

# Schedule 2c

additional terms for co-location services

## 1. SERVICE DESCRIPTION

The Interoute Co-location Service will comprise of the installation and support services associated with the provision of co-location facilities at Interoute Premises.

## 2. DEFINITIONS

**"Cabinet"** means a lockable cabinet within the Co-location area for the siting of Customer Equipment provisioned to the specification as set out in the Purchase Order.

**"Co-location Services"** means either the Rack Space, Floorspace or Cabinet, as applicable, together with any ancillary services, as specified in a Purchase Order.

**"Interoute Premises"** means any Premises made available by Interoute to Customer pursuant to a Purchase Order.

**"Lease"** means any lease, licence or other documents conferring a right of occupation at any Interoute Premises.

**"Trusted Agent"** means an employee of the Customer and any contractor employed by the Customer who shall have been reasonably approved by Interoute.

**"MRC"** means monthly recurring cost;

**"Other Customer"** means any person who shares the use of any Interoute Premises (including Interoute) with the Customer.

**"Permits"** means all and statutory licences required by any authority or regulatory body permitting the Customer to provide any communications services or related services or to operate any Customer equipment

**"Rack Space"** means a space within the Co-location area for the siting of Customer Equipment provisioned to the specification as set out in the Purchase Order.

**"Service Affecting Fault"** means any fault, repair or condition (or threat of fault, repair or condition) affecting Customer service as registered by Customer or Interoute by issue of an incident report. Faults due to Force Majeure, failure of Customer's equipment or acts or omissions of Customer or any third party employees or agents are Non Service Affecting Faults.

**"Service Installation Fee"** means that portion of the Installation Charge attributable to the labour fees for installing the Service and therefore excludes the price of any racks, cables, patches, cages or other capital equipment associated with the delivery of the Service. .

Any other capitalised terms have the meanings set out in Schedule 1.

## 3. CO-LOCATION SERVICES TERMS

The following terms and conditions shall apply when Interoute provides Co-location Facilities at Interoute Premises to the Customer.

## 4. CHARGES

4.1. Subject to clause 4.2 and 4.3, unless otherwise agreed between the Parties in the Purchase Order, Charges for the Co-location Service and any applicable cancellation charges will be invoiced in accordance with the terms specified in Schedule 1 for the amounts detailed in the Purchase Order.

4.2. In the event that Interoute's costs for power usage (KWh) decreases or increases by three (3) % or more, the fees with respect to power usage will be adjusted accordingly. This also applies to services where power usage is included, but only for the power component. Unless stated otherwise, the power component will be fifty (50) % of the Colocation Services rental price.

4.3. In the event that Interoute's costs of providing Co-location Services under this Agreement are increased due to, including but not limited to, indexation or circumstances beyond the control

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of Interoute, Interoute shall be entitled to charge such increase. Interoute will inform the Customer in writing accordingly, stating the amount, reason for the price increase and the effective date of such a price increase. For the avoidance of doubt, it is not Interoute's intention to profit from such increase.

## 5. PROVISION OF CO-LOCATION SERVICES

- 5.1. Interoute sets out to provision the Services to the specification as set out within the Purchase Order by the Customer Committed Date specified within the Purchase Order.
- 5.2. The power supply shown by an ampere rating in the purchase order will be the total power available over either a single feed or a dual feed. i.e. 8A A+B feed = 8A total power draw.
- 5.3. Interoute reserves the right to monitor a customer's power draw from time to time and bill any power in excess of the power draw agreed in the Purchase Order on a penalty basis of 2 x Interoute's power price per KWH.. Further, where the Customer's power draw exceeds that stated in the Purchase Order, and Interoute deems that the excessive power is compromising the existing power plant and air conditioning, Interoute reserve the right to cancel the Agreement.
- 5.4. Subject to the provisions of this Schedule, the Purchase Order and Schedule 1, Interoute hereby grants Customer a right to use the Co-Location Services in the Interoute Premises to install, operate and maintain Customer Equipment for the Term.
- 5.5. Save as provided otherwise in the Purchase Order, Customer shall install and use the Customer Equipment at Customer's own risk and expense. All installations shall conform to all relevant industry standards and to any reasonable requirements stipulated by Interoute. Interoute may require Customer to provide, and shall have the right to approve in advance Customer's specifications and installation plans and may require Customer to re-install any Customer Equipment that is not installed in accordance with those specifications or plans.
- 5.6. Unless Interoute has given its prior written consent (not to be unreasonably withheld), Customer may only use the Co-Location Services at the Interoute Premises for the placement and maintenance of communications equipment, which shall be connected to the Interoute Network.
- 5.7. For sites classified by Interoute as Datacentre sites or Service Provider sites, the Customer may request as part of the Purchase Order Hands & Eyes Services. Hands & Eyes Services are provided on the Terms in Appendix B of this Schedule. At Infrastructure sites, Hands & Eyes Services is not generally available. Therefore, Hands & Eyes Services may be requested in writing and Interoute will respond with a statement of their capability to provide the requested service and relevant charges.
- 5.8. Interoute shall invoice the charges relating to the additional services and Customer shall pay the charges in accordance with the terms specified in Schedule 1 and the Purchase Order.

## 6. INSURANCE

- 6.1. Customer shall insure the Customer Equipment for as long as the Customer Equipment shall remain at the Interoute Premises and shall carry third party and public liability insurance of at least five million (5,000,000) Euros.

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6.2. Customer shall be responsible for obtaining all Permits required in connection with the use of Customer Equipment.

6.3. In the event the Customer fails to maintain the required insurance coverage and a claim is made or suffered, the Customer shall indemnify and hold harmless the other Party from any and claims for which the required insurance would have provided coverage.

## 7. ACCESS

7.1. Subject to any restrictions imposed by any Lease and the applicable Interoute Premises access procedure, Interoute shall grant the Customer's Trusted Agents access to the Interoute Premises at all reasonable times to maintain the Customer Equipment.

7.2. Interoute shall be entitled to refuse entry to any person who does not produce a suitable means of identification as a Trusted Agent. In any event, Interoute may refuse entry to the Interoute Premises to any person whose behaviour is reasonably considered by Interoute's representative to be likely to disrupt the operation of the Interoute Premises or endanger the Interoute Premises or the property of Other Customers.

7.3. Customer shall be responsible to Interoute for its Trusted Agents who visit the Interoute Premises, and shall ensure that such persons comply with these terms and conditions.

7.4. Interoute shall be entitled from time to time to modify the rights of access set out in these Additional Terms due to any works or for reasons of safety or for the management of the Interoute Premises, provided that any such modifications shall not materially diminish the Customer's rights to use the Co-Location Services granted by these terms and conditions to the Customer under this Agreement.

7.5. Customer shall not cause, permit or do anything at the Interoute Premises which might damage any of Interoute's or its Associated Companies fixtures or fittings and shall ensure that it does not at any time electrically or physically impair, disrupt interfere with or interrupt the operation of Interoute's or any Other Customer's communications equipment and shall immediately repair any fault in Customer Equipment which causes or may cause such interference. Notwithstanding the foregoing, where Customer fails to or delays the prevention or remedy of such interference, Interoute shall be entitled (but not obliged) to take all-reasonable measures to prevent or remedy such interference and Customer shall reimburse Interoute for any reasonable costs incurred by Interoute in doing so.

7.6. Customer shall:

- a. not perform or permit any act, which causes or is likely to cause any interference, nuisance, annoyance, inconvenience, loss or damage to any Other Customer.
- b. not display any signs or notices at the Interoute Premises other than such signs or notices as may be required under any statute or regulations; and
- c. remove all waste and rubbish generated by Customer or its officers, employees, servants or agents (including any Trusted Agent) and keep the Interoute Premises neat and tidy at all times.

## 8. RELOCATION

Interoute shall have the right from time to time on not less than one (1) month's prior written notice to require the Customer Equipment to be moved and to be installed in another suitable

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space at the Interoute Premises or with the agreement of the Customer at another suitable premise in the same city. Interoute shall use its reasonable endeavours to ensure that such relocation shall cause as little disruption and/or interference to the Customer as is reasonably practicable.

## 9. THREAT TO PERSONS OR PROPERTY

Interoute shall be entitled to switch off the Customer Equipment:

- a. in a life or property threatening emergency;
- b. if required to do so by any governmental or regulatory authority; or
- c. where the Customer is in material breach of this Agreement,

provided that in each case where reasonably practicable to do so, Interoute shall take reasonable measures to contact and inform the Customer in advance.

## 10. MAINTENANCE

Where Interoute plans to perform essential works at the Interoute Premises, Interoute may require Customer to switch off the Customer Equipment at the time required and keep the Customer Equipment (as the case may be) switched off until notified by Interoute.

## 11. TERMINATION

11.1. Interoute shall have the right to terminate Customer's use of all or any part of the Interoute Premises if:

- a. Interoute's right to use the facility at the Interoute Premises is terminated or expires for any reason;
- b. Customer materially breaches Terms & Conditions of this Agreement or the terms of any relevant Purchase Order;
- c. Customer makes material alterations to the Co-Location Services allocated to it at the Interoute Premises without the prior written consent of Interoute;
- d. Customer allows personnel or contractors to enter the Interoute Premises without the prior written consent of Interoute; or
- e. Customer materially breaches any posted or otherwise communicated rules relating to use of, or access to, the Interoute Premises.

11.2. The right to use the Interoute Premises granted by this Agreement is a licence to occupy. Within ten (10) calendar days of the termination of the Agreement, Customer shall remove at its own risk and cost all Customer Equipment from the Interoute Premises. Customer shall leave the Co-Location Services in good repair and in a clean and tidy condition, and shall make good any damage resulting from the removal of the Customer's Equipment from and/or the Customer's use of the Interoute Premises (fair wear and tear excepted).

11.3. If Customer fails to comply with its obligations under Clause 11.2, Interoute may, without prejudice to any other remedies it may have under the Agreement or at law or equity, at the

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sole risk of the Customer, remove the Customer Equipment from the Co-Location Services, deliver the same to Customer at the address given in the Purchase Order and restore the Co-Location Services, to the same condition in which it existed at the Ready for Service Date, fair wear and tear excepted, and Customer shall indemnify Interoute against all reasonable costs incurred in doing so.

## 12. LIABILITY AND INDEMNITY

NOTWITHSTANDING CLAUSE 16.6 OF SCHEDULE 1, THE LIABILITY OF EACH PARTY FOR ANY CLAIM, LOSS, EXPENSE, OR DAMAGE IN RELATION THE PROVISION OR USE OF THE SERVICE DESCRIBED IN THESE ADDITIONAL TERMS, SHALL BE LIMITED TO (i) TWO MILLION EUROS (€2,000,000.00) IN RESPECT OF ANY ONE EVENT OR SERIES OF EVENTS AND (ii) A TOTAL OF FIVE MILLION EUROS (€5,000,000.00) IN ANY CONSECUTIVE 12 MONTH PERIOD. NOTHING IN THESE ADDITIONAL TERMS SHALL EXCLUDE OR LIMIT EITHER PARTY'S LIABILITY FOR FRAUD OR FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE OR IN RELATION TO THE INTELLECTUAL PROPERTY INDEMNITY AS SET OUT IN CLAUSE 18 OF INTERROUTE'S SCHEDULE 1.

## 13. NO LEASE

- 13.1. The right to use the Interoute Premises granted by this Agreement is an occupational licence and no relationship of landlord and tenant shall arise between the Parties.
- 13.2. The Parties agree that the ownership of the Interoute Premises shall remain with Interoute or the suppliers of Interoute and that nothing in this Agreement in any manner confers, or is intended to confer, such ownership on Customer.

## 14. INSPECTION

Interoute reserves the right to make periodic inspections of any part of the Interoute Premises including the Co-Location Services, or anything located within or physically attached to the Interoute Premises. Interoute shall give the Customer advance notice of such inspections, except in those instances where Interoute reasonably determines that safety considerations require the need for such an inspection without the delay of providing notice. The making of periodic inspections or the failure to do so shall not operate to impose upon Interoute any liability of any kind whatsoever nor relieve the Customer of any responsibility, obligation, or liability allocated to it in this Agreement.

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## **APPENDIX A: CO-LOCATION SERVICE LEVEL AGREEMENT**

### **1. SERVICE CREDITS**

Subject to Clause 9 of Schedule 1 and subject to the remaining provisions of this Clause, Interoute will provide the Customer with Service Credits for the failure to meet the following targets:

- a. Service Installation
- b. Power Availability
- c. Temperature

#### **1.1 Service Installation**

- a. Interoute will provide an Customer Committed Date (CCD) for the installation of Co-Location Services.
- b. Interoute will provision the Co-location Services to the specification as set out within the Purchase Order within the Customer Committed Date.
- c. If Interoute fails to meet the Customer Committed Date the Customer will be entitled to a Service Credit in accordance with this Clause.

Service Credits will be calculated as follows:

<b>Number of full Working Days beyond CDD</b>	<b>Service Credits as % of Service Installation Fee</b>
1 to 5 days	10%
6 to 10 days	20%
11 to 20 days	30%
21-30 days	50%
31 days or more	100%

- d. Installation Charges are invoiced on receipt of order. Any Service Credits due to failure to meet Customer Committed Date will normally be credited to the Customer's next invoice.
- e. If only part of an order is delayed, valid credits will be payable only in respect of individual Co-Location Services that are not delivered by the Customer Committed Date.

#### **1.2 Power Availability**

- a. Co-Location Services are deemed "Available" from the Customer Committed Date, from which time power will be provisioned and maintained in accordance with the specification set out in the Purchase Order.

The following equation will be used to calculate Power Availability. References to minutes are to the number of minutes in the applicable Monthly Review Period:

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(Total minutes per month -- Total minutes unavailable (rounded to nearest minute) per month	X 100
Total minutes per month	

- b. For Availability Calculations, Power Availability is monitored at the output of the DC Rectifier and AC UPS Systems.

Where Power Availability falls below the requirement by site type during any Monthly Review Period, the Customer will be entitled to a rebate on the applicable monthly rental as follows:

Site	Power Availability	Rebate of MRC for missing target
DataCentre	99.999%.	15%
Service Provider	99.99%	10%
Infrastructure	99.9%	5%

## 1.3 Temperature Criteria.

- a. Where the temperature falls outside the requirement by site type during any Monthly Review Period, the Customer will be entitled to a rebate on the applicable monthly rental as follows:

Site	Temperature Tolerance	Rebate of MRC for missing target
DataCentre	22°C± 2°C	15%
Service Provider	22°C± 2°C	10%
Infrastructure	22°C± 2°C	5%

## 1.4 Exclusion of Payment of Service Credits

In addition to the exclusions as described in Schedule 1, Service Credits are only applicable where the power installation includes both A + B Feeds AND both Feeds are lost to the Customer Equipment.

## 1.5 Claims of Service Credits

- a. Aggregated Service Credits for Service Affecting Faults payable to the Customer shall not exceed 50% of the contracted Monthly Charge incurred by the Customer in the month of the relevant Service Affecting Fault.
- b. Service Credits will only be applicable to the value of the Rack Spaces or Cabinets affected by the event.
- c. In no event shall total liability for Service Credits exceed 17% of the total amount of charges payable under the relevant Purchase Order in any 12-month period.

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## 2. **FAULT REPORTING AND MANAGEMENT**

### 2.1. **Faults**

Any suspected faults should be reported to the Interoute Customer Service Centre using the procedures detailed in the Service Handover Document. When reporting a fault, the Customer should identify the affected Co-location Service and provide details of the fault.

### 2.2. **Target Time to Repair (TTR)**

Interoute will endeavour to rectify any Service Affecting Fault within the following timescales:

- a. Four (4) hours TTR on Service Affecting Faults within Co-location Facilities for manned Sites.
- b. Eight (8) hours TTR on Service Affecting Faults within all other Co-location Facilities for un-manned Sites.

### 2.3. **Fault Duration**

All faults recorded by Interoute's network integrated fault management system will be reconciled against the corresponding fault ticket raised by the Customer Service Centre. The exact fault duration will be calculated as the elapsed time between the Fault Ticket being raised by the Customer Service Centre and the time when service is restored.

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## **Appendix B: Hands & Eyes Services**

1. The following are recognised by Interoute as Hands & Eyes Services:
  - a. Soft Reboot / power cycle of Customer equipment
  - b. Toggle, cycle a switch or push a button on Customer Equipment
  - c. Verify, add, remove a demarcation label
  - d. Ensure cables are secured
  - e. Relay status of Customer Equipment LEDs under direction of the customer.
  - f. Provide a serial number on Customer Equipment
  - g. Provide a visual verification to assist during customers troubleshooting.
  - h. Provide escort services to and from the cage/cabinet.
  - i. Take receipt of customer equipment.
2. Hands & Eyes Services are performed on all reasonable endeavours basis, without Interoute either implicitly or explicitly undertaking to achieve or warranting any result of any Hands & Eyes Services performed.
3. Interoute has no obligation to provide the Customer with or make available any tools or spare parts. The provision of spare parts for Customer Equipment is solely the responsibility of the Customer. It is also the responsibility of the Customer to ensure that Interoute has access to the necessary spare parts to perform the requested Hands & Eyes Services. Failure in doing so relieves Interoute from its own obligation
4. The Hands and Eyes Service is provided by Interoute under the direction of Customer and as such performance of the service will not make Interoute liable for the proper functioning or performance of the Customer Equipment nor will it relieve Customer for any liability which may arise as a result of any defect in or failure of the Customer Equipment. The operational reliability of the equipment is the sole responsibility of Customer. Therefore Customer shall indemnify Interoute for any and all liabilities, damage costs, charges and expenses incurred by Interoute resulting from, arising out of or in connection with any damages to third parties or properties of third parties through a defect of customer's equipment.
5. For the avoidance of doubt Interoute shall not, by the mere fact that it has assisted in the implementation and/or installation and/or remedial maintenance of Customer Equipment be responsible or liable for the results of such implementation, installation or remedial maintenance, unless the damage can be exclusively attributed to Interoute's poor performance of the Hands & Eyes Service.
6. The Customer shall provide a statement of works via e-mail to the Interoute NOC describing and outlining the Hands & Eyes work requested.
7. Hands & Eyes services rented on a monthly basis, are not cumulated and rolled over into consecutive month.
8. Local business hours are defined as 9am to 5pm local to the facility at which Hands & Eyes services are requested.
9. Where the Customer has 9 to 5 coverage and requests Hands & Eyes Services after 4pm which require more than one hour time, Interoute reserves the right to postpone the delivery of those Hands & Eyes services until the next working day.

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10. Where Interoute deems that the Customer is using Hands & Eyes services excessively, Interoute has at its sole discretion the right to charge fees additional to any existing recurring fee or to decline the request for excessive Hands & Eyes services. For the purpose of clarification, excessive use will be deemed as greater than 4hours of Hands & Eyes Service per Rackspace, Sub Rackspace or Cabinet per month.