

HELP INTERNET LTD – SERVICE AGREEMENT – TERMS AND CONDITIONS

1. Help Internet Ltd (HIL) will provide maintenance service between 09.00-17.30 Monday to Friday, excluding public holidays and the customer agrees to have service from HIL for the maintenance of equipment included under this agreement in accordance with the terms and conditions outlined below. The Agreement shall be for an initial period shown overleaf and thereafter from year to year unless cancelled by either party in writing and sent by recorded delivery not less than 90 days prior to the initial period or any subsequent year. Cancellation by the customer will be acknowledged by HIL in writing.
2. Should service be required outside of (1), then given reasonable notice, HIL would use all reasonable endeavours to provide it, subject to payment of extra charges in accordance with HIL standard scales and terms then in force.
3. The service consists of corrective maintenance to the equipment in respect of fair wear and tear or faulty materials or workmanship and includes supply of replacement parts, labour and travelling costs. All defective parts permanently removed by HIL in accordance with the service provided in this Agreement will become the property of HIL and the replacements will become the property of the Customer and part of the Equipment.
4. When in HIL' opinion, reconditioning of the Equipment is necessary, an estimate of the cost of reconditioning will be submitted. Such cost, if authorised by the Customer, will be in addition to the annual charge. HIL cannot guarantee the repair or replacement of equipment or components deemed obsolete by the manufacturer or supplier or classed as beyond economical repair by HIL.
5. The Customer agrees to pay in advance and at intervals and period specified overleaf. Payments are required prior to cover commencing. If invoices are not paid within the terms agreed, HIL shall be entitled to treat this agreement as terminated and submit an invoice for any work carried out. All taxes in respect of services are payable by the customer. Interest charges will apply to unpaid invoices at the rate of 4% per annum above the prevailing Natwest Bank base rate; such charges will apply from the due date for payment.
6. The agreement shall not include service required due directly to damage caused by accident, neglect, misuse, alterations in the equipment and unfavourable environmental conditions, electrical current fluctuations, or failures in work performed by other than a representative of HIL, wilful damage or any force or nature or riot. HIL reserve the right to levy an additional charge.
7. The Equipment will be subject to an inspection by a representative of HIL to ensure that it is in good condition before being accepted for maintenance and if the Equipment is, upon inspection, found not to be in such condition, HIL shall be entitled to refuse to maintain the Equipment under the terms of this Agreement. HIL may at its discretion, waive its right to this inspection.
8. The Customer shall use media supplied or approved by HIL, otherwise damage incurred could result in an additional charge to the Agreement.
9. HIL reserves the right to alter the maintenance charge upon thirty days written notice. The Customer has the right to cancel the Agreement within thirty days of such notification; otherwise the increase becomes effective and payable forthwith.
10. HIL shall not be liable for any loss of data on any recording device or media. The Customer is therefore reminded that data should be regularly backed up onto suitable media and stored safely off-site. The service shall not include re-installation of Application software and data are excluded unless otherwise agreed in writing. Damage caused by Viruses, Trojans, malicious code and security intrusions are excluded.
11. There are no warranties, conditions, or guarantees or representations whether express or implied by statute or otherwise except as provided herein.
12. HIL shall not be liable for any indirect, special or consequential loss howsoever arising in connection with the service.
13. If HIL, without cause, fails to perform the service with its obligations, the Customer may recover an amount to compensate for any direct physical loss which is suffered as a result of the failure; subject always to a maximum aggregate liability in any calendar year for the total charges payable for the service.
14. HIL will be liable for death or personal injury arising from the performance of the service to the extent that it results from the negligence of HIL. HIL will also be liable to the Customer for any direct loss or damage to tangible property caused solely by the negligence of HIL up to a maximum aggregate liability of £2,000,000.
15. HIL liability is limited to component failure. The service provided shall not include software/hardware incompatibility. HIL shall not be responsible for the repair or replacement of items that do not function correctly due to software or hardware incompatibility with units or components included in this agreement.
16. The Customer shall at his own expense, give HIL full access to the Equipment to provide service. The Customer shall inform HIL in advance of any change of location of the Equipment.
17. The Customer is responsible for the replacement of consumables such as toner cartridges, drums, developer units, fuser units, print heads and ribbons. These items shall be replaced at the Customer's expense and at intervals specified in the manufacturer's instruction manuals.
18. The Customer will take due care of the Equipment, will use it in suitable premises and under suitable conditions and will carry out routine operations as laid down in the manufacturer's manuals. The service shall not include and service required due to any unauthorised modifications or use of supplies not approved by the equipment manufacturer.

19. No alterations shall be made or parts fitted or adjustments made except with the written consent of HIL, such consent will not be unreasonably withheld. Any peripheral equipment supplied by a third party may only be connected to HIL maintained equipment with HIL's prior written approval. HIL accepts no responsibility for third party peripheral equipment not included in this agreement

20. This Agreement is not transferable without the written consent of HIL.

21. Neither party shall be under any liability for failures or delays attributable to causes beyond its control.

22. The foregoing terms shall form the entire Maintenance Agreement between HIL and the Customer and shall not be varied by the terms and conditions of any order submitted by the Customer for the repair and maintenance of the Equipment.

23. This Agreement is governed by the laws of England.

24. This Agreement runs for one year, but subject to clause (9) can be cancelled by either party on ninety days notice.

SOFTWARE SUPPORT

25. The provision of software support is not included unless otherwise agreed in writing. Where software support is included, the software will be identified by schedule and referred hereinto as a software contract. The following provisions of this clause shall apply to this contract so far as they are not inconsistent with the other provisions in the contract

SERVICE

- a) HIL will make available during normal business hours as defined in clause (1) staff to deal with queries or problems concerning the products. The service will include a telephone help line and remote diagnosis. All queries or problems will be dealt with in strict rotation
- b) HIL undertake to make all reasonable efforts to resolve user queries or problems concerning the product but reserve the right to refuse to assist in resolving such difficulties where in the opinion of HIL the user is making unreasonable or unwarranted use of the services of HIL under this clause.
- c) HIL will make available to the user at the current manufacturers list price any upgrades provided to HIL by their suppliers to eradicate bugs occurring in the product.
- d) HIL reserve the right to provide such service under this clause only for the current release of the software detailed in the schedule.
- e) HIL shall not be obliged under the terms of this clause to provide support as HIL shall deem in its opinion to be training for the user or staff or employee
- f) HIL shall notwithstanding any other provisions in this agreement with regard to termination be entitled to terminate this agreement on giving the user 14 days written notice in circumstances where the user has in the opinion of HIL made unreasonably excessive or unwarranted use of the support services to be provided by HIL under this clause

OBLIGATIONS OF USER

- a) The user undertakes to notify HIL of any problems encountered by telephone, electronic mail, letter or fax with the minimum delay.
- b) The user shall supervise and control the use of products taking into account the relevant documentation, advice and recommendations of HIL. The user will ensure that only properly trained staff use the products
- c) The user will ensure that adequate back up and re-start procedures, checks for accuracy and security of data together with such other necessary procedures are provided to meet the requirements of sub-clause (25b) hereof

26. HIL shall not be liable for any loss or damage to equipment or property or software or data in transit to/from or whilst held at HIL premises.