
Current Service Contracts



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CURRENT SERVICE CONTRACTS

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I INTRODUCTION

A. SCOPE AND METHODOLOGY

- This report analyses the characteristics of current standard service contracts in Europe, including:
 - The types of service available from vendors.
 - The contractual responsibilities of the vendors.
 - The contractual responsibilities of the users.
 - The trends in maintenance service.
- Research for the report is based on a study of the maintenance contracts of 19 different hardware vendors, as listed in Exhibit I-1, and is backed up by a limited survey of user views.
- Only standard contracts have been analysed.

EXHIBIT I-1

CONTRACTS STUDIED

- . Amdahl (U.K.) Limited
- . BASF Aktiengesellschaft
- . Burroughs Machines Limited
- . Control Data Limited
- . Ericsson Information Systems
- . Ferranti Computer Systems Limited
- . General Computer Systems (UK) Limited
- . Hewlett-Packard Limited
- . International Computers Limited
- . MAI United Kingdom Limited
- . The Monotype Corporation Limited
- . NCR Limited
- . National Semiconductor (U.K.) Limited (National Advanced Systems)
- . Nixdorf Computer Limited
- . Perkin-Elmer Data Systems Limited
- . Philips Service
- . Prime Computer (UK) Limited
- . Racal-Milgo Limited
- . Rank Xerox (U.K.) Limited

II EXECUTIVE SUMMARY

A. GENERAL

- As one would expect, there is considerable similarity in content among the various contracts studied. Most contain three key sections:
 - A number of general clauses.
 - A statement of the vendor's responsibilities.
 - A statement of the user's responsibilities.
- The main differences between the various contracts lie in the depth of treatment given to each of the above sections. This is, to some extent, reflected in the variation in size of the contracts--ranging from a single page to five pages.
 - A number of vendors have a very specific contract, itemising in considerable detail the level of service that will be provided. This specific document is supported by a separate document that covers the most general conditions. This approach allows considerable flexibility in tailoring a service product to a specific user need.

- Although a number of contracts refer to penalties that can be applied if users in any way fail in their responsibilities, it does not necessarily follow that these clauses will be invoked in all cases.

B. GENERAL CLAUSES

- These represent a 'mixed bag', covering such topics as:
 - Period of validity.
 - Definition of eligible products.
 - Nuclear and aviation applications.
 - U.S. export administration regulations.
 - Insolvency.
 - Applicable law (English, German, etc.).
 - Authority and assignment.

C. STATEMENT OF VENDOR'S RESPONSIBILITIES

I. INTRODUCTION

- This series of clauses is the statement of the service to be provided--it is in fact the legal definition of the product being sold to the customer. It defines precisely what the customer can expect for the agreed price.

- Most contracts divide the vendor's responsibilities into a number of sub-sections:
 - The level of maintenance to be provided.
 - The limits within which it is to be provided.
 - The vendor's protection in case of any nonfulfilment of the contract due to external circumstances.
 - The vendor's liability for injury or damage.
 - Statement of specifically excluded services.

2. LEVEL OF SERVICES TO BE PROVIDED

- The main areas covered in these clauses vary significantly from vendor to vendor but normally cover the following key issues:
 - The times that the standard level of service is available.
 - The frequency of preventive or planned maintenance visits.
 - Agreed response times.
 - Agreed system uptime.
- A number of other clauses (see below) spell out specific exclusions from the service.
- Contracts covering these areas (see Exhibits III-1, III-2, and III-3) show a number of differences in approach:

- Some vendors have separate contracts for different service levels, enabling each contract document to be very specific.
 - Others rely on an attachment to the contract detailing the specific mutually-agreed performance levels, so the contract document itself is much more vague.
 - Others use a 'compromise-solution', leaving blanks in the contract document into which specific performance targets can be inserted.
 - A number of contracts give no undertakings about response times or system availability.
- Vendor G, for example, allows the user to specify the hours of coverage required, e.g. 24 hours, seven days a week, whereas Vendor F specifies a standard cover as being between 9.00 a.m. and 5.00 p.m., Monday through Friday.
 - Response times, although regarded as extremely important by users, are only specified in two cases--Vendors B and C. Vendor B quotes a response time as a matter of hours, compared to the days quoted by Vendor C (see Exhibit III-2).
 - Vendor B goes further by being the only vendor to give a guaranteed system uptime. The guaranteed level varies according to the location of the system, and the vendor is prepared to offer a reduction in charges if the uptime target is not met. This reduction varies from 10% to 100% depending on the level of failure.
 - As far as preventive maintenance (PM) is concerned, the treatment, where the service is offered, is broadly similar from all vendors. A number, such as Vendors C and F, specify a number of tasks to be performed during PM, while

others, such as Vendor H, undertake to carry out such PM as is necessary to maintain its equipment in good operating condition.

- Most vendors stress that the time for carrying out PM should be mutually agreed upon between user and vendor.

3. LIMITING LIABILITY FOR NONFULFILMENT OF OBLIGATIONS

- These clauses are inserted to protect the vendor from events outside his control. The causes specified are: improper use of the equipment, Acts of God, strikes, riots, war, environmental control failure, and government activity.
- Only two vendors extend this clause to protect the customer.
- Again there are two main approaches. A number of vendors catalogue a variety of circumstances, whereas others merely settle for covering failure due to 'causes beyond reasonable control'. Many apply both provisions.

4. LIABILITY FOR DAMAGE AND INJURY

- These are essential, often legally obligatory clauses, detailing the vendor's liability in the case of damage to property, or death or injury of personnel.
- Such clauses only become operative when the damage or injury is the result of negligence on the part of the vendor. There are no specified limits of compensation for injury or death, but strict financial limits are placed on damage to property--ranging between \$62,500 and \$2,500,000 (mainly at the lower end of that range).
- In all cases consequential losses (losses arising because of the failure) are specifically excluded.

5. EXCLUDED SERVICES

- These clauses are sometimes a corollary to those outlining the services that will be provided.
- There are a number of common exclusions: painting or finishing, provision of expendable supplies, moving the equipment, and modifications.
 - A number of vendors do offer those services in the contract but specify that an additional charge 'at the current rate' will be made.
 - Vendor F reserves the right to remove any peripheral from maintenance service if the vendor feels it cannot be refurbished to good condition. One vendor also excludes repairing latent design defects in the equipment.

D. STATEMENT OF USER RESPONSIBILITIES

I. INTRODUCTION

- These clauses are extremely important in ensuring that the agreement is balanced, and that the vendor will not be put under any obligation due to the user's negligence. They are, in fact, like the excluded services clauses, for vendor protection.
- Most contracts cover a number of key areas:
 - Payment: the amount, terms, and the mechanism necessary to alter those terms.
 - Operation of the equipment: operators' standards, volume of usage.

- Environmental conditions.
- Consumable supplies: tapes, ribbons, etc.
- Moving equipment.
- Modifying equipment.

2. PAYMENT

- Understandably, none of these contracts showed details of the maintenance charge. This would usually be shown as an Attachment to the agreement.
- Generally, vendors require payment in advance, the time period varying from one month to one year. A number of vendors have very detailed clauses specifying precisely how payment is to be made (see, for example, Exhibit III-7, Vendor L). By contrast, Vendor O merely agrees to provide service 'from the day following receipt of the Annual Maintenance Premium'.
- As with general business practice, 30 days is the usual period of grace for payment, but one contract specifies 14 days and another only seven days.
- A number of vendors include penalty clauses for late payment, usually an interest charge (see Exhibit III-7, Vendor F). Others specifically raise the possibility of terminating the agreement (Vendor L). Vendor R goes into considerable detail about paying arrears and the process of reinstating service.
- Understandably, most contracts allow for an increase in the maintenance charge. Some (for example Vendor E) catalogue the various expense elements involved in providing service. Others, e.g. Vendor C, merely reserve the right to increase prices. The period of notice to be given varies from 30 days to 90 days.

- One vendor, K, specifically mentions the user's right to terminate the Agreement on receipt of notification of a price increase.

3. OPERATION OF THE EQUIPMENT

- Several contracts place restrictions on the number of hours that the machine may operate within the standard charge. In some cases, this is expressed as a specific number of hours (see Exhibit III-8, Vendor R). Some leave room for agreement with the user (Vendor B)--presumably varying the price accordingly--whereas others mention the possibility of increased usage charges but do not specify the formula for their calculations.
- Some contracts specify the definition of usage (see Vendors B and E), and a number also specify that detailed records should be kept (Vendor J).
- A number of contracts specify that the equipment will be operated by trained personnel, and some further state clearly that those personnel must be under the direct control of the user (see Exhibit III-9, Vendor N).
- One contract, Vendor K, also asks that staff familiar with the programs being used be made available as necessary.
- Virtually all the contracts insist that users adhere to the vendors' defined operating standards. Vendor J, for example, gives a clear outline of user responsibility, while leaving its own options open to vary those operating standards as necessary.
- Some vendors insist that the user carry out a number of basic checks before calling for maintenance support (Vendor M).
- Most standard maintenance contracts exclude moving or modifying the hardware.

III ANALYSIS OF CONTRACTS

A. GENERAL FACTORS

- The range of hardware types covered is very wide--from mainframe computers to terminals and personal computers.
- In terms of contract complexity the range is also wide--from simple, single-page contracts to multipage documents with several appendices. There does not appear to be any direct relationship between the complexity of the contract and the size or value of the equipment to be maintained.
- The most comprehensive and most expensive hardware maintenance available is on the basis of a guaranteed one-hour response seven days per week.
- The lowest level of cover normally available is the return of the equipment to the vendor for repair in its own workshops.
- It must be emphasised that this study is based upon standard maintenance contracts. We understand from our user research that many service vendors are prepared to modify, and frequently do modify, the standard terms in annexes to the standard contract.
- As these variations are legion, we have confined our research to the standard contract. Indeed, one complaint often raised by users is the 'necessary'

complexity of the contract, and the unacceptable amount of time necessary to achieve an acceptable deal.

- INPUT has, on occasion, quoted directly from contracts to illustrate points being made. In the interests of commercial confidentiality, INPUT has not linked specific vendors to particular comments. Copies of contracts have not been included in the report, again to respect commercial confidentiality.
- All comments made are based on the contracts provided to us. It is possible that contracts, or clauses in those contracts, have changed. If this is the case, any vendor recognising an error in a citation or misinterpretation on our part should contact INPUT, and we shall be pleased to contact clients who have received the report to set the record straight.
- By the same token, if any vendors whose contracts are not included feel that they have a contribution to make, they should contact INPUT, and we shall be glad to send out an addendum to the report.
- It should also be noted that, on occasion, the contracts supplied to INPUT may apply only to a specific geographic market. In these cases we have assumed that the general provisions, although not necessarily the specific response times, apply to all markets.

B. TYPES OF MAINTENANCE COVER AVAILABLE

- The variety of maintenance services available ranges from the simple 'return to vendor' to the extreme of having a resident maintenance engineer, necessary in those cases where the equipment is of vital importance to its user.
- The normal service covered by the majority of the contracts studied includes both routine and preventive maintenance service visits by the contractor, and call-in availability of maintenance personnel in case of breakdown.

- Such service is available at standard rates from all the contractors studied during their normal, but variable, working hours.
- If service outside these hours is required, either on a regular or special basis, it is subject to an additional payment.

C. RESPONSIBILITIES OF THE MAINTENANCE CONTRACTOR

I. GENERAL

- It is clear from the contracts that in the majority of cases it is possible for users to obtain nearly any kind of maintenance they require, provided they are willing to pay for it.
- For instance, one company offers the choice of any combination of the following items of maintenance service:
 - Five, six, or seven days per week.
 - One, two, or three shifts per day.
 - On-call response times of two or three hours.
 - Return-to-depot repair.
- It is to be expected, however, that service outside normal working hours will be much more expensive than the standard rate.
- It should be noted that three of the contractors reserve the right to carry out their maintenance through agents.

- Exhibit III-1 includes extracts from contracts illustrating various aspects of cover provided.

2. STANDARD MAINTENANCE

- Nearly all the companies have a 'standard' level of maintenance cover that provides for both routine and on-call service. This normally covers the following:
 - Preventive maintenance in accordance with a schedule set by the contractor.
 - On-call emergency service during prime shift, which is defined differently by each contractor but covers an eight- or nine-hour period between 07.00 and 18.00 each working day.
 - In only two cases is a response time to such a call guaranteed: once as two hours and once as three hours.
 - The necessary spare parts are generally provided by the contractor, with any parts replaced becoming his property.
- Exhibit III-2 demonstrates the handling of response times, and Exhibit III-3 deals with preventive maintenance.

3. LIABILITY FOR NONFULFILMENT

- Fifteen of the maintenance contracts include clauses limiting liability for nonfulfilment. This is usually achieved by a clause such as: 'any cause whatsoever beyond our reasonable control'.

EXHIBIT III-1

EXAMPLES OF TYPES OF COVER AVAILABLE

VENDOR B

- 'The supplier shall provide maintenance as specified below for a continuous eight-hour period during the supplier's normal office hours, except on shortened work days. Maintenance during other hours as well as duty and emergency maintenance will be provided to the extent permitted by access to qualified personnel at the supplier's standard prices and or his standard conditions.'

VENDOR C

- Repair Centre Maintenance.

'The services specified above are performed at a designated field repair center during's normal business hours, 9.00 a.m. to 5.00 p.m. Monday through Friday, excluding public holidays.'

- On-Site Repair Service.

'Period of coverage. A scheduled weekly visit shall be made by "Vendor C" when any customer has "Vendor C's" products for repair. The day of the visit shall be mutually agreed upon by "Vendor C" and customer. Although the particular hour of the visit cannot be specified, repairs shall be made during "Vendor C's" normal business hours, 9.00 a.m. to 5.00 p.m. on the scheduled weekday, excluding public holidays.'

VENDOR K

- General terms applicable to all types of service.

Continued

EXHIBIT III-1 (Cont.)

EXAMPLES OF TYPES OF COVER AVAILABLE

'The maintenance service will be available during vendor's local normal working hours on Mondays to Fridays, excluding bank and all other general or local public holidays, and will also be available (to the extent specified in the schedule) during such additional periods (if any) as are specified in the schedule and which may subsequently be specified in writing following acceptance of a request from the customer for an extension of availability. Any work which the customer requests Vendor K to do outside a period of availability of the maintenance service will fall outside its scope and in every case where Vendor K is willing to meet such a request it will be entitled to charge at its then current standard rates for the hours worked by its engineer and for time spent travelling to and from site.'

- Maintenance Agreement.

Engineering cover necessary (tick or complete as required):

- a. Normal Vendor K working hours 9 a.m. to 5 p.m. Monday to Friday except public holidays.
- b. Six day cover 9 a.m. to 5 p.m. Monday to Saturday except public holidays.
- c. Others (specify details).

VENDOR G

Basic weekly coverage. (e.g. 24 hours, 7 days per week.)

Customer to specify and reach agreement with Vendor G.

Continued

EXHIBIT III-1 (Cont.)

EXAMPLES OF TYPES OF COVER AVAILABLE

VENDOR N

- Vendor N's basic maintenance charges provide for emergency call service as necessary, Monday to Friday (excluding national or local holidays), during a daily prime shift, defined as any consecutive 8 hours between 8.30 a.m. and 5.30 p.m. as mutually agreed by both parties.....If the prime shift begins before 8.30 a.m. or ends after 5.30 p.m. a premium of 10% of the basic maintenance charges will be payable in addition.

VENDOR F

- (i) If this is a one-shift maintenance contract, service will be provided during an eight-hour period between 9.00 a.m. and 5 p.m. Monday to Friday inclusive (except public holidays). Any service which the supplier agrees to provide at the customer's request outside these hours will be invoiced to the customer at the supplier's current back-up maintenance (hourly) rates.
- (ii) If this is a two-shift maintenance contract, service will be provided between 9 a.m. and midnight Monday to Friday exclusive, except public holidays (as in Schedule i).
- (iii) If this is a three-shift maintenance contract, there are no restrictions on the hours during which service will be provided, except weekends and public holidays.
- (iv) Additional coverage for weekends will be quoted on an 'as available' basis.

Continued

EXHIBIT III-1 (Cont.)

EXAMPLES OF TYPES OF COVER AVAILABLE

VENDOR M

No comment made about operational hours.

VENDOR H

(a) The basic monthly maintenance charges provide for on-call maintenance service during the Principal Period of Maintenance which may be scheduled by customer as any (9) consecutive hours per day between 07:00 and 18:00 hours, Monday through Friday, excluding public holidays.

(b) For OEM equipment.

'Principal Period of Maintenance shall mean eight and one half (8.5) consecutive hours per day between 09:00 and 17:30, Monday through Friday, excluding public holidays.'

VENDOR Q

(a) The Maintenance Period is stated in the machine schedule and is that period during which the customer is entitled to maintain services without additional cost.

VENDOR J

- Applications Terminals.

Option A1: Up to six-day maintenance available 09:00-17:00 Monday to Friday inclusive plus Saturday, excluding public holidays.

Continued

EXHIBIT III-1 (Cont.)

EXAMPLES OF TYPES OF COVER AVAILABLE

- Option B: Up to five-day maintenance available 09:00-17:00 Monday to Friday, excluding public holidays.
- Option C: Service limited to any two preselected days between Monday and Thursday 09:00-17:00, excluding public holidays.
- Option A4: Up to six-day return by Vendor J for workshop repair available 09:00-17:00 Monday to Friday inclusive plus Saturday, excluding public holidays.
- Option B4: Up to five-day return by vendors for workshop repair available 09:00-17:00 Monday to Friday, excluding public holidays.
- Option E: Customer return to Vendor J workshop 09:00-17:00 Monday to Friday, excluding public holidays.
- Option A9: Up to six-day maintenance available 09:00-17:00 Monday to Friday inclusive plus Saturday, excluding public holidays.
- Option B9: Up to five-day maintenance available 09:00-17:00 Monday to Friday, excluding public holidays.
- Option S: Vendor support to a customer's own first-line maintenance service.

NB The similarities between option A1, B, and A9, B9 are modified by a specified number of 'maintenance units'. The meaning of these units is not made clear in the contract.

Continued

EXHIBIT III-1 (Cont.)

EXAMPLES OF TYPES OF COVER AVAILABLE

- Equipment Maintenance Service.

Vendor J will provide the Vendor's Equipment Maintenance Service ('the Service') for the equipment listed overleaf during the local Vendor J prime maintenance period in force from time to time, Monday to Friday, excluding local public holidays. The exact hours will be agreed upon with the local Service Manager.

EXHIBIT III-2

TREATMENT OF RESPONSE TIMES

VENDOR B

'The supplier guarantees to meet the following average response times, and that no response time will exceed the specific average by more than one hour:

- Maintenance Zone I: 2 hours
- Maintenance Zone II: 3 hours
- Maintenance Zone III: 4 hours'

VENDOR C

(a) Field Repair Centre Maintenance.

'The turnaround time for the service shall be three (3) Vendor C working days from the time the product is received at the FRC until return shipment to the customer from the FRC. Repairs involving intermittent failures may require an extended turnaround time.'

(b) On-Site Product Maintenance.

'Response time for this service shall be based upon the customer's location in Vendor C's designated travel zone as shown in Table I.'

Zone	Radial Distance from SRO to Customer Site	Response Time
1, 2, 3	0-100 miles	Next coverage day
4, 5	101-200 miles	Within 2 coverage days
6	201-300 miles	Within 3 coverage days
Others	Beyond 300 miles	Established at time of order

Continued

EXHIBIT III-2 (Cont.)

TREATMENT OF RESPONSE TIMES

(c) Basic System Maintenance

'Response time for Remedial Maintenance under BSMS shall be measured in elapsed coverage days from the day a service request is received to the day a Customer Engineer arrives at the customer's site. BSMS provides response the next coverage day in travel zones 1, 2 or 3 (within 100 miles) of a Primary Service Responsible Office as specified in the Computer Systems Support Services Data Sheet in effect at the time of service.'

Standard Coverage Per-Call Option

'Response on BSMS can be improved on a per occurrence basis for an additional charge. Services provided under this option are identical to the regular BSMS except that the period of coverage is between 9.00 a.m. and 9.00 p.m. Monday through Friday, and response time shall be measured in elapsed coverage hours from the time a service request is received to the time a Customer Engineer arrives at the customer's site.'

VENDOR I

- Casual Response

Response within normal working hours, typically within two to three normal working days.

- Normal Response

An engineer will leave the service centre in response to a call received during normal working hours on the same day or the next normal working day.

Continued

EXHIBIT III-2 (Cont.)

TREATMENT OF RESPONSE TIMES

- Fast Response--Normal Hours

An engineer will leave the service centre in response to a call received between the hours of 08:30 to 15:30 within one hour.

For a call received after 15:30 hours an engineer will leave the service centre on the same day or the next normal working day at discretion.

- Fast Response--All Times

An engineer will leave the service centre within one hour for calls received during normal working hours of normal working days and within three hours at all other times.

VENDOR L

'The supplier will use reasonable endeavours to provide service promptly having regard to the distance of the installation site to the supplier's nearest service office and availability of its engineering personnel.'

VENDOR O

'The response time is detailed in the schedules.' Time to be agreed upon between customer and supplier and written into the service agreement.

EXHIBIT III-3
PREVENTIVE MAINTENANCE

VENDOR C

- 'Basic System Maintenance

PREVENTIVE MAINTENANCE

Preventive Maintenance shall include cleaning, adjusting, inspecting, and testing procedures designed to reduce product failure and/or extend useful product life. This maintenance shall be performed according to the procedures and at the frequencies recommended by Preventive Maintenance shall be performed during the period of coverage on a mutually agreed upon schedule or coincident with Remedial Maintenance.'

VENDOR F

- (i) '..... shall carry out such regular preventive checks as may be required to keep the hardware in good operating condition, in accordance with the specific needs of the individual item of hardware, as determined by Preventive Maintenance will include lubrication, and any adjustments, modification, repairs or replacement of unserviceable parts that may consider necessary.'
- (ii) All Preventive Maintenance visits shall be performed at a time agreed with the Buyer during the Contracted Hours of Service, unless requested otherwise by the Buyer, in which event the Buyer will incur additional charges at the then current published rates.
- (iii) shall provide during the Contracted Hours of Service, all engineering changes, including safety changes on the hardware, which it deems to be appropriate.'

Continued

EXHIBIT III-3 (Cont.)

PREVENTIVE MAINTENANCE

VENDOR H

'..... provide labour and parts for preventive maintenance, provided on a scheduled basis during the Principal Period of Maintenance, and to maintain the equipment in good operating condition.'

VENDOR L

'..... will perform routine system checks by running the Supplier's Test Programs periodically. All preventive maintenance will be performed during normal working hours 9 a.m. to 5.30 p.m. Monday to Friday inclusive. A mutually acceptable time for such preventive maintenance within these hours will be arranged between the Supplier and the Customer.'

- Other causes which are used to limit liability for nonfulfilment of the contract include:
 - Industrial disputes.
 - Force majeure.
 - Use of nonstandard supplies.
 - Refusal of licence.
 - Telecommunications authority requirements.
 - Government requirements or actions.
 - Civil unrest, commotion, etc.
 - Impossibility of obtaining materials.
- Examples of liability for nonfulfilment clauses are given in Exhibit III-4.
- Only two of the contracts specifically limit liability of the customer as well as the vendor.

4. LIABILITY FOR DAMAGE AND INJURY

- Fourteen of the nineteen contracts contain specific provisions relating to the liability of the companies for damage and/or injury.
- In all of these cases it is clearly stated that liability will only be accepted for damage to the user's property and/or injury to his employees which is the direct responsibility of the contractor.

EXHIBIT III-4

LIABILITY FOR NONFULFILMENT CLAUSES

VENDOR C

- (a) '..... shall be under no obligation to furnish service under the agreement should repair be required because of:
- (1) Improper use;
 - (2) Natural disasters such as flood or earthquake;
 - (3) Strikes, riots, or acts of war or nuclear disaster;
 - (4) Repairs, maintenance, modification, or relocation, and reinstallation made by others than (Vendor's) personnel or without (Vendor's) supervision and approval;
 - (5) Unusual shock or electrical damage, accident, fire or water damage, neglect, air conditioning failure, humidity control failure, a corrosive atmosphere harmful to electronic circuitry, damage during transportation by the customer, or causes other than ordinary use; and
 - (6) Failure by customer to maintain the site specifications recommended by (Vendor).....
- (b) (Vendor) shall not be responsible for failure or delay in the performance of its obligations hereunder due to causes beyond its control.'

VENDOR E

'In the event of the service being required because of the fault or the negligence of the customer, its employees, agents or licensees or in the event of service being required other than for reasons of fair wear and tear then (Vendor) shall have the right to make additional charges.'

Continued

EXHIBIT III-4 (Cont.)

LIABILITY FOR NONFULFILMENT CLAUSES

VENDOR F

'..... shall not be liable for delays in performance, or non-performance, due to causes beyond its reasonable control.'

VENDOR H

'In addition to the total contracted monthly maintenance charges provided herein, customers agree to pay: labour, parts, and other expenses for maintenance as repair due to causes not attributable to normal wear and tear.'

VENDOR J

'The service will not include the following, which may be provided at extra charge:

- (a) Any modifications or additions to the equipment;
- (b) Remedying any defects which are not the result of normal wear and tear;
- (c) Remedying defects which result from the customer's failure to follow (Vendor's) instruction or advice;
- (d) The reconditioning or replacement of any complete item of the equipment due to normal wear and tear or damage (other than through the fault or neglect of (Vendor), or
- (e) The maintenance, repair, or replacement of media or any item which is by its nature expendable, e.g. print heads.

Neither party will be liable for delay in performing obligations or for failure to perform obligation if the delay or failure results from any of the following

Continued

LIABILITY FOR NONFULFILMENT CLAUSES

(whether happening in the United Kingdom or elsewhere): force majeure, Act of God, refusal of licence (including refusal or revocation of any Post Office consent in respect of Data Communications equipment) or other governmental act, fire, explosion, accident, industrial dispute, impossibility of obtaining materials or anything beyond the party's control.'

VENDOR P

'The contractor shall not be liable for any loss or damage caused by delay in the performance or non-performance of any of its obligations hereunder where the same is occasioned by any cause whatsoever that is beyond the contractor's control. Should any such event occur, the contractor may suspend this contract without incurring any liability for any loss or damage thereby occasioned.'

VENDOR Q

- (a) 'Neither party shall be responsible or liable to the others in any way for fault or delay in the performance of any of its obligations hereunder (except the payment of money) caused by Act of God, fire, flood, war, strike, industrial disturbance, government action, or regulations, failure or delay in obtaining raw materials, utilities, machinery or facilities, or for any other causes whatsoever beyond its control.'

- In particular, responsibility for consequential losses of any kind is excluded, as are loss of business or profits and a number of other related items. This clause is particularly significant in view of the increased machine dependency of modern business.
- In the case of property damage, the level of responsibility is usually limited either to a fixed maximum amount or to the amount of the maintenance payments that have actually been paid under the contract.
- There is a wide range of maximum amounts specified, from \$62,500 to \$2,500,000.
- Exhibit III-5 gives examples of the damage and injury clauses used in a number of contracts.

5. EXCLUSIONS

- Twelve of the contracts studied include lists of services that are not specifically covered under standard maintenance arrangements.
- The main exclusions are:
 - Painting or finishing of the equipment.
 - The provision of expendable supplies, e.g. tapes, disks, etc.
 - Moving of the equipment.
 - Any work on the electrical systems external to the equipment.
 - Any maintenance work that falls outside the definition of 'fair wear and tear', i.e. damage.

EXHIBIT III-5

LIABILITY FOR DAMAGE AND INJURY CLAUSES

VENDOR C

- (a) '(Vendor) shall indemnify Customer in respect of personal injury to or death of any person caused by (vendor's) negligence.
- (b) Where damage to property is caused by (Vendor's) negligence, (Vendor) shall make good such damage to property provided that:
 - (1) (Vendor's) total liability for damage to customer's property shall not exceed 100,000 pounds.
 - (2) (Vendor) shall not be liable to Customer for any loss of profit or of contracts or any other consequent loss or damage.'

VENDOR G

- 'Limitation of Liability
 - (1) (Vendor) does not exclude or restrict its liability for death or personal injury to the extent it results from the negligence of (Vendor) or (subject to clause 5 below) of its employees, agents or sub-contractors.
 - (2) (Vendor) does not exclude liability for direct physical damage to tangible property of the customer (or, by way of contribution, of third parties) to the extent it results from the negligence of (Vendor), or (subject to clause 5 below) of its employees, agents or sub-contractors, nor its liability in respect of any implied right to transfer ownership or give possession, or assurance of quiet possession, but otherwise its liability in these respects shall be subject to the provision of clause 4 below.

Continued

EXHIBIT III-5 (Cont.)

LIABILITY FOR DAMAGE AND INJURY CLAUSES

- (3) (Vendor) does not exclude liability for any statements, advice or recommendations which are made, given or confirmed, in writing signed by a director of (Vendor), but its liability in this respect shall be subject to sub-clause 4 below. (Vendor) shall not be under any liability whatever in respect of any other statements, advice or recommendations, by (Vendor), its servants or agents, whether oral or in writing, and whenever made, given or confirmed.
- (4) Subject to sub-clause 1 above, (Vendor) shall not be liable.
- (a) For economic loss (including loss of profits, business, good will, revenue or anticipated savings); any third party claim against the customer (except as provided in sub-clause 2 above); nor any damages for indirect, special or consequential loss or damage, including, but not limited to loss of stored data; nor
- (b) To pay to the Customer or at all any damages in excess of thirty-six times the monthly maintenance charge in effect for the equipment.

Whatever the circumstances and whether liability arises in contract, tort (including negligence) or otherwise, whether for breach under the maintenance agreement or for any act, omission, statement, advice or recommendation of (Vendor), its employees, agents or sub-contractors, howsoever the loss or damage may arise and whether foreseeable or in the contemplation of the parties or not.

Continued

EXHIBIT III-5 (Cont.)

LIABILITY FOR DAMAGE AND INJURY CLAUSES

- (5) The clause shall not confer on the customer any right or remedy to which it would not otherwise be legally entitled.'

VENDOR K

● 'Liability

- (1) (Vendor) will be liable for the making good of damage to property caused by negligence on its part or on the part of its employees, agents and sub-contractors while carrying out work pursuant to the Agreement but its maximum liability is limited to 1,000,000 pounds.
- (2) (Vendor) will be liable, without limitation on the maximum amount of its liability, to indemnify the customers in respect of any claim arising from any injury to or the death of any person where and to the extent that the injury or death is caused by negligence on the part of (Vendor), its employees, agents or sub-contractors while carrying out work pursuant to the Agreement.
- (3) Except in the circumstances and to the extent stated in clauses 1 and 2, (Vendor) will not be liable to compensate the customers for any loss or expense sustained or incurred which arises directly or indirectly for a breach by (Vendor) of any express or implied term of the agreement or from negligence on the part of (Vendor), its employees, agents or sub-contractors in connection with the agreement. In particular, and without prejudice to the generality of the foregoing the customer will not be entitled to damages as compensation for expense or for loss of profit, business, anticipated savings or other kinds of consequential loss.'

EXHIBIT III-5 (Cont.)

LIABILITY FOR DAMAGE AND INJURY CLAUSES

VENDOR O

'The Supplier has insured against the legal liability in respect of bodily injury or death and loss of or damage to property caused by any equipment or articles sold, repaired or maintained by The Supplier.'

- Modification of or additions to the equipment.
- Repair necessitated by external events.
- In most of the above cases the contractor would be prepared to provide the service, but at additional cost.
- There are instances (Vendor F, for example) where suppliers will abdicate their responsibility for maintenance if their hardware has been attached to other hardware without prior written consent. This type of clause is almost certain to annoy users in an era of plug-compatibility and multivendor sites. Indeed, in other INPUT studies, users frequently cite conflict with and among vendors in this type of situation as a prime irritant.
- Examples of exclusion clauses used in a number of contracts are shown in Exhibit III-6.

D. RESPONSIBILITIES OF THE USER

I. PAYMENTS

- None of the contract conditions includes details of the actual amounts to be paid. These would normally be included in an attachment to the contract itself, which would refer to a specific equipment configuration and site.
- Most of the contracts provide for a fixed cost of maintenance per month or year. However, five of the companies require extra payments if the equipment is used for longer than one shift. This excess usage is generally specified as anything over 'agreed operating time' or, in one case, as any usage in excess of 2080 hours per year.

EXHIBIT III-6

EXAMPLES OF EXCLUSION CLAUSES

VENDOR B

- 'The maintenance undertaking does not include the following:
 - (a) External (in relation to the hardware) electrical installation.
 - (b) Changes or alteration of hardware function other than the Supplier's standard updatings.
 - (c) Installation, removal or relocation of hardware.
 - (d) Procurement of peripheral units or operating accessories.
 - (e) Painting or surface treatment of hardware or procurement of materials for this purpose.
 - (f) Repair or other service necessitated by improper use, use of operating accessories that do not comply with the Supplier's specifications, attempts to repair or modifications, improper acts, omissions or negligence on the part of the Customer, his personnel or a third party.
 - (g) Repair or other service necessitated by external circumstances, e.g. failure or fluctuation of the electric power supply or air conditioning, accident or other circumstances beyond the Supplier's control which cannot be attributed to normal use of the hardware.'

VENDOR C

- '(Vendor's) services do not include:
 - (1) Operating supplies and consumables.
 - (2) Refinishing the products or furnishing materials for that purpose.
 - (3) Electrical work external to the products.
 - (4) Maintenance of accessories, attachments or products not specified herein or on subsequent orders, or
 - (5) Any other services not specifically described herein.'

Continued

EXHIBIT III-6 (Cont.)

EXAMPLES OF EXCLUSION CLAUSES

VENDOR F

- 'The services to be provided do not include:
 - (i) Maintenance of Hardware which is not supplied by (Vendor), except by prior agreement between (Vendor) and the Buyer.
 - (ii) Maintenance of any Hardware which has been moved, adjusted, modified or attached to other hardware, without (Vendor's) prior written consent.
 - (iii) Electrical work external to the Hardware.
 - (iv) Repair of damage resulting from accident, removal, neglect, misuse, failure of electrical power, air conditioning or humidity control, or caused outside the ordinary intended use of the Hardware.
 - (v) Repair or replacement of consumable items or accessories, e.g. printer ribbons, disk packs, magnetic tapes, etc.

If so requested by the Buyer (Vendor) shall use its best efforts to carry out (or to appoint a sub-contractor to carry out) the above services at an extra charge.

If a peripheral, through excess wear and tear, cannot be refurbished to a maintainable condition, (Vendor) may exclude or remove that peripheral from the Maintenance Service and the charge will be reduced accordingly. (Vendor) may at its discretion continue to maintain an excessively worn peripheral, which will be subject to additional charges. (Vendor) will advise the Buyer by three months' prior written notice if the peripheral is considered to be excessively worn.'

Continued

EXHIBIT III-6 (Cont.)

EXAMPLES OF EXCLUSION CLAUSES

VENDOR H

- Sole clauses different from foregoing:
 - '(iv) Factory overhaul or refurbishment of equipment.
 - (v) Repair or equipment required because of latent or design defects in the equipment.'

2. PAYMENT TERMS

- In five of the contract documents no terms of payment are specified, though it must be assumed that they would be in an attachment to the contract itself.
- In all other cases it is specified that payment shall be made in advance for standard maintenance cover.
- In those cases where additional payments can become due for nonstandard services it is normal for such payments to be payable in arrears.
- Examples of payment terms specified are shown in Exhibit III-7.
- It is worth noting that in half of the cases it is specified that payment is to be made annually in advance.
- Nine of the contractors reserve the right to impose penalties for late payments. These penalties range from 2-4% over bank base rate to a flat 2% per month. In a number of cases, service is also suspended while payment is due.

3. PRICE VARIATION AND NOTICE PERIODS

- One point of major interest to the user is the question of subsequent price rises after the original contract is signed. All of the vendors whose contracts mention this point provide information on the possible timing of increases, but none of them can give any indication of the amount.
- Seven of the contractors guarantee fixed maintenance prices for the first year, with between 30 and 90 days' notice of price increases thereafter. These are in general the same contractors who provide for a minimum maintenance period of one year and who require one year's payment in advance.

EXHIBIT III-7

PAYMENT CLAUSES

VENDOR C

- 'a. Charges for services shall be invoiced in advance, as specified herein and on any subsequent orders. Any administration charge shall be invoiced in advance or as soon as it becomes applicable. Invoices for other charges described (elsewhere) shall be submitted as the charges are incurred.
- b. (Vendor) shall have the right to increase its minimum invoice amount provided that (Vendor) has notified the Customer in writing at least 60 days prior to applying the new minimum.
- c. The customer shall pay all invoices issued under this agreement within 30 days from the date of the invoice.'

VENDOR E

'CHARGES.

- I. Charges quoted by (Vendor) as set out on the order form annexed hereto are those prevailing at the date of this Agreement. These charges may be varied by (Vendor) in the event of any increase in the costs of spare parts, labour costs, travel expenses and taxes of whatever kind. (Vendor) shall give the customer three months' advice in writing of such increase except in the case of government action where such increases shall at (Vendor's) discretion have immediate effect.

Continued

EXHIBIT III-7 (Cont.)

PAYMENT CLAUSES

2. All charges quoted are exclusive of Value Added Tax which will be shown at the rate prevailing at the date of invoice.

PAYMENT.

3. Unless otherwise agreed, the Agreement prices shall be paid within 30 days from the date of invoice. The date of payment hereunder shall be deemed an essential condition of this Agreement.'

VENDOR F

'PAYMENT.

All invoices are payable in full within 30 days from the date of invoice.

If the buyer fails to pay within 30 days (Vendor) reserves the right to charge interest from the date of invoice at 3% above the then base lending rate of the (Bank).'

VENDOR J

(APPLICATION TERMINALS).

'Charges payable in accordance with (clauses above) are payable annually in advance on the first day of the quarter (1st January, April, July or October) following the payment commencement date.'

'(Vendor) will give notice of any changes in the terms, condition, and charges payable for the following year in sufficient time to enable the customer to exercise his right of termination on any annual renewal date.'

Continued

EXHIBIT III-7 (Cont.)

PAYMENT CLAUSES

VENDOR K

(RIGHT OF TERMINATION SUB-CLAUSE ONLY).

'The customer will be entitled within 14 days of service of a notice of increase in the maintenance charges payable to terminate the Agreement by written counter-notice to (Vendor) to take effect on the date the increase would otherwise have taken effect.'

VENDOR L

'(a) The quarterly charges set out herein are due payable quarterly in advance (apportioned as may be appropriate with respect to the first and last such payments) on the first days of January, April, July, and October in each year. All other charges will be invoiced by the Supplier to the Customer and payment shall be due 30 days after the date of invoice, Supplier shall have the right to terminate this agreement if the Customer upon 15 days written notice fails to make payments due hereunder

'(b) The Supplier reserves the right to vary the charges hereunder at any time after the end of the first year upon giving 90 days prior notice in writing of such variation to the Customer.'

VENDOR O

'The Supplier shall provide the maintenance service to the Customer in respect of the equipment comprised in each schedule for a period of one year from the day following receipt of the annual maintenance premium.'

Continued

EXHIBIT III-7 (Cont.)

PAYMENT CLAUSES

VENDOR P

'Payment of the charges shall be made by the Owner within seven days of the date of invoice which shall be rendered (variable time) in advance.'

VENDOR R

- 'e) The Supplier reserves the right to automatically withhold maintenance service in the event of undue delay in payment by the User or in the event of breach of User's obligation under this agreement. Service may be rendered at the Supplier's discretion provided that all arrears are paid in full.'

- Three of the remainder undertake to give 90 days notice of any increase in price while one of the vendors undertakes that there will not be more than one increase during any 12 month period.
- Vendor J has an interesting approach, in which the user is offered sufficient time to cancel the agreement following a price change. Vendor K gives the customer 14 days after notification in which to cancel if he so wishes.

4. EQUIPMENT OPERATION

- Most maintenance contracts include a requirement that the equipment be operated in accordance with the manufacturer's instructions and that certain checks and tests be carried out by the user before the maintenance engineer is called.
- In a few cases, customer obligations are not specifically listed, but are implied by the wording of the vendor's responsibilities, i.e., service will not be provided if the user has not, for example, maintained a proper operating environment.
- Examples of usage clauses are shown in Exhibit III-8.
- In five of the contracts it is also a requirement that the equipment be operated by trained personnel and in four cases that these personnel be employees of, or under the control of, the user.
- In nearly every case it is stated that the maintenance and adjustment of the equipment must be carried out only by the contractor's personnel.
- In fourteen out of the nineteen contracts studied the contractors maintain the right to withdraw maintenance cover if anybody but their own personnel adjusts or tries to maintain the equipment.

EXHIBIT III-8

USAGE CLAUSES

VENDOR B

1. The specific periodical fees apply to the operation of the units for a normal, agreed-upon number of hours ("operating time") per calendar month.

"Operating time" shall mean the time during which the system is in operation ("power on"). Power off for periods shorter than six hours shall be regarded as power on. "Unit" shall mean a separately priced unit. Should the operating time provided for by the terms of the agreement not be fully utilised, non-utilised time shall not be carried forward to subsequent calendar months.

2. If more than one unit of the same type and model is included in a given system, and if all are in operation but during different lengths of time during an entire calendar month, each such unit shall be charged in accordance with the average operating time.
3. Should the operating time for a given unit regularly exceed the normal, agreed-upon number of hours per calendar month, so as to fall within a higher operating time group as specified (elsewhere), then the supplier for each operating time group exceeded may increase the specified fee chargeable for the month in question by the percentage specified (elsewhere).
4. The customer shall, as soon as possible after the end of each calendar month, report to the supplier if the agreed-upon operating time for any unit has been exceeded by more than 20% during the past calendar month. If the supplier furnishes a form for such purpose, that form shall be used.'

Continued

EXHIBIT III-8 (Cont.)

USAGE CLAUSES

VENDOR C

'USAGE LEVEL CHARGE.

On specified electromechanical devices, additional service charges shall be assessed based upon the usage of the unit as measured by an internal meter. The customer shall provide meter readings on a periodic basis. These usage charges may be invoiced separately.'

VENDOR E

'USAGE.

The agreed maintenance charge applied to a usage of up to 176 hours and vendor reserves the right to make additional charges in the event of extra usage. Usage is defined as the period of time during which the equipment is switched on.'

VENDOR J

'The customer at (Vendor's) request will keep a record of use of the equipment on the (Vendor's) form, and permit the (vendor) to inspect the records at reasonable times.'

VENDOR K

'Basic maintenance charges are set by (Vendor) at rates which are designed to meet the requirement of service for units operating under a standard work

Continued

EXHIBIT III-8 (Cont)

USAGE CLAUSES

load for the type of units involved. Accordingly, notwithstanding anything else in these terms, (Vendor) reserves the right to increase the amount of all or any basic maintenance charges where either

- (a) Special arrangements specified as such for this purpose in the schedule apply to the planned use of the units, or
- (b) The planned use of the units shall exceed any level or levels specified for this purpose under the heading of "special arrangements" in the schedule.'

VENDOR L

- '(b) In the event that the Customer uses the equipment on a regular basis for shift periods which exceed the number of shifts for which maintenance is provided for in this Agreement then upon giving 30 days prior notice in writing the Supplier may at its option increase the quarterly charges payable hereunder to the rate applicable to maintenance for such greater number of shift periods or terminate this agreement. The customer agrees to notify the Supplier without delay of any increased use.'

VENDOR N

'If the system is used in any month for a period in excess of the prime shift and any extended period falling within that month, then the customer will pay an additional charge for each such excess hour at (Vendor's) rate then current, and will allow reasonable additional time during normal business hours for preventive maintenance by (Vendor). The time during which the system is in

EXHIBIT III-8 (Cont.)

USAGE CLAUSES

use shall be taken to be the time that power is on at the central processor but shall not include any time that the system is under (Vendor's) control for maintenance or repair.'

VENDOR R

'The equipment covered by the specification will be subject to an additional maintenance charge if the number of hours worked in any 12-month period exceeds 2,080 hours. This additional maintenance charge will be the subject of separate negotiation between the Supplier and the User but will not exceed 5% of the current annual maintenance fee for each 100 hours (or part thereof) in excess of 2,080 hours.'

- In seven of the contracts it is a condition that the vendor's standard diagnostic routines be run by the user before the call-out service is used. In three cases the contracts provide for the possibility of extra payments if the diagnostics are not run.
- In a number of cases, the vendor insists that his written consent be obtained before moving, or in any way altering the hardware. This condition is sometimes lightened by the vendor undertaking not to 'unreasonably withhold that permission'.
- Vendor M applies a particularly restrictive clause, insisting that all software and terminal equipment not supplied by them have first been checked and restored. Again, this raises the 'finger-pointing' issue so disliked by users.
- See Exhibit III-9 for relevant extracts from contracts.

5. ENVIRONMENTAL CONDITIONS

- In ten of the contracts it is a requirement that the environmental conditions specified by the contractor must be maintained.

6. SUPPLIES

- In most cases the maintenance contractor requires some say in the type and quality of the supplies (paper, tapes, disks, cassettes, printer ribbons, etc.) that will be used with the equipment.
- In eight of the contracts the contractor excludes the repair of faults caused by the use of nonapproved supplies or states that such repairs will only be carried out at additional cost.
- In eleven cases out of nineteen it is a specific condition of the provision of maintenance cover that only supplies supplied or approved by the contractor be used.

EXHIBIT III-9

EQUIPMENT OPERATION CLAUSES

VENDOR C

'RESPONSIBILITIES OF THE CUSTOMER.

a. Site Environment

The Customer shall maintain the site in conformance with (Vendor's) site specifications as defined in the appropriate system site preparation document. Should product malfunctions occur as a result of operation outside these site environmental specifications, the Customer shall be subject to additional charges. (Vendor) shall notify the Customer in writing upon discovering any such deficiency.

b. Access

The Customer shall provide (Vendor) with the following:

1. Access to the products covered under (Agreement).
2. Adequate working space and facilities within a reasonable distance of the product.
3. Access to and use of all information and facilities determined necessary by (Vendor) to service the products.

c. Operating procedures

'The customer shall follow routine operator procedures as specified in the (Vendor) operating manuals for the products.'

Continued

EXHIBIT III-9 (Cont.)

EQUIPMENT OPERATION CLAUSES

VENDOR E

'The Customer shall take care of the equipment, shall use it in suitable premises and under suitable conditions and shall follow such instruction as (Vendor) gives from time to time. This is an essential condition of the agreement.'

VENDOR F

'BUYER'S RESPONSIBILITIES.

The buyer shall:

- (i) Use the hardware correctly in accordance with (Vendor's) published operating procedures, and promptly and regularly carry out all operator's maintenance routines as and when specified.
- (ii) Use the hardware with operating supplies and media which are approved by (Vendor).
- (iii) Not allow any persons other than (Vendor) personnel or sub-contractors approved by (Vendor) to adjust, repair or maintain the hardware except for the operator's maintenance routines, as specified (above).
- (iv) Notify (Vendor) immediately it is aware that the hardware needs maintenance or is not operating correctly.

Continued

EXHIBIT III-9 (Cont.)

EQUIPMENT OPERATION CLAUSES

- (v) Constantly maintain the environmental conditions as recommended by (Vendor).
- (vi) Not make any movement of, alteration, addition or attachment to the hardware, except with (Vendor's) written consent, which shall not be unreasonably withheld or delayed. Such consent may be subject to immediate revision of the charges if the cost of providing the maintenance service is thereby increased. Without prejudice to any other remedy, (Vendor) may at any time by one month's notice to the buyer vary any or all of its charges, if by reason of non-compliance by the buyer with the provision of this clause the cost to (Vendor) of providing the maintenance service is increased. Such increased charges shall reflect the additional cost to (Vendor) resulting from any non-compliance.'

VENDOR J

'The customer will care for the equipment, will house it in suitable premises and under suitable conditions, and will follow such instructions and advice on these matters and such instructions and advice on operating the equipment, on quality and care of media and consumables, on transporting the equipment where required, and on carrying out operator's routine maintenance on the equipment as (Vendor) gives instructions from time to time.

No repairs or adjustments may be made except by (Vendor) or with (Vendor's) written consent. If there is any input to or output from the equipment from or to equipment or program not supplied by (Vendor) then the customer will be responsible for any loss or damage and reduction in performance that in (Vendor's) reasonable opinion is attributable to such use and for the cost of any remedial action.'

Continued

EXHIBIT III-9 (Cont.)

EQUIPMENT OPERATION CLAUSES

VENDOR K

(The customer shall:)

- '(c) Cooperate with (Vendor) in diagnosis of the reasons for any malfunction of the units.
- (d) Make available to (Vendor) the services of all such members of its staff as are familiar with the programs used in conjunction with the units.'

VENDOR M

'On-site service is subject to the customer confirming that the following basic checks have been carried out by him:

- (i) Mains power, fuses, interface and live communication software and data terminal equipment not supplied by (Vendor) have been checked and restored.
- (ii) Built-in diagnostic facilities have been used in accordance with the details in the appropriate operating manual(s).
- (iii) Input attenuation and manual equalisation have been checked and adjusted if necessary in accordance with the appropriate operating manual(s).'

Continued

EXHIBIT III-9 (Cont.)

EQUIPMENT OPERATION CLAUSES

VENDOR N

'The customer shall ensure that the operators and managers of the system are properly trained, operate the system to proper standards, and comply with (Vendor's) reasonable advice in connection with the use and operation of the system.'

7. MOVING OF EQUIPMENT

- Since it will often be necessary for them to change their maintenance arrangements, most suppliers ask to be informed officially when the equipment is to be moved to a new location.
- In seven cases it is necessary to obtain the contractor's agreement in writing (up to thirty days beforehand in one case) before the equipment can be moved if maintenance cover is to be continued. In a further six cases it is a contractual requirement that the contractor be notified in writing before such a move.
- Six of the contracts warn of the possibility that maintenance charges may be increased if the equipment is moved from its first location.
- In three cases it is a condition for the continuation of maintenance after a move that a thorough inspection of the equipment be carried out by the contractor, at the customer's expense.

8. EQUIPMENT MODIFICATION

- Problems with the maintenance of mixed systems (those including equipment from more than one manufacturer) are common.
- Six of the contractors retain the right to withdraw maintenance if their systems are modified or if equipment not of their manufacture is added (or, in some cases, 'connected').

9. USAGE RECORDS

- Three of the companies make it a condition of the continued provision of maintenance service that usage and maintenance records be kept by the

user. In one case these records are to be kept on forms provided by the contractor.

- In other cases the record can be in the form of an incident log.

10. SPARE AND REPLACEMENT PART CLAUSES

- Almost all of the contracts specifically state that any replaced parts become the property of the vendor.
- A few contracts state that spare supplies will be 'new, or of equipment performance', so ensuring that reconditioned parts can be used without in any way invalidating the agreement.

About INPUT

INPUT provides planning information, analysis, and recommendations to managers and executives in the information processing industries. Through market research, technology forecasting, and competitive analysis, INPUT supports client management in making informed decisions. Continuing services are provided to users and vendors of computers, communications, and office products and services.

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