

## CO-LOCATION AND HOSTING SERVICES SUPPLEMENTAL TERMS AND CONDITIONS

### 1. Scope

- 1.1 These Co-location and Hosting Services Supplemental Terms and Conditions supplement and (unless expressly stated otherwise) incorporate the terms and conditions set out in the General Terms and Conditions in respect of the Co-location and Hosting Services to be provided by ITPS to the Customer under a Contract. These Co-location and Hosting Services Supplemental Terms and Conditions apply only to the supply by ITPS of the Co-location and Hosting Services and the Customer's use of those Services. Any other Products supplied by ITPS to the Customer remain subject to the Contract Terms applicable to those Products.
- 1.2 The additional definitions set out in clause 7 shall apply in these Co-location and Hosting Services Supplemental Terms and Conditions. Any defined terms in the General Terms and Conditions or the Proposal will have the same meaning in these Co-location and Hosting Services Supplemental Terms and Conditions unless stated otherwise.

### 2. Co-location and Hosting Services

- 2.1 In consideration of the Customer's obligations to ITPS and subject to the terms of the Contract, ITPS agrees from the Commencement Date to:
- 2.1.1 unless otherwise agreed by ITPS in writing (including where ITPS agrees to perform Additional Services which may modify or supplement any of the following):
- (a) install, connect and maintain the power supply to the Equipment at the Location;
  - (b) supply racking and cabling for the Equipment in the Location in the quantities and at the price specified in the Proposal;
  - (c) provide internet connectivity through an internet service provider which provides an internet connection at the Building and shall provide the Basic Connectivity Service. The Customer shall, and shall ensure that users of the Equipment shall, make their own arrangements for internet access in order to access the Equipment. ITPS shall supply Burstable Bandwidth Connectivity Services on a Contended basis;
  - (d) provide the Basic Back-Up Service; and
- 2.1.2 provide the Additional Services (if any).
- 2.2 ITPS shall provide the Co-location and Hosting Services and the Additional Services (if any), with reasonable care and skill. The Building shall be equipped with access security, climate control, fire suppression, and managed price increase supply with UPS and generator back-up.
- 2.3 ITPS shall not be responsible for providing, or liable in respect of, any Out-of-Scope Activities.
- 2.4 ITPS is not obliged to perform any Excluded Services. Where ITPS performs any Excluded Services, ITPS shall charge, and the Customer shall pay, the relevant Additional Services Fees in respect of that work.

### 3. Prices

- 3.1 Subject to clause 14.2.2 of the General Terms and Conditions
- 3.1.1 at any time by giving the Customer fourteen (14) days written notice, increase its prices to take account of any increase in the cost to ITPS of supplying the services (including, but not limited to, any change in power consumption rates), and such increased prices ruling at the date of supply of the Services by ITPS shall be substituted for the previous contract price; and

- 3.1.2 at any time after the first anniversary of the Commencement Date, increase the Charges by giving to the Customer not less than (14) days' written notice, provided that the increases shall be no more frequent than once in any 12-month period.

#### **4. Customer's obligations**

- 4.1 The Customer agrees with ITPS:
- 4.1.1 that, subject to the Contract Terms, the Customer shall be entitled to install Equipment at the Location;
  - 4.1.2 to ensure that all the Equipment is clearly labelled as belonging to the Customer;
  - 4.1.3 to maintain the Equipment to a standard which ensures that at all times the Equipment is safe and complies with all applicable health and safety standards and all statutory or other legal requirements;
  - 4.1.4 to comply with ITPS' health and safety instructions issued from time to time including, in particular, those relating to:
    - (a) the condition of the Location, including those instructions relating to the disposal of rubbish and hazardous material. The Customer is to ensure that the Location is kept safe and tidy at all times. To the extent the Customer fails to comply with the obligations set out in this clause 3.1.4(a), ITPS may by notice in writing (specifying the matter to be rectified) require the Customer to remedy the same within seven (7) days of the date of such notice. In the event that ITPS considers the condition of the Location to be unsafe for ITPS' Personnel (or the Personnel of other customers) it may suspend provision of the Co-location and Hosting Services and/or the Additional Services (if any) until its instructions have been fully complied with by the Customer. In the event that the Customer has not complied with a notice given by ITPS pursuant to this clause 3.1.4(a), ITPS may itself, without prejudice to its other rights or remedies, remedy the condition of the Location including, but not limited to, the removal or disposal of any unsafe materials or rubbish at the Customer's expense; and
    - (b) any installation and/or cabling works. To the extent that the Customer and/or its Personnel are found to be engaging in works which ITPS considers to be being conducted in an unsafe manner or creating an unsafe environment, ITPS may immediately require the Customer to stop such works until such works or environment are made safe;
  - 4.1.5 not to replace or move the Equipment or to make any modification, alteration or addition to the same which results in material changes to the floor loading, heat output, power consumption and environmental conditions of the Equipment and the Location;
  - 4.1.6 not to make or permit any person other than ITPS (or persons approved by ITPS) to make any connection or disconnection of the Equipment or any part of the power supply within the Building. For the avoidance of doubt, the Customer shall not permit any person other than ITPS (or persons approved by ITPS) to connect or disconnect the Equipment to any other power supply other than the Sockets;
  - 4.1.7 not to install Equipment which occupies more than the space available in the Location;
  - 4.1.8 unless otherwise agreed in writing with ITPS, to install the Equipment in the Location at its own expense in accordance with an installation plan and timetable agreed with ITPS;

- 4.1.9 not to cause any injury or damage to, and in the case of equipment, interference with, any person or property including (without limitation) the Building and any equipment owned by ITPS or third parties which may from time to time be located in the Building;
- 4.1.10 that if any interference occurs between the Equipment and the equipment of a third party, the same shall be resolved by ITPS in such manner as ITPS directs and in accordance with which the Customer shall comply. Should, following an investigation carried out by ITPS, it be established that the interference is caused by the Equipment, the Customer shall be responsible for the cost of ITPS' investigation and the cost of repairing or replacing any damaged equipment belonging to the Customer himself or any third party and shall pay such sums on demand to ITPS or such third party as ITPS may specify;
- 4.1.11 to inform ITPS immediately if any of its Equipment is subject to interference or is malfunctioning;
- 4.1.12 to provide at no charge training for ITPS and its Personnel to the extent agreed with ITPS from time to time to enable ITPS to perform its obligations under the Contract;
- 4.1.13 to provide ITPS from time to time upon request with a list of its Personnel who are authorised to have access to the Equipment in the Building for the purposes of inspecting and maintaining the Equipment;
- 4.1.14 at the termination of the Contract (or the relevant part of it) to remove the Equipment from the Building and on demand pay all reasonable costs and expenses incurred by or on behalf of ITPS relating to the disconnection and removal of the Equipment;
- 4.1.15 to provide all necessary access to Equipment, information, facilities and authorisations necessary to enable ITPS to fulfil its obligations under the Contract and to provide such co-operation as ITPS may reasonably require in connection with the provision of the Co-location and Hosting Services and the Additional Services (if any);
- 4.1.16 where, as part of the use or operation of the Equipment, the Customer makes use of or possesses any data, documents, programs, equipment or other information and materials owned or supplied by a third party, to have and maintain at all times (at the Customer's own expense) all necessary approvals and permissions including any consents and approvals necessary for ITPS to provide the relevant services;
- 4.1.17 that it shall not use the Co-location and Hosting Services and/or the Additional Services (if any):
  - (a) to store, distribute or transmit through the relevant services any Virus or any material that:
    - (i) is unlawful, harmful, threatening, defamatory, obscene, harassing or racially or ethnically offensive;
    - (ii) facilitates illegal activity;
    - (iii) depicts sexually explicit images; or
    - (iv) promotes unlawful violence, discrimination based on race, gender, age, disability, sexual orientation, religion, belief or gender reassignment, or any other illegal activity; or
  - (b) in a manner or for a purpose that constitutes a violation or infringement of the rights, or is harmful or detrimental to the reputation of ITPS or any other person; or

- (c) unless as otherwise agreed in writing, to provide the Co-location and Hosting Services and/or the Additional Services (if any) directly or indirectly to third parties.

## **5. ITPS Rights**

5.1 ITPS shall be entitled, without liability, to:

- 5.1.1 subject to giving not less than thirty (30) days' prior written notice to the Customer, move the Equipment to a different location within the Building (which shall then become the "Location" for the purposes of the Contract). The costs and expenses incurred by ITPS in moving and installing the Equipment shall be borne by ITPS and the Customer accepts that its use of the Equipment may therefore be interrupted. ITPS will use its reasonable endeavours to cause minimum disruption to the operation of the Equipment by endeavouring to make the relocation outside of Normal Working Hours; and
- 5.1.2 temporarily disconnect the power supply to the Equipment for the purpose of investigating and rectifying any reported problems or carrying out maintenance relating to the Equipment, the Location, the Building or other equipment in the Building or moving the Equipment to a different location pursuant to clause 4.1.1. Where reasonably practicable (emergencies excluded), ITPS will give advance notice of such disconnection and use its reasonable endeavours to cause minimum disruption to the operation of the Equipment by endeavouring to make the disconnection outside of Normal Working Hours.

## **6. Access to Equipment**

- 6.1 Subject to clause 5.2, ITPS shall permit the Customer's Personnel (including any Personnel of any third party telecommunications carrier or maintenance supplier) to access the Building and the Location for the purpose of assessing, inspecting, installing, moving, repairing and/or maintaining the Equipment provided that the Customer has given ITPS as much written notice (including by email) as is reasonably practicable under the circumstances of the name of such person and the date and time when access is required.
- 6.2 ITPS reserves the right (on reasonable grounds), without liability, to:
  - 6.2.1 refuse any person entry to the Building; and
  - 6.2.2 request any person leave the Building at any time.
- 6.3 ITPS will not be responsible for the consequences of any refusal or delay by ITPS to permit entry or of any request by ITPS for a person to leave the Building where such decision has been made on reasonable grounds.

## **7. Additional space**

- 7.1 Should the Customer require additional space for any equipment, the Customer may request permission to install additional equipment in the Building and shall give written notice of such request to ITPS and shall give notice to ITPS of the power and other technical requirements for such additional equipment.
- 7.2 ITPS shall consider any such request and if agreement is reached (included in respect of associated Charges), ITPS shall designate a further part of the Building for additional equipment and the relevant provisions of the Contract shall be amended accordingly and the provisions of the Contract shall apply equally to such further part.

## **8. Definitions and interpretation**

- 8.1 In these Co-location and Hosting Services Supplemental Terms and Conditions, the following additional definitions apply:

**Additional Services:** means the services (if any) in addition to the Basic Services which ITPS agrees to provide to the Customer (which may include amongst other services the Enhanced Back-up Service and/or the Enhanced Connectivity Service) and which are set out in the Proposal, or otherwise agreed in writing by the parties.

**Additional Services Fees:** means the fees payable by the Customer in consideration for the provision of any Additional Services which shall be calculated by reference to the relevant information set out in the Proposal or as otherwise notified to the Customer by ITPS in writing.

**Basic Back-Up Service:** means the back-up service to be provided by ITPS as part of the Co-location and Hosting Services which (unless otherwise agreed in writing) shall constitute a daily back-up (not image based) of the Customer data to be undertaken outside of Normal Business Hours with backed up data being retained for one calendar month.

**Basic Connectivity Service:** means the service to be provided by ITPS (unless agreed in writing otherwise between the parties) as part of the Co-location and Hosting Services which shall constitute the supply of Burstable Bandwidth Connectivity Services on a Contended basis, as further described in the Proposal.

**Building:** means the building designated by ITPS from time to time for the provision of the Co-location and Hosting Services.

**Burstable Bandwidth Connectivity Services:** means the provision of an internet connection which is provided on a flexible (rather than dedicated) bandwidth basis, whereby several users (including the Customer and various third parties) will share bandwidth in the same connection in order to provide a more cost effective internet connection than would be achievable by providing a dedicated bandwidth link.

**Co-location and Hosting Services:** means the services described in clause 2.1.1.

**Contended:** means that the relevant internet connection will be shared by various users (including the Customer and various third parties), each of whom will be competing to utilise bandwidth from the same shared internet connection.

**Enhanced Back-up Service:** means the service (if any) to be provided by ITPS as part of the Additional Services which shall supply Burstable Bandwidth Connectivity Services on an Uncontended basis as further described in the Proposal.

**Enhanced Connectivity Service:** means the service (if any) to be provided by ITPS as part of the Additional Services which shall supply Burstable Bandwidth Connectivity Services on an Uncontended basis as further described in the Proposal.

**Equipment:** means (unless otherwise agreed in writing between the parties) the Customer's equipment installed by the Customer in the Location from time to time and excluding, for the avoidance of doubt, ITPS' property.

**Excluded Services:** means any services which ITPS is not obliged to provide under the Contract, including any services which are explicitly detailed as excluded from the Services in the Proposal.

**General Terms and Conditions** means the General Terms and Conditions of ITPS from time to time, as available at [General-Terms-Conditions.pdf \(itps.co.uk\)](https://www.itps.co.uk/General-Terms-Conditions.pdf)

**Location:** means such part or parts of the Building specified in the Proposal or as shall have otherwise been designated by ITPS for the installation of the Equipment, as the same may be changed under clause 6.2.

**Out-of-Scope Activities:** means any activities specified in writing by ITPS (including in the Proposal) as being "out of scope".



**Sockets:** the power sockets in the Location which are approved by ITPS in writing for the Customer's use.

**Uncontended:** means that bandwidth in the relevant internet connection will not be shared with any third parties.

**Virus:** means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things and devices.