

# TERMS AND CONDITIONS

## Colocation Service

These terms and conditions are important and should be read carefully. If You have any queries regarding the terms and conditions, please telephone 01534 882882 or contact Us via [www.itglobal.com](http://www.itglobal.com). Any capitalised term not defined in these terms and conditions shall have the meaning given to it in Our [Definitions Terms and Conditions](#).

For the purposes of these terms and conditions “**Minimum Contract Period**” means a period of 24 months from the commencement of the Contract or, such other period as may be stated in the Application Form. “**Service**” means colocation or any other service selected by You in the Application Form, where these Conditions are stated to apply. “**Service Commencement Date**” means a date that is 10 business days after the date of the Contract, or such other date as may be agreed between You and Us.

### 1. COMMENCEMENT AND DURATION

- 1.1 Unless otherwise expressly agreed in writing or provided for by law or regulation, the Contract shall come into force on the date that it is signed by Us and You, but unless otherwise expressly agreed in writing, the Service will commence on the Service Commencement Date.
- 1.2 Subject to the provisions of clauses 13.1 and 13.2 hereunder the Contract shall remain in force for the Minimum Contract Period and thereafter shall continue in force until terminated by either Us or You in accordance with clause 13.3 below.
- 1.3 Save where termination is notified by You to Us under clause 13.2 below, if (a) You terminate the Contract during the Minimum Contract Period; or (b) pursuant to clause 4 below We either cancel a Service during the Minimum Contract Period or suspend or limit a Service during the Minimum Contract Period and do not reinstate it, You shall, even if We have terminated the Contract pursuant to clause 13 below by reason of the matter giving rise to the cancellation, suspension or limitation of a Service, pay a sum equal to the Service Charge and any extra charges which would have been payable to Us for the balance of the Minimum Contract Period.
- 1.4 Nothing in this clause shall prevent either Us or You from terminating the Contract in accordance with clause 13 below.

### 2. VARIATION

- 2.1 We may from time to time vary the Conditions and Product Description applicable to a Service and will as soon as practicable and in any event not less than 1 calendar month before any such variation is to take effect give written notice of all such variations On-line and/or at Our office(s) in Jersey and/or Guernsey as applicable and will also notify You in writing of any significantly material variations.
- 2.2 Notwithstanding the above, We may vary all or any of the Service Charges by publishing any such variation at least 1 calendar month in advance in a schedule of tariffs to be displayed and/or available at Our office(s) in Jersey and/or Guernsey as applicable and/or On-line. Such variation shall not apply to any element of the Service Charges that is stated as fixed for a stated period in the Application Form if the variation occurs during the stated period.
- 2.3 We will apply an annual increase to the Service Charges paid by You under a Contract based on the annual percentage increase (if any) in the All Items Retail Prices Index (RPI) as published by Statistics Jersey or the "all items" RPI as published by the States of Guernsey Data and Analysis Team (as applicable). The increase will be calculated on the basis of the December RPI figure published by the relevant island authority in January of each year (<https://www.gov.je/StatisticsPerformance/BusinessEconomy/Pages/Inflation.aspx> and <https://gov.gg/rpi>) and will be applied in March/April of that year.
- 2.4 Other than as stated above any variations to the Contract shall be made in writing by Us and signed by a duly authorised officer of the same.
- 2.5 Save as herein expressly provided none of Our servants or agents shall have the authority to agree any variation or addition to the Contract. Any representation or warranty so made is of no force or effect unless made in accordance with this clause.
- 2.6 In the event that the British Pound Sterling suffers a currency devaluation as a result of an adverse change in applicable foreign exchange rates, and this devaluation directly impacts and increases Our costs in providing the Service, We reserve the right to adjust the Service Charges in order to take account of that increase in Our costs.

### 3. SERVICE

- 3.1 A Service does not include the provision of Your Equipment unless specified on the Application Form. If Your Equipment is provided by Us as part of a Service, then Our Equipment Rental or Equipment Purchase Terms and Conditions will apply to Your Equipment.
- 3.2 Where part or parts of a Service or the Premises are provided and/or supported by a telecommunications provider other than Us, We shall not be responsible for those parts so provided.
- 3.3 On or after the date of the Contract, We will permit You to have access to the Premises prior to the Service Commencement Date to prepare it for the installation of Your Equipment in the rack or cage space that is being

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made available to You as part of the Service.

- 3.4 We reserve the right to vary the technical specification of a Service at any time, and where a Service is materially affected undertake to notify You of such variation within a reasonable time beforehand.
- 3.5 The whole of the Telecommunications Apparatus shall remain Our property and shall solely and exclusively be maintained and moved by Us.
- 3.6 Where, by reason of a fault with the Telecommunications Apparatus, a Service has failed to operate within its designed specification We will, at no additional charge to the Service Charge, repair the same unless the fault has occurred as a result of damage other than by Us, Our employees, agents or subcontractors.
- 3.7 We reserve the right, without penalty, to alter Your network/IP addresses provided by Us or any other names, codes or numbers allocated from time to time by Us for use in connection with a Service giving, where practicable from a Our operational point of view, advance notice of each alteration to You, but in any event notifying You of each such alteration within a reasonable time thereafter. All addresses, names, codes or numbers remain Our property.
- 3.8 You acknowledge and accept that provision of a Service may involve the carriage of a high intensity light source or electric current which energies are dangerous and may cause serious injury or death if not handled properly.
- 3.9 Where You comprise more than one person, We reserve the right to provide information with respect to a Service provided to You to any of the persons named in the Application Form.
- 3.10 We are not responsible for the content of any material made available and/or accessible by use of a Service.
- 3.11 We reserve the right to disclose Your name, telephone and/or facsimile numbers and/or email address to any judicial, police or regulatory or governmental agency where required to do so, or in an emergency to the emergency services.
- 3.12 You acknowledge that We are unable to exercise control over the content of, or to ensure the security of, data made available to, accessed by, transmitted by or published by You, or over any of Your activities that could have any impact on the content or security of Your or other data. You undertake to use a Service only for lawful purposes.

## 4. SUSPENSION OF A SERVICE

- 4.1 We may (without prejudice to any other right or remedy) suspend, limit or cancel a Service provided to You without penalty and with immediate effect:
  - (a) during any technical failure, or maintenance of a Service or where We are unable to provide a Service for reasons beyond Our control or otherwise for reasons not Our fault provided that We will use Our reasonable endeavours to procure resumption of a Service as soon as reasonably practicable;
  - (b) if You fail to observe or perform the Conditions;
  - (c) if We have reasonable grounds to suspect that a Service is being used fraudulently or otherwise illegally; or
  - (d) if We have reasonable grounds to believe that You have provided Us with false, misleading or incomplete details about You or any other person who may use a Service (including, but not limited to, name, current and previous address(es), date of birth, telephone numbers, employment information and bank and credit or debit card information) when You applied for a Service or thereafter or that You have failed to tell Us if any of these details have changed.
- 4.2 In the case of suspension, limitation or cancellation under 4.1(a) only, without prejudice to the terms of any applicable service level agreement You shall remain liable for all charges due hereunder throughout the period of suspension limitation or cancellation, unless We at Our sole discretion determine otherwise.

## 5. CHARGES AND PAYMENT

- 5.1 The Service Charges shall comprise any installation charge for the Service, whether initial or after suspension, limitation or cancellation, and rental charge (payable in advance) for a Service where such charges depend on the relevant service options selected in the Application Form.
- 5.2 In addition to charging GST in respect of the supply of Services in the Bailiwick of Jersey, We will, where applicable, charge You GST in respect of the supply of other goods and/or services under this Contract and You will pay that amount in addition to the charges for those other goods and/or services.
- 5.3 Where You name more than 1 person on the Application Form upon commencement of the Service or thereafter, liability for the Service Charges and/or any additional sums relating to a Service shall be joint and several.
- 5.4 Where You request work to be carried out which is not included in the Service Charges, We may charge additional sums. We will, for example, make extra charges where We:
  - (a) repair any of Your Equipment where such repair is not covered by any other agreement between Us and You;
  - (b) respond to a fault report and no fault is found to exist;
  - (c) repair of a fault reported by You is made more difficult or costly by breach of Your obligations under the Contract;
  - (d) correct any defect or fault caused by You or anyone using a Service;
  - (e) repair Telecommunications Apparatus located at the Premises that is damaged by You, Your employees or

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agents.

- 5.5 Service Charges and/or any additional sums are payable in full on demand or as otherwise agreed between the Us and You. If payment is agreed in writing to be made by instalments and if You fail to pay any instalment on its due date then We shall be entitled to demand immediate payment of the unpaid balance (including all arrears).
- 5.6 We will charge a Late Payment Fee on any balances which remain unpaid after the due date.
- 5.7 For the purposes of credit referencing and fraud prevention, We reserve the right from time to time during the term of the Contract to:
- (a) make searches about You at credit reference agencies and elsewhere to verify Your identity and to help Us to decide whether to accept Your application for a Service and/or to continue to provide a Service to You;
  - (b) use (and share with debt collection agencies and appropriate authorities) Your details for the purpose of collecting debts, preventing and detecting fraud and seeking to recover damages and costs arising from fraud or other unlawful activity on Your part;
  - (c) record, and pass to the appropriate authorities, details of any false or inaccurate information provided by You or where We suspect fraud or any other unlawful or improper activity on Your part; and
  - (d) pass on to and share information with other communications service providers and network operators for the detection and prevention of theft and fraud.

## 6. YOUR OBLIGATIONS

### 6.1 You shall:

- (a) only use, make use of, cause, allow or permit to be used a Service in accordance with the specification contained in the Application Form, Product Description and any instructions provided by Us and shall only use a Service for the purpose for which it was designed;
- (b) enter into an appropriate contract with any other telecommunications provider that provides part or parts of a Service;
- (c) comply with Our reasonable requests for assistance in order to diagnose existing or potential faults;
- (d) upon reasonable notice, allow Us full and convenient access to Your Equipment and/or Telecommunications Apparatus as applicable and associated wiring at all reasonable times in order to rectify any fault with the Service as reported to Us by You by (for example, but without limitation) leaving in Our safe custody at the Premises copy keys, combinations and/or passwords to allow Us the necessary access;
- (e) only use Type Approved Equipment for the purpose of utilising a Service and allow Us full and convenient access at all reasonable times to inspect any equipment used in connection with a Service to ensure that it is Type Approved Equipment and that it conforms with necessary standards, codes or licensing requirements;
- (f) use Your Equipment in accordance with the manufacturer's and/or Our recommendations;
- (g) keep any Security Device secure and not give or disclose it to any unauthorised person;
- (h) immediately notify Us should You know or suspect that:
  - (i) a Security Device has been obtained by any unauthorised person; and/or
  - (ii) unauthorised access to Your Equipment, either physical or otherwise is being or has been made;
- (i) be responsible for all and any loss or damage of any nature that may be incurred by Us as a result of any use, authorised by You or not, of a Security Device except if the unauthorised use of the Security Device was permitted to occur by Us, Our employees, agents or subcontractors;
- (j) be responsible for all damage or loss caused to Us or third parties by misuse of, mis-operation of, or fault with a Service or Your Equipment whether consequential, direct, indirect, foreseeable or unforeseeable other than due to the acts or omissions of Us, Our employees, agents and/or subcontractors and, at Your own cost, to insure all Your Equipment located at the Premises in respect of such damage or loss and all other usual or ordinary risks and to maintain such insurance without interruption until the removal of Your Equipment from the Premises;
- (k) take all appropriate measures to safeguard the security of data sent by means of a Service;
- (l) notify Us immediately where You are conducting remote gambling by means of a Service;
- (m) ensure that You have the relevant licence in place from the Jersey Gambling Commission where You are conducting remote gambling by means of a Service;
- (n) promptly advise Us in writing where You enact Your disaster recovery process;
- (o) promptly advise Us in writing of any change of billing address, contact address or contact number;
- (p) service and/or maintain Your Equipment in accordance with the manufacturer's and/or Our recommendations;
- (q) obtain any licence applicable to or required by You prior to using a Service; and
- (r) respect the privacy and discretion of other clients who may also have equipment and services operating in the same shared facility.

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6.2 You **shall not** on Your own or otherwise:

- (a) tamper with, move, modify, or access (or attempt any of the foregoing) any Telecommunications Apparatus or any associated wiring at the Premises without Our prior written consent;
- (b) use a Service in breach of any terms of any licence applicable to, or binding on, You;
- (c) use a Service to send, transmit, publish, display, advertise or make available material, information, messages or communications which infringe/s copyright or any other intellectual property right held in any country are/is offensive, abusive, obscene, pornographic, threatening, annoying, defamatory, incite/s hatred, panic or anxiety, breach/es confidence, are/is otherwise unlawful or infringe/s any third party's legal rights of whatever nature under the laws of any jurisdiction;
- (d) use the Premises for storage of equipment or materials without Our prior permission;
- (e) use any part of the Premises for the storage of any flammable, explosive, toxic, radioactive material or any other material of an inherently or potentially dangerous nature; or
- (f) use a Service for any purpose which may result in the illegal access to or collection of data whilst in transit, illegal access to computers or networks, spamming, flooding or other such broadcasts together with any other activity which may adversely affect Us or any third party.

## 7. HEALTH AND SAFETY

7.1 You, Your agents, employees, contractors or invitees shall not enter the Premises unless familiar with:

- (a) the applicable parts of the current Our Health and Safety Code of Practice; and
- (b) the emergency procedures applicable to the Premises,

each as made available to You by Us from time to time and unless such persons have complied with any requirements imposed on them by Us prior to entry.

7.2 You shall take all reasonable and proper precautions to protect the health and safety of Your personnel and Our personnel while at the Premises.

7.3 You shall take all necessary steps to warn all persons at the Premises of the dangers associated with the provision of a Service and shall take proper and sufficient care in training personnel in the handling of the Telecommunications Apparatus and Your Equipment where such handling by You, Your agents, employees, contractors or invitees is necessary.

## 8. ASSIGNMENT

8.1 You may not assign the Contract without Our permission, such permission not to be unreasonably withheld.

8.2 We reserve the right to assign all or part of the Contract to any person and/or to subcontract any of Our obligations hereunder upon giving You at least 28 days' prior notice.

## 9. EXCLUSION AND LIMITATION OF LIABILITY

The following provisions set out Our entire liability (including any liability for the acts and omissions of Our employees, agents and subcontractors) to You in respect of any breach of contract, misrepresentation, tortious act or omission including negligence or otherwise arising under or in connection with the provision of a Service. **Your attention is in particular drawn to these provisions.**

9.1 We do not exclude or restrict liability for death or personal injury resulting from Our own negligence.

9.2 Unless otherwise expressly agreed in writing by You and Us (in a service level agreement or otherwise), We shall not be liable to You or to any other person for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with the provision of a Service except as provided in clause 9.1 above. Whilst We will use Our reasonable endeavours to maintain the quality of a Service and to ensure that a Service is available at all times We make no representation or warranty in relation thereto.

9.3 Without prejudice to the generality of clauses 9.1 or 9.2, We shall not be liable to You or to any other person for:

- (a) any defect in, poor quality of, unavailability, interruption or discontinuance of a Service or any website or email address (and without prejudice to the generality of the foregoing and clause 9.1 and 9.2, We shall in no circumstances be liable for any defect in, poor quality of, unavailability or interruption lasting less than 3 days);
- (b) any loss of profits, business revenue, goodwill or anticipated savings, or any type of special, indirect or consequential loss (including but not limited to loss or damage to data, equipment or property even if in Our care, custody or control) whether direct, indirect, foreseeable or unforeseeable;
- (c) the non-delivery or non-receipt of an email or other message;
- (d) the security of any information accessed or delivered;
- (e) any viruses including but not limited to trojans and worms;
- (f) failure by You to use a Service and any product supplied with it for the purpose for which it was designed; or
- (g) Your use of a Service and/or Your activities, including but not limited to, any acts which under the laws of any jurisdiction infringe any third party's intellectual property rights (including the use of any domain name)

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infringe obscenity laws, constitute threats, are in any way defamatory or are illegal or give rise to any liability in any way.

- 9.4 We are not responsible for maintaining any insurance cover of any nature to cover any loss by You or any other party arising from the provision or unavailability of a Service or otherwise and any such insurance cover shall be Your responsibility.
- 9.5 If any exclusion or limitation of liability contained in this clause is invalid and We become liable for any loss or damage, You (acknowledging that We are not able to evaluate any potential loss to You) agree that Our liability for any 1 event or series of events shall in any event be limited to the Service Charges payable by You for the Minimum Contract Period.
- 9.6 Each provision of this clause shall operate independently of each other provision of this clause.
- 9.7 You agree to indemnify Us and hold Us harmless in respect of all costs, damages, awards and expenses and professional fees of any kind (without limit) arising from or in connection with any claim brought against Us by any third party located in any jurisdiction arising from any use of a Service provided to You (by either You or any other party) constituting any unlawful act or otherwise giving rise to any liability. You shall immediately notify Us in writing of any such claims of which You become aware. You further agree to offer all reasonable assistance to Us in defending such claims at Your sole expense.

## 10. FORCE MAJEURE

We shall not be liable in respect of any breach of the Contract due to any cause beyond Our reasonable control including (but without limitation): act of God, pandemic, inclement weather, lightning, flood or fire; industrial action or lockouts; the act or omission of Government, highway authorities, or any other competent authority; war or armed conflict, military operations, vandalism or riot; the act or omission of any other party (including any other party that provides any part of a Service or upon which We rely in order to provide any part of the Service) and national and/or civil emergencies.

## 11. ENTIRE AGREEMENT

The Conditions supersede all prior oral or written communications regarding a Service and contain the whole agreement between You and Us relating to a Service, unless specifically otherwise agreed in writing.

## 12. NOTICES

- 12.1 Any notice or other communication required to be given or served for the purposes of the Contract except where otherwise provided shall be in writing and shall be deemed to have been duly given and served if sent by post, email or delivered by hand. Notices shall be deemed received 48 hours after posting or transmitting.
- 12.2 Your address for correspondence shall be the contact address as specified in the Application Form or an address notified to Us by You in writing as an address to which bills may be sent or Your usual or last known place of abode or business or if You are a limited company, Your registered office.
- 12.3 Our address for correspondence in the Bailiwick of Jersey shall be No. 1 The Forum, Grenville Street, St Helier, Jersey JE4 8PB.
- 12.4 Our address for correspondence in the Bailiwick of Guernsey shall be East Wing, Trafalgar Court Les Banques, St Peter Port, Guernsey, GY1 3PP.

## 13. TERMINATION

- 13.1 We may terminate the Contract immediately without penalty to Us if You:
- fail to satisfy Us with regard to any credit check undertaken in respect of You;
  - fail to pay when due any sum payable under the Contract or any other agreement or contract made between You and Us;
  - become bankrupt within the meaning of Article 8 of the Interpretation (Jersey) Law 1954 or otherwise commit any act indicative of insolvency under the law of any jurisdiction or enter into any composition with Your creditors in the Bailiwick of Jersey or elsewhere;
  - are declared *en désastre* or pass any special resolution to enter into voluntary liquidation or are placed into compulsory liquidation by act of the Royal Court of Guernsey or a summons or process is served upon You with the intent of obtaining any such order or You become bankrupt or otherwise commit any act indicative of or analogous to insolvency under the law of any jurisdiction or enter into any composition with Your creditors in the Bailiwick of Guernsey or elsewhere;
  - fail to observe or perform the Conditions or the conditions of any other agreement or contract made between You and Us and fail to remedy such breach as soon as possible and in any event within 28 days after the date that We serve written notice on You in relation to such breach;
  - use a Service in a manner which is unsafe or which has not been approved by Us;
  - use a Service fraudulently or in connection with a criminal offence;
  - make improper use, within the meaning of Article 51 of the Telecommunications (Jersey) Law 2002, or any amendment or supervening law thereto, of a Service;

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- (i) make improper use, within the meaning of Article 16(1) of the Telecommunications (Bailiwick of Guernsey) Law 2001, or any amendment or supervening law thereto, of a Service;
- (j) do or allow to be done anything which in Our opinion will or may have the effect of jeopardising the operation of the telecommunications system provided by Us to any of Our customers;
- (k) connect equipment to a Service other than Type Approved Equipment.

13.2 The Contract may be terminated by You if:

- (a) We unreasonably exercise Our rights of variation, assignment or suspension under the Contract, by You giving written notice to Us within 14 days of the notice of variation, assignment or suspension;
- (b) We exercise Our rights of variation of the technical specification of a Service such that performance of the same is materially degraded, such termination to be on 14 days' written notice without further obligation;
- (c) We fail to observe or perform Our obligations under the Contract and fail to remedy such breach as soon as practicable and in any event within 28 days after the date that You serve written notice on Us in relation to such breach, by giving written notice to Us of such termination; or
- (d) a Service is suspended for a continuous period of 7 days or longer pursuant to clause 4.1(a).

13.3 Subject to clauses 1.2, 13.1 and 13.2 You or We may terminate the Contract provided always that the party wishing to terminate the contract gives to the other party written notice of its intention to do so; in Your case, of at least 1 calendar month and in Our case, at least 6 calendar months prior to the effective date of the purported termination of the Contract and such termination shall not affect any rights of You or Us to enforce any term hereof which right has accrued prior to the effective date of termination.

## 14. SEVERANCE

If any provision of the Contract is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Contract and the remainder of the provisions in question shall not be affected.

## 15. GOVERNING LAW

15.1 A Contract made between You and JT (Jersey) Limited shall be governed by and construed and interpreted in accordance with the law of the Island of Jersey and both We and You hereby submit to the exclusive jurisdiction of the Royal Court of Jersey; or

15.2 A Contract made between You and JT (Guernsey) Limited shall be governed by and construed and interpreted in accordance with the law of the Island of Guernsey and both We and You hereby submit to the exclusive jurisdiction of the Royal Court of Guernsey.

## 16. DATA PROTECTION

16.1 For the purposes of complying with the Data Protection (Jersey) Law 2018 and the Data Protection (Bailiwick of Guernsey) Law 2017, We have prepared a privacy policy in relation to personal information to be collected by Us in relation to the Contract, a copy of which can be found On-line at <https://www.jtglobal.com/global/privacy-policy/>.

16.2 You acknowledge receipt of such policy and agree that a copy of the policy shall be made available to any natural person in relation to whom We receive personal information in relation to the Contract.