

## TERMS AND CONDITIONS

### 1. DELIVERY AND ACCEPTANCE

**1.1** You will accept delivery and installation of the Products on behalf of the Owner and will sign a delivery certificate, in the form provided by the Owner "Delivery Certificate", at the time of delivery or, if applicable, upon completion of appropriate acceptance procedures. "Start Date" means the date of your signature of the Delivery Certificate. We will accept your signature of the Delivery Certificate as conclusive proof that the Products have been delivered complete, in good condition, have been correctly installed and are accepted by you for the purpose of this Agreement.

**1.2** "Products" means all or any of the items listed in the Product Details section of this Agreement. The Products may consist of IT equipment and accessories and/or packaged computer software.

### 2. SELECTION OF PRODUCTS, WARRANTIES

**2.1** You agree that, you have used your own skill and judgement (and you have not relied on any statements made by us or on our behalf), to choose the Products and you have decided that they will be suitable for all of your requirements. You agree that there shall be excluded from this Agreement any and all conditions or warranties express, or implied by statute, or otherwise, in respect of the Products, their description, quality, suitability or fitness for any purpose.

**2.2** Because our liability for the risks of defective or unsuitable Products is excluded you agree to assume all such risks and you agree to pay Rental come what may. All things considered, you agree that such exclusion of liability under this Clause 2 and Clause 8 is fair and reasonable and you represent that you have considered the need for remedies elsewhere and you have secured those that you require.

**2.3** In no event shall we be liable to you in contract, tort or otherwise including any liability for negligence for any loss of revenue, business, Anticipated Savings or profits or any loss of use or value; or for any indirect or consequential loss, howsoever arising. "Anticipated Savings" means any expense, which you expect to avoid incurring or to incur in a lesser amount than would otherwise have been the case; we also cannot be held liable if the Products do not perform to your expectations.

**2.4** In so far as the Products contain equipment or components which were not manufactured or produced by us, you shall be entitled only to the benefit of such warranty as we have received from the manufacturer.

**2.5** You agree that you will use the Products in the course of a business.

**2.6** Maintenance or service of the Products is not provided under the terms of this Agreement.

### 3. DURATION

**3.1** The renting of the Products commences on the Start Date and, unless terminated in accordance with clause 9.3, continues until you terminate in accordance with clause 3.2 or we terminate in accordance with clause 9.1.

**3.2** You may terminate the renting of the Products by giving us 3 months' notice expiring not earlier than the last day of the Minimum Period, such notice to be sent to us by registered post.

### 4. RENTAL AND PAYMENT

**4.1** We will charge you Rental for the Products from the Start Date. The first payment of Rental will be due on the Start Date. After that, you must pay the monthly Rental in advance on each Payment Date until termination. When the Minimum Period or any continuation period has expired, we will carry on charging at the same Rental unless you and we have agreed a reduced Rental.

**4.2** We will charge and you must pay VAT on all payments under this Agreement at the rate applicable on the date the payment falls due. We will send you VAT invoices. You must pay all Rentals by standing order or direct debit. If you do not, we will increase each monthly Rental by up to 3% or £35 plus VAT whichever is greater, to cover our additional administration costs.

**4.3** You agree not to withhold payment or make any deduction for any reason even if the Products are not working. Punctual payment is an essential condition of this Agreement. If you don't pay on time, we will charge interest on the overdue amount, from the due date to the date of payment, at the rate of 2.0% per month both before and after judgement. On each occasion that a cheque, direct debit or standing order is returned unpaid you will pay an administration charge of £50.00 plus VAT. In addition, a charge of £25.00 plus VAT will be levied for each letter sent by us in respect of default.

### 5. DEPOSIT

**5.1** You shall pay the Deposit together with the first payment of Rental.

**5.2** If you fail to make any payment of Rental or cause any loss or damage to the Products (in whole or in part), we shall be entitled to apply the Deposit against such default, loss or damage. You shall pay to us any sums deducted from the Deposit within ten working days of a demand for the same.

**5.3** The Deposit (or balance thereof) shall at our direction be applied towards payment of the final Rental due hereunder and/or towards any sums otherwise due to us on termination including without limitation sums due under clause 9.2(ii).

### 6. USE OF PRODUCTS

**6.1** We will allow you to possess and use the Products without interference for as long as you perform your obligations under this Agreement.

**6.2** You must keep the Products at your office(s) specified in the Delivery Certificate or (in the case of laptop, notebook computers or other portable products) in the control of your authorised users. You must ensure that the Products are, at all times, operated in a suitable environment. You must ensure, at your cost and expense, that they comply, and that your use of them complies, with all applicable regulations and statutes. The Products must only be used for their proper purpose and must not be used for an unlawful purpose. You must not use, or permit others to use, the Products in a way which would invalidate the insurance referred to in clause 7. If we wish to inspect the Products or any records kept by you in respect of the Products, we will give you reasonable notice and you must allow us to do so. You must also allow us to attach identification labels indicating our interest in the Products if we so wish.

**6.3** You must maintain the Products in good condition, except for fair wear and tear, and good working order, including replacement of worn, damaged and lost parts and repairing any damaged to the

Products. You must not alter the Products without our agreement. If, with our agreement, you do make any alteration, the added or replacement parts or accessories will belong to us.

**6.4** The Products will remain at all times our property. You do not have any right to own the Products and you must not take any action which would affect our rights as owner. You must not rent the Products to another person, offer or agree to sell them, or allow any other person to take any rights over them. You must not transfer any of your rights under this Agreement. If the Products are kept on rented property in Scotland, they will not form part of the landlord's hypothec.

**6.5** When the renting of the Products terminates for any reason, you must return them to us at your expense. The Products must be complete (including any power cables, data cables and security keys), in good condition (except for fair wear and tear) and in good working order with all access codes or passwords disabled. If the Products includes any software paid for by us which is licensed on a "per copy" basis, you must return all software disks, manuals and licence documentation. You must ensure that all application software and data deriving therefrom is removed from the Products (and without prejudice to any remedy that we may have in relation to your failure to remove the same), we shall not be responsible for any loss or damage which may be sustained or suffered by you in relation to such software or data and in particular but without limitation, as a result of or in connection with its no longer being available to you or coming into possession of any third party. The Products must be clean and free of permanent markings or non-removable identification labels. If you do not return the Products in the above condition, we will charge you the costs of restoring them to that condition.

### 7. INSURANCE OF PRODUCTS

**7.1** You must insure the Products against third party risks and against loss or damage from all insurable risks for their full replacement value. Our interest in the Products must be noted on the policy and we must be named loss payee.

**7.2** We may require you to provide proof of insurance. If you do not, we shall be entitled but not obliged to arrange insurance at your expense. By this Agreement you appoint us as your agent to arrange this insurance (should we choose to do that), pay such premiums as may be necessary and recover the same from you as a debt due.

**7.3** If any Products are lost or damaged, you must inform us straight away. You must not agree settlement of any insurance claim without our written consent. All insurance proceeds will be applied to repair damaged Products or to replace them, and any lost Products, with similar items of equal value, which will belong to us. If the insurance proceeds are not enough to cover the costs of repair or replacement, you will have to meet the shortfall.

### 8. OUR LIABILITY

We will not be liable for and so you shall indemnify us on demand against all liability, losses, expenses, costs, damages, actions, claims, and demands of or against us in any way arising out of or in connection with the Products (or their design, manufacture use possession delivery installation repossession removal return and/or disposal) and whether economic or in consequence of loss or damage to property or death or injury to person, except for death or personal injury caused by our negligence.

### 9. TERMINATION

**9.1** If you cause or allow any of the events listed below to occur or do not prevent them from occurring, we may treat that as evidence that you no longer intend to perform your obligations under this Agreement. At any time after the event occurs, we may as a consequence, by giving you notice, terminate the renting of the Products. The events are:

- (i) your failure to pay any amount due under this Agreement on its due date or to perform any other obligation under this Agreement; or
  - (ii) your failure to perform any obligation under any other agreement between you and us; or
  - (iii) you or any guarantor of this Agreement cease to trade, become insolvent, are unable to pay your (or in the case of the guarantor, the guarantor's) debts or a receiver or other insolvency practitioner is appointed over all or part of your or the guarantor's business; or
  - (iv) (if you are a member of a partnership) you or any of the partners dies, a petition is presented for an administration order to be made in relation to or a resolution is passed for the winding up or dissolution of the partnership, or a petition is presented for a bankruptcy order to be made against one or more of the partners for non-payment of a partnership debt, or any one or more of the partners enters into a voluntary arrangement with the partnership creditors.
- 9.2** If we terminate the renting of the Products under clause 9.1:
- (i) you will have no further right to possess or use the Products and, if you do not return them in accordance with clause 6.5, we may enter your office(s) and recover them and you shall pay to us all costs reasonably incurred in finding, repossessing, storing, insuring and selling the Products; and
  - (ii) you must pay us on demand all amounts then due but unpaid and such proportion of all amounts which you would have had to pay if the renting of the Products had continued to the expiry of the Minimum Period calculated from the date of termination to the date on which the payment would have fallen due as we calculate (acting reasonably) represents a genuine estimate of the loss we will suffer as a result of your breach.

**9.3** If any of the Products are stolen, destroyed or damaged beyond repair, the renting of them will terminate automatically and you must pay us on demand (in respect of the affected Products) the amount under clause 9.2 (ii) and, because you will be unable to return the affected Products in accordance with clause 6.5, one third of their original purchase price.

### 10. CORPORATION TAX

You will not claim any capital allowances in respect of the Products. The Rentals have been calculated on the assumption that there will be no change in the nature, method or basis of taxation of companies or groups of companies and that the rate

of Corporation Tax, the availability or rate of capital allowances, or the treatment of losses and expenses. If such assumption proves not correct at any time during the term of hire, we shall be entitled to change the Rental to ensure our after tax return is not reduced.

### 11. OTHER PROVISIONS

**11.1** This Agreement will not be binding until it has been signed by each of us.

**11.2** We may transfer our right to receive payment under this Agreement (and other rights) to another person. If we do, we or that other person will notify you and you will then have to pay that other person. We will remain responsible to you for performing our obligations under this Agreement. You agree that you will not claim or exercise against that other person any defence, set off or counterclaim on the grounds that we have failed to perform those obligations.

**11.3** We may act under this Agreement as the agent of another person and we or that other person may notify you that we act as agent. You will then owe to that other person all the obligations which you are required to perform under this Agreement as if that other person was named in this Agreement instead of us.

**11.4** Any dealer or other person not employed by us who may have been involved in introducing this Agreement to us is not our agent and has no authority to act as our agent. We are not liable for any statement or warranty made by the dealer or other person.

**11.5** You and we agree that the terms of this Agreement are the only terms agreed between us in connection with the renting of the Products and supercedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between us. We agree that this Agreement can be changed only by a written amendment signed for you and us by persons authorised for that purpose.

**11.6** If two or more people are Customers in this Agreement they are liable individually and together under the terms of it.

**11.7** Other than in accordance with Clause 3.2, any notice to be sent by you or us under this Agreement must be in writing. Notices may be sent by hand or by prepaid mail.

**11.8** If we decide not to exercise our rights under this Agreement, in whole or in part, we will not be prevented from exercising them subsequently. Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

**11.9** Neither of us shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control.

**11.10** We both undertake that we shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except to its employees, officers, representatives or advisers or as may be required by law. Neither you nor us will use any of the other's confidential information for any purpose other than to perform its obligations under this Agreement.

**11.11** This Agreement is governed by the law of England and any disputes will be settled in the English courts.

**11.12** The Supplier reserves the right to change any term of the Contract (including any Charges hereunder) at any time. This includes the ability to separately charge for Services which may be currently included in the Service as free. The Supplier will publish details on line on the Supplier's Website at least 2 weeks before the change is to take effect and will give the Customer reasonable notice of any variation before it takes place.

Customer Initials