, whether integrated or not, enabling the **Client** to expand the minimum functions of the installation.

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#### 2.5. Terminals

“Fixed Terminals” shall be taken to mean all the devices physically connected to the base system, excluding CPUs supporting terminal software, and by “Mobile Terminals” all portable devices.

#### 2.6. Servers

Network components making up hardware and application software designed to provide a required service.

#### 2.7. Cabling

Physical support such as copper pair, coaxial cable or optical fibre, as well as plug boards, excluding aerial links by microwave or optical beam, allowing the interconnection of systems, peripherals and terminals.

- Primary: connections between buildings on the same site, excluding those sections managed by a public operator.
- Secondary: vertical connections between the different stories of a building.
- Tertiary: horizontal connections on one story of a building
- Quaternary: the operators' connection points

#### 2.8. Data Network

The set of all data network components physically or wirelessly attached for information transfer between systems, peripherals and terminals.

#### 2.9. Data Network Components

The hardware and software components such as switches (wired or wireless), routers, firewalls, and hubs that facilitate data- and voice communication.

#### 2.10. Defects

Defects shall be faults which affect the operation of the installation and which are inherent in it

#### 2.11. Service Level Agreement (SLA).

An SLA shall be a description of a set of service levels, defined and measurable, agreed between the **Integrator** and the **Client**.

#### 2.12. Remote Reprogramming.

Remote reprogramming is a change in program of the Base System regarding the group pick-up, internal numbering, in-dial numbering, short codes and phone name, which is remotely carried out

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## ART. 3 – MODIFICATIONS TO THE INSTALLATION

**3.1.** All modifications to the installation shall be covered by endorsements to this contract.

**3.2.** Modifications to the installation shall be taken to mean:

- any expansion or reduction of its capacity;
- any transfer or removal;
- any partial renewal or any change whatsoever.

**3.3.** The fees described in Art. 5 shall be adjusted and shall be applicable from the month following the modification.

## ART. 4 – TERM

This contract shall take effect on the day it is signed or, for a new installation, the day the installation is commissioned (first usage).

It shall be concluded for the current year and for the subsequent five years. It shall then be renewed by tacit agreement from year to year.

## ART. 5 – FEES

**5.1.** The fees shall be invoiced in advance for each period. The invoices shall be payable upon receipt

**5.2.** In each invoice, the amounts of the fees laid down in the particular terms and conditions shall be adjusted in accordance with the following formula:

$$P_n = P_0 \times S_n / S_0$$

where:

**P<sub>0</sub>** = initial fees,

**P<sub>n</sub>** = adjusted fees,

**S<sub>0</sub>** = salaries + social security contributions (labour costs) on which the maintenance fees are based,

**S<sub>n</sub>** = salaries + social security contributions (labour costs) applicable at the time of the adjustment  
The salaries and social security contributions taken into consideration for the adjustment shall be those published by Agoria.

**5.3.** Any services not covered by this contract shall attract a separate invoice, payable on receipt.

**5.4.** If payment is not made within 15 days of the due date, all the sums due from the **Client** shall be automatically increased by the interest rate for debts, as stated in the **Integrator's** general terms and conditions of sale.

**5.5.** The non-payment of fees by the due date shall give rise to formal notice being given to the **Client** and the cessation of any work until the sums due are paid. Furthermore, Art. 10 may be applied.

## ART. 6 - PAYABLE BY THE BUYER

The following list of fees, services and equipment, which is not exhaustive, shall be payable by the **Client**:

### 6.1. External causes

Fees for the repair and/or replacement of equipment which has become defective owing to external causes such as:

- vibration,
- excessive humidity or temperature,
- defects or disruptions, either of the electrical mains, or of telecommunications networks managed by third parties, or any other equipment supplied by the **Integrator**,
- chemical emissions,
- wave or irradiation phenomena,
- incorrect handling,
- strikes, labour disputes, fires and associated perils, storms, lightning, theft, force majeure, acts of terrorism and attacks, water damage, flooding, natural disasters, wind, hail, snow or ice pressure, window breakages.

### 6.2. Consumables such as:

- paper, ink, ribbons, magnetic media (tapes, diskettes, other), optical media (discs, CDs, other), batteries, accumulators,
- compact discs (CD), and any work relating to the replacement of such consumables.

### 6.3. Air conditioning equipment

### 6.4. Fees and taxes such as:

- any fees due to public network operators and/or IBPT or any other official body,
- consumption of electric current,
- any taxes whatsoever



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### 6.5. The following services:

- services to be provided at the request of the Buyer outside normal working hours (see A. MSA - Basic Services, Art. 2.5),
- services relating to initial inspection and, if necessary, repairs when the Buyer takes back an existing installation or when the installation is modified by a third party not appointed by the installer,
- services relating to the modification of the installation made necessary by a public network operator or service company prescribed by IBPT and/or the national and/or European authorities,
- services relating to the modification or upgrading of the installation subsequent to external causes or events for which the manufacturer and/or the **Integrator** cannot be held responsible,
- services relating to the modification and/or improvement of the quality of the installation and network, whatever the reason, for example flows, storage volume and transfer volume, quality of cabling,
- services relating to required upgrades to a higher release of servers, operating systems, software and/or applications, due to an outdated system as a result of the product evolution.
- services provided by the **Integrator** subsequent to a modification made by the Buyer or a third party not appointed by the **Integrator**.
- travel expenses for interventions abroad (outside of Belgium).

**6.6.** Services relating to the diagnosis for the identification of faults whose origin and causes are inherent in equipment, applications and/or networks installed and managed by a third party.

### 6.7. Shipping charges

- shipping charges for equipment sent for repair to the **Integrator**,
- charges resulting from damage or loss due to the transportation of small pieces of equipment sent by the Buyer to the **Integrator**.

If these charges are incurred by the **Integrator**, he shall invoice them on the basis of the usual prices and conditions in force at the time they are incurred.

## ART. 7 - ADDITIONAL TERMS AND CONDITIONS

**7.1.** No defect and/or fault shall entitle the Buyer to suspend or cancel the contract. The rights of the **Integrator** shall not be affected if it becomes ineffective or impossible for the Buyer to use the installation or part of it.

**7.2.** The **Client** shall guarantee the **Integrator** access to the installation in accordance with a contractual schedule. He shall also make available to the **Integrator** all the facilities required to gain access, physically or via tele diagnosis, to all parts of the installation.

**7.3.** The **Integrator** shall reserve the ability to transfer to a third party his rights and obligations resulting from this contract.

**7.4.** The **Integrator** shall only assume his obligations under the terms and conditions of this contract in so far as work is undertaken by him or under his control.

**7.5.** The **Client** shall declare that he is the sole owner of the installation or, if he is not, that he is authorized by the owner or co-owner to subscribe to this contract.

**7.6.** The **Integrator** shall become the owner of any component or equipment taken back for a replacement under the terms and conditions of this contract. Equipment used as replacement during repairs remains the property of the **Integrator** and can at all times be replaced by the equipment repaired.

**7.7.** In the context of a lease with third parties, the remuneration of the Managed Services Agreement for the equipment described in the special terms and conditions is included in the rental.

From the end of the lease, the **Integrator** will invoice the fee for the Managed Services Agreement directly to the **Client** at the beginning of each subsequent semester.

**7.8.** If the **Client** wants to upgrade a system, they shall inform the **Integrator** of it in due time and in writing.



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## ART. 8 – RESPONSIBILITIES

**8.1.** The services provided under the terms and conditions of this contract shall not constitute a guarantee of uninterrupted operation of the installation.

**8.2.** In no case shall the **Integrator** be able to be held responsible for any financial losses whatsoever, such as for example those resulting either from the general malfunctioning of the installation, cost logging systems or other peripherals, servers or passive and/or active elements in a Data Network or from their incorrect usage.

**8.3.** If there is direct or indirect connection to an operator or a service company through interfaces and/or signalling, even if standardized at national or European level, it is possible that the quality of the communications and/or services may not be able to be guaranteed. Moreover, the **Integrator** cannot be held responsible for any lack of quality and/or reduction in services, nor for any financial loss nor any shortfall in earnings resulting from inappropriate routing or programming.

**8.4.** If the installation uses a network and/or cabling of the **Client**, the latter shall guarantee the necessary quality and capacity for the correct functioning of the installation.

**8.5.** In derogation from Article 8.2, if the **Client** chooses the Telephony Fraud Protection option of the Managed Services Agreement, the **Integrator** shall compensate the **Client** for the financial losses resulting from a break-in of the installation by a third party caused by a fault of the **Integrator**. This compensation will amount to a maximum of €30,000, with an exemption of €250. To this end, the **Client** must submit an application for indemnification to the **Integrator** in accordance with the declaration procedure.

## ART. 9 - CANCELLATION

**9.1.** Each of the parties shall be able to cancel the contract at the next expiry date by means of prior notice given by registered letter at least three months before the expiry date.

**9.2.** The contract shall be automatically terminated at the time of the final decommissioning of the installation. The date when the system is considered as 'out of service' can never be prior to the date Telenet Business was officially informed by the customer

**9.3.** In case of final decommissioning of the installation, the **Client** shall be liable to pay fixed and irreducible compensation equivalent to 50% of the fees which have not yet become due. This shall in no case be less than the fees for three months' involvement in the service contract.

**9.4.** In the event that a Software Subscription is applicable that is included in this Managed Services Agreement, the balance of the remaining periods for the Software Subscription will be charged in full in the event of early termination, even if it exceeds the term of the Managed Services Agreement.

## ART.10 - ANNULMENT

**10.1.** Notwithstanding any recourse to the law for the recovery of sums due, the Integrator shall be entitled to unilaterally annul the contract, at the fault of the Buyer, by a simple registered letter in the following cases:

- a. non-payment of one of the sums due under the terms and conditions of this contract seven days following the dispatch of a registered letter giving notice, but to no effect;
- b. non-observance of one of the clauses of this contract;
- c. when the Buyer is declared to be in a state of suspension of payments, bankruptcy, failure or insolvency.

**10.2.** In the cases laid down in Art. 10.1., the **Client** shall be liable to pay fixed and irreducible compensation equal to the fees corresponding to the current period up to the next expiry date of the contract. This shall in no case be less than the fees for 3 months involvement in the service contract or more than the fees for 24 months.