

## EQUIPMENT SUPPLEMENTARY TERMS (END USER)

These Supplementary Terms shall govern the supply by TT Office Ltd t/a Hosted Communications (the "Company") of the Equipment and Services (as defined below) and shall be incorporated the Company's General Terms and Conditions (the "GTCs").

### 1. DEFINITIONS

1.1 The terms and expressions in these Supplementary Terms shall have the meaning given in the GTCs except as otherwise provided below:

"Acceptance" has the meaning given to it in clause 4.2 and "Accept" and "Accepted" shall be construed accordingly;

"Company Technical Specification" means Company technical specification for the Other Equipment as provided on the Company Website, as amended by the Company from time to time;

"Charge(s)" means the charges for the Equipment (including the Equipment Rent) and Professional Services, as set out in the Order;

"Premises" means the premises at which the Equipment is to be installed and used as specified in any Order;

"Equipment" means the equipment supplied by the Company under these Supplementary Terms (including any Leased Equipment) including but not limited to telephones, PoE switches, gateways and routers, as set out in any Order;

"Equipment Rent" means the Initial Fee and the Rental;

"Equipment Warranty" means the warranty for the Equipment specified at clause 5.2

"Excluded Maintenance Services" means the exclusions to the Maintenance Services and Equipment Warranty as specified in Appendix 1 of these Supplementary Terms;

"FCA" means Free Carrier pursuant to Incoterms 2000 as published by the International Chamber of Commerce. The Company will name the point of delivery to carrier, which unless otherwise expressly stated shall be Company's Offices in Thirsk.

"Initial Period" means the initial minimum period in respect of the Maintenance Services as specified on the Order commencing on Acceptance, but which in any case shall be no less than 12 months unless otherwise expressly provided in the Order;

"Initial Fee" means the initial fee payable for the Leased Equipment as set out in the Order, payable in accordance with these Supplementary Terms;

"Installation Services" means the installation and commissioning services provided by the Company with regards to the Equipment, as set out in any Order;

"Leased Equipment" means any equipment supplied to the Customer on a lease basis in accordance with these Supplementary Terms, as set out in the Order;

'Lease Term' is the period of 36 months except as expressly provided in the Order;

"Maintenance Fee" means the annual fee payable by the Customer to the Company so as to permit the End User receive the Maintenance Services as set out in the Order;

"Maintenance Services" means the maintenance services as described at Appendix 1 provided in respect of the Equipment, as set out in the Order;

"Manufacturers Specification" means the document(s) specifying the functions and facilities of the Equipment and inter alia the power, network, connectivity, environmental, and other requirements in respect of the Equipment and Other Equipment;

"Other Equipment" means the equipment and facilities (but excluding the Equipment) to be provided by the Customer or third party for use in connection with the Equipment including but not limited to computer software, computer hardware, wiring, power supplies, servers, PBXs, switches, computer or telephony networks, and connectivity, conforming to the Manufacturers Specification, Company Technical Specification or other instructions provided by the Company;

"Rental" means the recurring monthly fee payable for the Leased Equipment as set out in the Order, payable in accordance with these Supplementary Terms;

"RMA Process" means the Company's Return Materials Authorisation Process as amended from time to time and specified on the Company Website;

"Services" means the Professional Services and Maintenance Services provided by the Company pursuant to these Supplementary Terms;

"Software" means any software on or provided with the Equipment;

'Total Loss' means a total loss or constructive or arranged total loss as declared by the Insurers or otherwise adjudged.

### 2. OBLIGATIONS OF THE COMPANY

2.1 The Company shall in accordance with this Agreement and subject to an accepted Order:

- (a) supply the Equipment;
- (b) supply the Professional Services (including Installation Services);
- (c) provide Maintenance Services to the Customer in accordance with Appendix 1 and the other provisions of the Agreement.

2.2 For the avoidance of doubt, the Company shall not provide any Professional Services or Maintenance Services unless expressly provided for in the Order.

2.3 Whilst the Company shall use reasonable endeavours to deliver the Equipment and perform the Professional Services and Maintenance Services or any part thereof in accordance with any target date or target timescales, time shall not be of the essence for the performance by the Company of its obligations under this Agreement.

2.4 Unless expressly provided in any Order under the Agreement, the Company shall not be responsible for any wiring at the Premises in respect of the Equipment or Other Equipment, or be responsible for any Other Equipment.

### 3. CUSTOMER'S OBLIGATIONS

3.1 The Customer agrees:

- (a) to be responsible for the Other Equipment, and ensure any Other Equipment required for the correct installation and/or operation of the Equipment is installed and/or operational (in accordance with the instructions of the Company including the provisions of the Company Technical Specification) prior to the agreed date for installation and /or operation of the Equipment;
- (b) to be responsible for preparing the Premises in accordance with the Company's instructions (including the Company Technical Specification) and maintaining a proper and safe environment in which the Equipment is to operate and Services to be provided;
- (c) to supply to the Company such information in such form as may be reasonably required by the Company to meet its obligations under the Agreement including but not limited to the provision by the Company of Professional Services and Maintenance Services;
- (d) to provide such access to the Premises and Other Equipment as required by the Company and its third party sub-contractors to perform its obligations under the Agreement;
- (e) that should the Company on attending the Premises, and as a result of the act or omission of the Customer or failure of the Customer to comply with the provisions of the Agreement be unable to perform its obligations under the Agreement including but not limited to the provision of any Professional Services and Maintenance Services, the Company reserves the right to charge the Customer at the T&M Rates in accordance with these Supplementary Terms.

3.2 The Customer shall not and shall not permit any other party to:

- (a) reverse engineer, translate, disassemble, decompile, alter or otherwise attempt to derive the source code for the Software;
- (b) copy, manufacture, adapt, create derivative works of, localise, port or otherwise modify any Software;

except to the extent that the Company cannot prohibit such acts by applicable law.

3.3 The Customer shall indemnify and keep the Company fully indemnified against any loss or damage incurred by the Company arising as a result of the acts or omissions of the Customer or failure of the Customer to comply with the provisions of the Agreement.

### 4. DELIVERY

4.1 Unless otherwise expressly provided in the Order, all deliveries of the Equipment shall be on a FCA basis.

4.2 Unless otherwise expressly provided in the Order, the Equipment shall be accepted by the Customer when delivered, or if said Equipment is installed by the Company pursuant to an Order for Installation Services, on completion of said Installation Services at the Premises.

### 5. WARRANTIES

5.1 The Company warrants that the Professional Services will be carried out in accordance with the Order with reasonable care and skill.

5.2 The Company warrants that the Equipment for a period of 90 days from delivery to the Premises will be free from material defects in workmanship and materials. In addition the Company shall, where it is entitled to do so, pass on the benefit of the manufacturer's warranty to the Customer.

5.3 Save as expressly provided for in these Supplementary Terms, no warranty, condition, undertaking or term, whether statutory, express or implied as to condition, satisfactory quality, performance, durability, fitness for purpose or otherwise is given or assumed with regards to the Equipment or Professional Services and all such terms and warranties are hereby excluded to the fullest extent permitted by law.

5.4 To the extent permitted by law, the sole remedy of the Customer for any breach by the Company of the Equipment Warranty shall be the replacement or repair of the defective Equipment or part thereof on a parts only return to Company basis in accordance with the Company's RMA Process. The Company shall have no liability in respect of any

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fault or defect arising in the Equipment as a result of the Excluded Maintenance Services.

### 6. TITLE AND RISK

- 6.1 Risk of damage to or loss of the Equipment and any related documentation shall pass to the Customer upon delivery. Notwithstanding delivery, property in and title to the Equipment shall not pass to the Customer until the Company has received in full all sums due to it in respect of all Equipment and Professional Services under the Order.
- 6.2 Until property in and title to the Equipment has passed to the Customer the Customer must hold the Equipment on a fiduciary basis as the Company's bailee. Until title in the Equipment passes the Customer must keep such Equipment separate and identified as the Company's and suitably insured.
- 6.3 The Customer grants the Company, its employees and agents an irrevocable licence at any time to enter any premises (upon reasonable notice) where the Equipment is or may be stored in order to inspect it, or, where the Customer's right to possession has terminated, to recover it.

### 7. LEASED EQUIPMENT

- 7.1 The Leased Equipment shall be hired to the Customer for the Lease Term. Following the Lease Term the lease shall be extended for subsequent 12 month periods except and until either party gives to the other not less than 3 months notice to terminate the lease, such notice to expire on the final day of the Lease Term or any subsequent anniversary of the same.
- 7.2 So long as the Customer is neither in default in the payment of any sum of money payable nor is in breach of any of the covenants on its part to perform in this agreement it may peaceably hold and enjoy quiet possession of the Leased Equipment for the Lease Term and any extension thereof.
- 7.3 The Customer agrees:
- (a) that the Company reserves the right to substitute the Leased Equipment stated in the Order with alternative equipment of an equal or higher value specification;
  - (b) to allow the Company or its duly authorised agent or representative upon reasonable notice at any time access to inspect the Leased Equipment;
  - (c) not to alter, modify or adjust the Leased Equipment in anyway and not to remove any existing component from the Leased Equipment without the written consent of the Company;
  - (d) not to subject the Leased Equipment to any misuse or wear or tear over that consistent with normal and reasonable use;
  - (e) to use the Leased Equipment in a skilful and proper manner and in accordance with any operating instructions issued for them and to ensure that the Leased Equipment are operated and used by properly skilled and trained personnel;
  - (f) to obtain effective and keep effective all permissions licences and permits and to pay all rates rents taxes and charges which may from time to time be required in connection with the business of the Customer the Leased Equipment and their use on the Premises and to comply with all statutory and other obligations of all kinds in relation to the Leased Equipment and the use of them and at its own expense to add to or install with the Leased Equipment any safety or other equipment required by any applicable law or regulation to be so added or installed for the use or operation of the Leased Equipment and to protect the Leased Equipment against distress execution or seizure
  - (g) to indemnify the Company against all losses charges and damages however incurred by the Company by reason of failure by the Customer to comply with any of the terms of the Agreement.
  - (h) to insure the Leased Equipment and keep the Leased Equipment insured throughout the Lease Term and any extension thereof (in the joint names of the Company and the Customer) for their full replacement value against all risks on a comprehensive policy without restriction or excess
  - (i) to insure the Company and the Customer against all liability to third persons for death personal injury and damage to or loss of property arising directly or indirectly out of the use possession or operation of the Leased Equipment for such amount as the Company may stipulate from time to time or in the absence of any such stipulation for such amount as is prudent in all the circumstances;
  - (j) to pay punctually all premiums due for such insurance and to produce to the Company on request the policy or policies together with evidence of payment of the premiums and agrees that the Company may effect the insurance referred to in clause 7.3(h) if the Customer has failed to do so (though it is not under any obligation so to do) and to reimburse the Company on demand the cost of so doing;

- (k) to pay to the Company upon the expiry of 30 days after a Total Loss (or on such later date as the Company may agree) an amount equal to the sum of:
    - (i) all arrears of Equipment Rent including apportioned Equipment Rent for any broken period as a result of the Total Loss
    - (ii) such sum as is required to compensate the Company for the loss or destruction of or damage to the Leased Equipment;
  - (l) if on the expiry of the period of 30 days from the date of the Total Loss the insurers have not made payment to the Company under the policy or policies maintained in compliance with clause 7.3(h) above the Customer shall pay to the Company upon demand such sum as shall calculated and paid under the terms of clause 7.3(k);
  - (m) if the Leased Equipment sustains loss or damage not amounting to a Total Loss forthwith to notify the Company and to make good such damage and to apply all insurance moneys payable in making good such damage and upon being requested by the Company so to do forthwith to assign to the Company all the Customer's rights benefits and claims under any relevant policy of insurance and
  - (n) to be solely responsible for and to indemnify the Company in respect of all loss of or damage to the Leased Equipment (in so far as the Company is not reimbursed by the proceeds of insurance in respect thereof) however caused occurring at any time or times before they are redelivered to the Company;
  - (o) to keep the Leased Equipment at the Premises;
  - (p) to indemnify the Company against all loss actions claims demands proceedings (whether criminal or civil) costs legal expenses (on a full indemnity basis) insurance premiums and calls liabilities judgments damages or other sanctions whenever arising directly or indirectly from the Customer's failure or alleged failure to carry out its duties under these Supplementary Terms or by reason of any loss injury or damage suffered by any person (including without limitation the Company) from the presence of the Leased Equipment or the delivery possession hiring transportation condition use operation removal or return of them or their sale or disposal by the Company or any defect in the Leased Equipment or the design manufacture testing maintenance or overhaul of them or the Company exercising any right in respect of the Leased Equipment or their ownership or hiring
  - (q) to deliver up the Leased Equipment in good repair and working order at the expiration of the Lease Term or extensions thereof or upon earlier determination of this agreement or the hiring under it at such address in the United Kingdom as the Company shall notify to the Customer and to allow the Company its agents or representatives access to any Premises where the Leased Equipment may be for the purpose of inspecting and removing them and if the Company requires to carry out any servicing maintenance repair or other work to the Leased Equipment as a result of any failure of the Customer in its obligations under the Agreement to reimburse the cost thereof (together with VAT thereon) to the Company forthwith upon demand.
- 7.4 The Company shall at all times retain the ownership of and title to the Leased Equipment and the Customer shall have no interest in the Leased Equipment save as is provided by these Supplementary Terms. Notwithstanding that the Leased Equipment may have been affixed to any land or building the Company shall continue to be the owner of them and they shall as between the Company and the Customer and their respective successors in title remain the personal property of the Company
- 7.5 The continuance of this Agreement or the Customer's liability for payment of Equipment Rents and all other sums under it shall not be affected in any way by the loss theft Total Loss or any damage to in the Leased Equipment.

### 8. MAINTENANCE SERVICES

- 8.1 Subject to an accepted Order, the Maintenance Services shall be provided to the Customer for the Initial Period. The Initial Period shall be extended for subsequent 12 month periods except and until either party gives to the other not less than 3 months notice to terminate the Maintenance Services, such notice to expire on the final day of the Initial Period or any subsequent anniversary of the same.
- 8.2 In the event of any failure in the Equipment due to the Excluded Maintenance Services, the Company reserves the right to charge the Customer for attendance at the Premises, costs of repair, and engineering charges which shall be payable by the Customer to Company at the T&M Rates in accordance with these Supplementary Terms.
- 8.3 In the event that the Customer wishes to terminate the Maintenance Services during the Initial Period or extension thereof, prior to the last day of the Initial Period or extension thereof, Company reserves the right to enforce a cancellation charge equal to 100% of the total Maintenance Fees payable under the Agreement.

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### 9. PRICES AND PAYMENT

- 9.1 All Charges for the Equipment are exclusive of delivery and installation unless otherwise expressly provided in the Order.
- 9.2 All Charges for Installation Services are subject to survey of the Premises and/or Other Equipment. Where, following such survey the Company considers it appropriate or necessary in the circumstances to provide the Installation Services:
- (a) wholly or in part, utilizing non-standard Equipment, more expensive methods or additional work than it normally incurs; or
  - (b) at the Customer's request, the Installation Services are provided at greater expense by reason of the type of materials used, the length or manner of installation than the Company normally incurs;
- then Company in addition to (or instead of) the Charges set out in the Order, may determine a supplementary charge be payable in relation to the Installation Services.
- 9.3 Company shall inform the Customer of any supplementary charges payable in accordance with clause 9.2, and the Customer may, in a case where clause 9.2(a) applies cancel the relevant part of the Installation Service by written notice to Company prior to commencement of the Installation Services or within 2 Working Days of notification of such supplementary charges, whichever date is earlier. In the event that the Customer cancels the Installation Services as provided in this clause, the Customer shall pay the Company's reasonable costs incurred in the performance of the Order prior to cancellation, such costs being chargeable at the T&M Rates.
- 9.4 The Charges (excluding the Rental) shall be invoiced as follows:
- (a) 30% of the Charges (excluding the Rental) shall be invoiced when the Company accepts the Order; and
  - (b) the remaining 70% of the Charges (excluding the Rental) shall be invoiced on Acceptance.
- 9.5 The Maintenance Fee is payable and shall be invoiced yearly in advance on Acceptance. For the avoidance of doubt, except as expressly provided in the Order the Maintenance Fee is payable for each Premises.
- 9.6 The Rental is payable and shall be invoiced monthly in advance on Acceptance
- 9.7 All Charges, Maintenance Fees, and Equipment Rent shall be paid within 14 days of the date of invoice by direct debit.
- 9.8 In the event that any issue is referred to the Company by the Customer or any End User pursuant to the Company's agreement to provide Maintenance Services, and following investigation by the Company, the Company determines in its reasonable opinion that (1) such issue has arisen as a result of circumstances described in the Excluded Maintenance Services, or (2) the Customer has failed to comply with its obligations under this Agreement in respect of the Maintenance Services, the Customer shall be charged by the Company for any work carried out in connection with such issue at the T&M Rates.
- 9.9 Charges for the T&M Rates due under this Agreement are exclusive of travel, accommodation and sustenance expenses incurred by the Company. In addition to the T&M Rates the Customer shall reimburse the Company in respect of such reasonable travel, accommodation and sustenance expenses incurred by the Company. The Company shall invoice the Customer monthly in arrears for such Charges.

### 10. CONSEQUENCES OF TERMINATION

- 10.1 Without prejudice to any other provisions in this Agreement expressed to have effect upon termination, on termination of the Agreement or Order (in which case the following provisions shall apply to said Order) by the Customer other than in accordance with its express terms or on termination of the Agreement by the Company under clause 10 of the GTCs:
- (a) the Customer shall immediately cease to use the Leased Equipment and Equipment for which payment has not been received in full and in which title has not passed to the Customer;
  - (b) the Customer shall permit the Company (or procure permission for the Company) to enter the Premises or any other premises at which the Equipment referred to at Clause 10.1(a) is located in order to remove such Equipment;
  - (c) the Customer shall pay all amounts due under the Agreement within 10 days .
- 10.2 Forthwith upon the hiring of the Leased Equipment being determined (except by the Customer as expressly provided in the Agreement) the Customer shall pay to the Company:
- (a) all arrears of Equipment Rent plus any interest due including apportioned Equipment Rent for any broken period;
  - (b) damages for any breach of the Agreement and all expenses and costs incurred by Company in retaking possession of and selling or re-hiring the Equipment or attempting to sell or re-hire the Equipment and/or enforcing its rights under the Agreement; and

- (c) Equipment Rent which would have been payable for the remainder of the Lease Term less discount at the rate of 3 per cent per annum for accelerated payment, calculated from the date of payment until the date such payment would otherwise have been made; and
  - (d) all other sums due from the Customer to Company under this Agreement.
- 10.3 It is the responsibility of the Customer, upon termination of the lease, to return the Equipment and keep all Leased Equipment safe and free from damage until returned to Company.
- 10.4 Upon return of the Leased Equipment the Company will inspect the Leased Equipment for any loss or damage. If any loss or damage is discovered, other than fair wear and tear, then Company shall notify the Customer of such loss or damage within a reasonable time. The Customer shall be responsible for compensating Company for any costs incurred in repairing or replacing the Leased Equipment and any loss of revenue to Company whilst the Leased Equipment is not available for hire.
- 10.5 In the event the Customer disputes the costs or liability pursuant to clause 10.4 and wishes to inspect the Leased Equipment, the Customer must give notice in writing of his intentions within 48 hours of Company initial report. The Customer shall be entitled inspect the Leased Equipment within 7 days of giving notice of his intentions, otherwise the Customer must accept the valuation costs notified to him by Company.

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## Appendix 1 Maintenance Services

The Maintenance Services shall consist of the correction of defects in the Equipment supplied by the Company ("Equipment Fault") in accordance with the following. For the avoidance of doubt the Maintenance Services are subject to the provisions of the Excluded Maintenance Services below.

The Company shall use reasonable endeavours to:

- provide a Response to the Customer in accordance with the Response Target specified below.
- investigate the Equipment Fault and where available provide a remote Fix.
- provide a Fix for the Equipment Fault in accordance with the Fix Target specified below.
- provide telephone support to Customers for reported Equipment Faults during the Cover Period;

"Response" means a response regarding the Equipment Fault by telephone, email or other method from the Company's support centre personnel to operatives of Customer.

"Fix" means using reasonable endeavours to correct the Equipment Fault.

### Maintenance Service Target Timescales

All targets referring to hours are hours during the Cover Period and are measured from notification (in accordance with the Company's instructions) of the purported Equipment Fault to the Company. All timescales referring to Working Days shall be measured from Working Day following notification (in accordance with the Company's instructions) of purported Equipment Fault to the Company. The Severity Level shall be agreed between the Company and the Customer, and in the event of any disagreement the Severity Level shall be determined at the Company's discretion.

Severity Level	Fault Classification	Service Class	Response Target	Fix Target
1	Loss of service or service impacted for more than 50% of users	Bronze	5hrs	1 Working Day
		Silver	3hrs	1 Working Day
		Gold	3hrs	1 Working Day
		Platinum	3 hrs	1 Working Day
2	Loss of service or service impacted for not more than 50% of users, and greater than 20%.	Bronze	8hrs	1 Working Day
		Silver	6hrs	1 Working Day
		Gold	5hrs	1 Working Day
		Platinum	5 hrs	1 Working Day
3	Loss of service or service impacted for less than 20% of users	Bronze	16hrs	3 Working Days
		Silver	9hrs	2 Working Days
		Gold	5hrs	1 Working Day
		Platinum	5 hr	1 Working Day
4	Minor fault, including , handset configuration, or other Equipment Fault not falling within the above Fault Classifications	Bronze	3 Working Days	5 Working Days
		Silver	1 Working Day	3 Working Days
		Gold	8hrs	2 Working Days
		Platinum	5 hr	2 Working Days

Service Class	Cover Period
Bronze , Silver & Gold	Monday to Friday – 8:00 – 17:00
Platinum	24 x7

### Excluded Maintenance Services

The Equipment Warranty and Maintenance Services not include the diagnosis and correction of any defect in the Equipment resulting from:

- any fault in the Other Equipment;
- any failure of the Other Equipment to conform to the Manufacturers Specification or Company Technical Specification;
- any failure of the Equipment caused by the incorrect loading by or on behalf of the Customer of data or, in respect of the Equipment, a defect arising outside of the Company's reasonable control after the installation of the Equipment;
- any electrical or other external work, moving and re-installation of the Equipment, or replacement of consumable materials (including but not limited to standby batteries, discs, cassettes, printer paper and ribbons);
- operational difficulties caused by or arising from either the integration of the Equipment with third party equipment or software or any modifications to the Equipment not undertaken by the Company;
- any defect, failure, or damage to wiring or cabling;
- any failure in the Equipment due to normal wear and tear;
- operator error;
- any amendment, alterations or modification of the Equipment by the Customer or any unauthorised third party;
- the Customer's failure to follow and comply with any training or instructions given by the Company or the manufacturer of the Equipment;
- the use of the Equipment for a purpose for which it was not designed;
- the operation of the Equipment outside the environment or other conditions specified in writing by the manufacturer or the Company;
- any accidental damage, misuse, improper use, negligence or failure to observe the Company's recommendations with regard to the use of the Equipment or part thereof, or for causes external to the Equipment such as, but not limited to, failure or fluctuation of electrical power or environment control or any defect or failure in relevant telecommunications or computer network;

The Equipment Warranty and Maintenance Services do not include any moves, adds or changes to the Equipment following including but not limited to configuration changes to routers, switches and gateways and changes/movement of telephones, softphones and peripherals. All such services shall be chargeable in accordance with the T&M Rates or other rate agreed in writing by the Company.

The Maintenance Services do not include providing any services for Equipment not installed at the Customer Premises.