

COMPUTER EQUIPMENT HIRE AGREEMENT AND CONDITIONS (B2B)

BACKGROUND:

These Terms and Conditions shall apply to the hire of computer equipment ("the Equipment") from <<insert business name>> [a <<insert business name>>] a <<insert business name>> [Private Limited Company etc.>>] [number>>] [whose registered address is <<insert address>>] trading address is <<insert address>>] ("the Company") to customers hiring the Equipment for use at their business

computer equipment ("the Equipment") from <<insert trading name if different from company name>>] a <<insert business name>> [Private Limited Company etc.>>] [number>>] [whose registered address is <<insert address>>] and] whose main trading address is <<insert address>>] ("the Company") to customers hiring the Equipment for use at their business

1. Definitions and Interpretation

1.1 In these Terms and Conditions, the following expressions shall have the meanings:

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"Additional Software"	software installed by the Customer during the term of the Hire Agreement;
"Authorised Personnel"	employees or consultants to the Customer that are authorised to perform maintenance and updates on the Equipment;
"Business"	trade, craft, or profession carried on by any other person/organisation;
"Consumer"	as defined by the Consumer Rights Act 2015, an individual customer who hires the Equipment for personal use and for purposes other than the purposes of any Business;
"Customer"	any person, not being a Consumer, who is subject to these Terms and Conditions;
"Customer Data"	data created by or for the Customer in connection with the Equipment;
"Deposit"	the sum payable by the Customer under Clause 3 in addition to the Hire fee. In addition to the Hire fee deposit, the amount of the deposit shall be as set out in the Hire Agreement;
"Equipment"	computer equipment supplied on hire to the Customer subject to these Terms and Conditions;

“Force Majeure”	means the inability of the Party to exercise its power to perform its obligations under the Agreement, due to circumstances beyond its control, including but not limited to: war; provider failure; strikes, lock-outs or other industrial action suffered by the Party; civil unrest; fire; explosion; pestilence; epidemics; epidemics; acts of terrorism; acts of terrorism; war; governmental action; natural disaster or any other circumstances beyond its control;
“Hire”	means the use of the Equipment by the Customer under the Hire Agreement;
“Hire Agreement”	means the Agreement, comprising <<insert details of the Hire Agreement or Order Acceptance or form of Agreement or Hire Agreement draft attached as a Schedule to the Agreement>> entered into by the Customer and the Company, incorporating these Terms and Conditions, which shall govern the Hire of the Equipment;
“Hire Fees”	means the fees payable by the Customer for the Hire of the Equipment under Clause 4 of these Terms and Conditions;
“Hire Term”	means the period for which the Equipment is to be hired under the Hire Agreement;
“Preinstalled Software”	means the software installed on the Equipment by the Company at the time of delivery for the Hire Term;
“Premises”	means the place to which the Company delivers the Equipment and from which it will collect it in accordance with the Hire Agreement;
“Price List”	means the current price list, current at the time of the Hire Agreement;

- 1.2 Unless the context otherwise requires, the following definitions shall apply in these Terms and Conditions to:
- 1.2.1 “writing”, and any other communications whether in writing or otherwise, includes electronic communications (including email, text message or other means);
 - 1.2.2 a statute or a provision of law, means the statute or provision as amended or otherwise in force at the relevant time;
 - 1.2.3 “these Terms and Conditions” means these Terms and Conditions and each of the Schedules, as amended or supplemented at the relevant time;
 - 1.2.4 a Schedule is a schedule to these Terms and Conditions;
 - 1.2.5 a Clause or paragraph means a Clause or paragraph of these Terms and Conditions (other than a Clause or paragraph of the relevant Schedule); and

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1.2.6 a "Party" of the parties to these Terms and Conditions.

1.3 The headings used in these Conditions are for convenience only and shall have no effect on the interpretation of these Terms and Conditions.

1.4 Words referring to the singular shall include the plural and vice versa.

1.5 References to any gender shall include the other gender.

2. Hire Term

2.1 The Equipment will be hired for the Hire Term.

2.2 If the Customer wishes to extend the Hire Term prior to the end of the Hire Term they may do so at any time by contacting the Company. The Customer must contact the Company to arrange such an extension. Any extension will be effective if agreed in writing and set out in writing by the Company. Extensions made for up to <<e.g. 6 months>> shall be subject always to the availability of the Equipment. The Company shall endeavour to satisfy requests for extensions but cannot guarantee the availability of the Equipment to the Customer beyond the Hire Term.

2.3 The Company reserves the right to replace the Equipment immediately at any time. In the event the Customer exercises this right the Customer will be reimbursed for any Hire Term remaining or will be issued with replacement Equipment of the same type or of the closest equivalent. If the Equipment is not returned to the Company on request the Customer shall be deemed to have authorised the Company to enter the Equipment for sale or lease by any means necessary to recover the Hire Term. The Customer shall be liable for any costs associated with such recovery.

3. Deposit

3.1 The Customer shall pay the Deposit to the Company on or before the commencement of the Hire Term, and prior to delivery of the Equipment to the Customer until the Hire Term has ended.

3.2 As provided by and subject to the terms of clauses 3.3 and 9.2, the Deposit will be retained by the Company if the Equipment is not returned in good condition.

3.3 At the end of the Hire Term the Customer shall have a period of <<e.g. 4 weeks>> within which to return the Equipment. If the Equipment requires cleaning and / or adjustment or repair as a result of normal wear and tear the Customer will receive the Deposit back in full at the end of the Hire Term. In the event that additional cleaning and / or adjustment or repair is required the Company shall retain the Deposit in part as appropriate and shall provide the reasons for this in writing, including all relevant calculations.

4. Fees and Payment

4.1 The Hire Fees will be payable by the Customer to the length of the Hire Term, as set out in the Price List and any additional items as set out in the Hire Agreement.

4.2 Payment of Hire Fees shall be made in full, as set out in the Hire Agreement, at the end of the Hire Term. Payment may be made by cash or by cheque.

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by cash or by BACS or cheque (subject to the presentation of a valid card). All cheques must be made payable to the Company.

4.3 All payments shall be made by the Customer to the Company by the agreed date. The Company will invoice the Customer on a regular basis. All payments shall be required within the agreed period of the relevant invoice.

4.4 Where the Customer is required to pay a Hire Fee, the VAT inclusive amount of the Hire Fee shall be shown on the quote or Price List, and in addition the VAT charged on that amount will be shown on the bills, invoices, quotes and the Price List.

4.5 If either party fails to pay the due date any amount which is payable to the other party in breach of the agreement then, without prejudice to any right to enforce payment expressly given by these Terms and Conditions, the defaulting party shall, from the due date until payment is made in full, be liable to pay interest, at the rate of <<insert percentage>>% per annum, or the Bank of England base rate from time to time in force.

5. Delivery, Installation and Collection

5.1 Following payment of the Deposit and any required Hire Fee, the Company shall deliver the Equipment to the Premises on the agreed date, subject to the Customer's instructions.

5.2 The Company shall make reasonable endeavours to ensure that delivery is made on the agreed date. The Company shall be liable for any failure to do so.

5.3 The Customer's authorised representative must be available at the Premises on the agreed date of delivery in order to sign for the Equipment. In the event of non-delivery, the Company shall be deemed to have complied with the provisions of this sub-Clause 5.3 if it can be proved that the Customer's representative accepted delivery of the Equipment, assumed responsibility for the Equipment and shall not have the right to subsequently dispute the delivery.

5.4 In the event of non-delivery, the Customer shall be liable for any delivery charges incurred for any necessary re-delivery. Any charges shall be borne by the Customer.

5.5 Certain Equipment may require specialist installation. Unless otherwise stated, the Company shall be responsible for installation. Installation of the Equipment shall be the responsibility of the Customer. All costs of installation and subsequent removal shall be borne by the Customer. Hire Fees.

5.6 At the agreed collection date the Customer shall ensure that the Equipment is available for collection by the Company.

5.7 At the agreed collection date, prior to collection in accordance with sub-Clause 5.6, the Customer shall remove all Customer Data from the Equipment. The Company shall not be responsible for any Customer Data which remains on the Equipment at the end of the Hire Term.

5.8 In the event that the Equipment is unavailable for collection on the agreed date, the Customer shall be required to pay the relevant Hire Fees for the period of non-collection (including the day that they are returned to the Company at the Customer's expense). If those items are not available for collection the Customer shall be required to pay the

- cost of such replacement shall be borne by the Customer in accordance with the Company's then current Price List.
6. **Software**
- 6.1 Any software installed on the Equipment is and shall remain the property of the Company. The Customer gains no rights of ownership over such software.
- 6.2 The Customer shall use the Preinstalled Software within the bounds of the documentation of which shall be supplied along with the Equipment at the start of the Hire Term.
- 6.3 The Customer shall be solely liable for any breaches of licences for software that occur during the Hire Term.
- 6.4 The Customer shall not communicate, transfer, copy (in whole or in part), modify or translate the Preinstalled Software for any reason.
- 6.5 The Customer may install Additional Software provided that such installation does not damage the Equipment and is not likely to damage the Equipment. Beta versions of software may only be installed with the prior written consent of the Company.
- 6.6 All Additional Software must be removed from the Equipment prior to the end of the Hire Term.
7. **Use and Care**
- 7.1 The Customer shall use the Equipment for the normal purposes for which it is intended.
- 7.2 The Customer shall use the Equipment for legal and legitimate purposes.
- 7.3 All Equipment shall be used and operated in a suitable environment, and used in a safe manner and in full compliance with any relevant safety instructions and operation instructions or similar documentation provided by the Company.
- 7.4 Certain Equipment may require specialist training prior to use. The Customer shall ensure that such training is provided to all employees (and any other persons for whom it may be responsible) that will use the Equipment during the Hire Term.
- 7.5 The Customer shall not make any alterations or adjustments to the Equipment beyond those already possible within the range of adjustments specified by the Company.
- 7.6 The Customer shall not attach or connect other items to the Equipment where such attachment or connection does not exceed the design limitations of the Equipment and does not damage it in any way. The Customer may not remove any part of the Equipment or any part/s of it.
- 7.7 The Customer shall not attach the Equipment to anything unless using fixings approved by the Company.
- 7.8 The Customer shall treat the Equipment with a reasonable level of care and ensure that it is kept clean, subject always to reasonable levels of wear and tear.
- 7.9 All Equipment shall only use consumables of whatever nature must only be used with those that are recommended by the manufacturer (or piece of Equipment) or such other products as recommended by the Company.

STANDARD SAMPLE

7.10 The Customer shall not remove the Equipment from the Premises without the prior written consent of the Company. This prohibition does not extend to laptops, PDAs or other mobile devices.

7.11 The Customer shall not attempt to make any repairs to the Equipment without the prior written consent of the Company. When the Customer contacts the Company for repairs, the Company shall have the option of repairing the Equipment itself or granting the Customer permission to make the necessary repairs. The cost of such repairs shall be borne by either the Company or the Customer, the responsibility being determined by the reasons for those repairs.

7.12 The Company shall repair the Equipment to the standards specified by the relevant manufacturer's official parts (that is, those produced or recommended by the manufacturer of that particular piece of Equipment) shall be used for all repair work.

7.13 All parts and materials for replacement during the Hire Term shall be replaced by the Company provided that such replacement is necessitated by more than normal wear and tear. Additional damage may result in the Customer being charged for the cost of replacement parts and associated labour.

8. Maintenance

8.1 The Customer shall not attempt to make any repairs to the Equipment without the prior written consent of the Company. When the Company is contacted in this regard, the Company shall have the option of repairing the Equipment itself or granting the Customer permission to make the necessary repairs. The cost of such repairs shall be borne by either the Company or the Customer, the responsibility being determined by the reasons for those repairs.

8.2 The Customer shall not install any hardware upgrades to the Equipment of without the prior written consent of the Company. Where such consent is given, the Company the hardware concerned shall remain the property of the Company. If the Customer uses their own hardware it must be removed from the Equipment prior to the collection of the Equipment.

8.3 The Company shall authorise Authorised Personnel to perform software updates without the prior written consent of the Company provided such updates do not constitute a significant upgrade of software which would ordinarily be charged for. Permitted updates are not limited to, routine updates, patches and service packs.

8.4 In the event of a hardware or software failure, the Customer shall inform the Company of such failure as soon as possible using <<insert and describe preferred method e.g. email, phone, fax>>. The Company will use all reasonable endeavours to respond to such failure as soon as possible.

8.5 The Company shall repair the Equipment to the standards specified by the relevant manufacturer's official parts (that is, those produced or recommended by the manufacturer of that particular piece of Equipment) shall be used for all repair work.

8.6 All parts and materials for replacement during the Hire Term shall be replaced free of charge by the Company provided that such replacement is necessitated by nothing more than normal wear and tear. Additional damage may result in the Customer being charged for the cost of replacement parts and associated labour.

9. **Insurance and Indemnification for Loss or Damage**

9.1 [The Equipment shall be insured by the Company as part of the Hire. This insurance shall cover the following:

9.1.1 Fire, theft, lightning, flood; and

9.1.2 Theft occurs only following forced entry onto the premises.

The insurance cover provided for in this Clause 9 shall not cover accidental or malicious damage to the Equipment.]

OR

[It is the responsibility of the Customer to insure the Equipment fully and completely against fire, damage and theft. The value stated for the Equipment shall be the value in the Company's current Price List.

The Customer shall provide proof of such insurance to the Company on demand.

The Customer shall not provide any form of data loss insurance. If the Customer provides data loss insurance it shall remain their sole responsibility.

9.2 Where the Customer does not insure the Equipment against any particular or all risks, the Customer shall be responsible for the loss of or damage to the Equipment at all, the Customer shall be required to indemnify the Company against, any loss of or damage to the Equipment while it is in the possession of the Customer, however it occurs, subject to sub-Clause 9.3.

9.3 The Customer shall be liable to the Company for any loss of or damage to the Equipment, whether or not caused by or omission of the Company or for any damage to the Equipment during the term of the Hire Term or for any normal wear and tear to the Equipment by or on behalf of the Customer.

9.4 Any claim for loss of or damage to the Equipment which the Customer is liable under this Clause 9 will firstly be the cost of repairing the damage or replacing the Equipment, if the cost is, in the Company's opinion, higher than the sum of the amount of the excess sum, the Customer shall pay the excess sum.

10. **Company's Liability**

10.1 The Company shall not be liable to the Customer for any failure or delay in performance of its obligations where such failure or delay results from Force Majeure.

10.2 The Company shall not be liable in contract or tort (including negligence) by breach of any term of these Terms and Conditions or breach of the Agreement, or any breach by the Company of any other term, or any negligent or innocent breach of any duty of negligence or other duty at common law, for any:

10.2.1 Loss of or damage to any Equipment;

10.2.2 Delay in delivery of any Equipment;

10.2.3 Delay in repair of any Equipment;

10.2.4 Delay in delivery of any Equipment;

10.2.5 Delay in repair of any Equipment;

- 10.2. ...ings; or
- 10.2. ... consequential loss, damage, costs, expenses or
- arising from the Commission by the Company or any of its agents or
employees or any other person or entity in connection with
the performance of the Company's obligations arising under these Terms and
Conditions.
- 10.3 The Company shall be liable for any personal injury or damage to property
which results from the Hiree's improper use of the Equipment.
- 10.4 Nothing in these Conditions is intended to or will exclude or limit
the Company's liability for death or personal injury caused by its negligence
(including its employees, agents or sub-contractors) or for fraud or
fraudulent misrepresentation.
- 10.5 [With effect from the date of the above provisions of this Clause 8, the
Company shall pay to the Hiree, under these Terms and Conditions and the Hire
Agreement, a sum equal to [e.g. 3] times] the value of the Hire Agreement,
and this sum shall mean the total of the Hire Fees payable by the
Customer.

11. Data Protection

The Company shall protect the personal information as set out in its <<insert
document name>> [available from <<insert location>>][copy
attached].

12. Termination

- 12.1 When the Hiree is an individual, the Company shall be entitled to
terminate the Hire Agreement in the event that:
- 12.1.1 the Hiree breaches any of these Terms and Conditions;
- 12.1.2 the Hiree's personal belongings are confiscated in order to
comply with a law enforcement receiving order made against them.
- 12.2 When the Hiree is a company, the Company shall be entitled to terminate
the Hire Agreement in the event that:
- 12.2.1 the Hiree breaches any of these Terms and Conditions;
- 12.2.2 the Hiree goes into bankruptcy or liquidation either voluntary or
involuntary (or for the purposes of bona fide corporate
reorganisation) or if a receiver is appointed in respect
of its assets.
- 12.3 In the event of any of the above reasons:
- 12.3.1 the Hire Fees payable under the Hire Agreement shall become due and
payable immediately;
- 12.3.2 the Company shall have the immediate right to request the immediate
return or repossession of the Equipment and may charge
reasonable costs involved in such repossession.

13. **Communications**

The Customer may contact the Company in person at [any of] the Company's branch(es), by telephone at <<insert number>>, by email at <<insert email address>>, or by post at <<insert company name>>, <<insert address>>.

14. **Complaints**

14.1 The Company receives feedback from its customers and, whilst it always endeavours to ensure that its customers' experience is positive, it nevertheless welcomes the opportunity to resolve any complaints.

14.2 All complaints will be handled in accordance with the Company's complaints procedure, available from <<insert location(s)>>.

14.3 If the Customer complains about any aspect of its dealings with the Company limited to, these Terms and Conditions, the Hire Agreement, it should contact the Company in one of the following ways:

14.3.1 By post to <<insert name and/or position and/or address>>;]

14.3.2 By email to <<insert name and/or position and/or email address>>;]

14.3.3 By completing the Company's complaints form, following the instructions on the form.]

14.3.4 By contacting the Company by telephone on <<insert telephone number>> using option <<insert number>> when prompted.]]

15. **Entire Agreement**

15.1 The Hire Agreement, these Terms and Conditions and any documents expressly incorporated into the Hire Agreement, constitute the entire agreement between the Parties with respect to its subject matter and may not be varied except by an instrument in writing signed by a duly authorised representative of each Party.

15.2 Each Party acknowledges that, in entering into the Hire Agreement, neither Party relies on any representation, warranty or other statement made or provided in the documents comprising the Hire Agreement.

16. **Other Important Provisions**

16.1 The Company may (assign) its obligations and rights under these Terms and Conditions (under the Hire Agreement, as applicable) to a third party (for example, if the Company sells its business). If this occurs, the Company will inform the Customer. The Customer's rights under these Terms and Conditions will not be affected and the Company's obligations will be transferred to the third party who will remain bound by these Terms and Conditions.

16.2 The Customer may not transfer (assign) their obligations and rights under these Terms and Conditions or under the Hire Agreement as applicable without the Company's written permission.

16.3 The relationship between the Customer and the Company. It is not intended to create a partnership or joint venture.

- intend to bind any person or third party in any way and no such person shall be deemed to enforce any provision of these Terms and Conditions.
- 16.4 If and in so far as these Terms and Conditions are found to be unlawful or unenforceable by any court or other authority, that / they shall nevertheless be deemed severed from the remainder of these Terms and Conditions and the remainder of these Terms and Conditions shall be valid.
- 16.5 No failure by the Company in exercising any of its rights under these Terms and Conditions shall constitute a waiver by the Company that it has waived that right, and no waiver by the Company of any provision of these Terms and Conditions shall constitute a subsequent breach of the same or any other provision of these Terms and Conditions.
17. **Law and Jurisdiction**
- 17.1 These Terms and Conditions, the Hire Agreement, and the relationship between the Customer and the Company (whether contractual or otherwise) shall be governed by and construed in accordance with the law of England and Wales.
- 17.2 Any dispute or proceedings or claim between the Customer and the Company arising out of or in connection with these Terms and Conditions, the Hire Agreement, or the relationship between the Customer and the Company (whether contractual or otherwise) shall be referred to the [non-]exclusive jurisdiction of the English Courts.

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