



iCARE Premier Service Agreement

This Maintenance Service Agreement (“Agreement”) is between Imago ScanSource (“Impromptu”), with its principal place of business at Thatcham Business Village, Colthrop Way, Thatcham, RG19 4LW and the “Customer” or “You”.

1. Service. You have ordered from a variety of Impromptu Service Programs (“*Service Program*”) for Polycom Products as set forth in the applicable Service Description(s) incorporated herein by reference. A Service Program covers a Polycom Product for a 12 month period beginning on the date you purchase the Service Program as set forth in Section 2 below (“*Service Period*”) unless a longer Service Period has been mutually agreed to and is set forth herein. Impromptu reserves the right to terminate or modify available Service Programs at any time in its sole discretion. You may only order Service Programs for the then current version of a Polycom Product in accordance with Impromptu’s current Price List.

2. Orders. You will submit a Purchase Order for any Polycom Product for which you purchase a Service Program. The purchase order must contain the following information for each Polycom product listed on the Purchase Order: (i) model, serial number and location of the Polycom Product together with a contact name and phone number at the location; (ii) Service Program you are purchasing; (iii) Service Period; and (iv) price for the Service Program. The terms of this Agreement shall be applicable to all Purchase Orders submitted by you, and any preprinted and/or conflicting terms that may be contained on a Purchase Order shall be deemed to be of no effect.

3. Equipment Schedules. Each Polycom product for which you purchase a Service Program will be listed on an Impromptu Equipment Schedule and incorporated herein. Only those Polycom products listed on an Impromptu Equipment Schedule will be entitled to Service Programs under this agreement.

4. Service Program Prices, Payment, Taxes.

(a) Service Program prices are set forth in the applicable Polycom Service Program Description(s) and are based on the applicable Service Program, Product configuration and location.

(b) Service Program prices are invoiced in advance for each ordered Service Program on each Polycom Product. Invoices are due and payable 30 days following the date of the invoice. All payments for Services are non-refundable.

(c) Any payment not made when due shall be subject to a late payment charge as per standard Imago ScanSource Terms & Conditions. You shall reimburse Imago for all costs, including reasonable legal fees, incurred to collect any unpaid amounts. Impromptu shall be entitled to suspend the Services provided under this Agreement until such time as the amount due has been paid in full. The suspension of the Services shall not relieve You from Your obligation to pay any and all charges due under this Agreement.

(d) The Service Program prices and other charges hereunder do not include value added taxes (“VAT”) now or hereafter levied or imposed on the services or spare or replacement parts provided hereunder, or on this Agreement or any applicable Service Program. However, invoices will include all such Taxes as a separate line item, and You will pay such Taxes in full together with any applicable interest, unless You provide Impromptu in advance with a valid tax exemption certificate acceptable to the appropriate taxing authorities.

5. **General Terms and Conditions.** The following terms and conditions apply to all Service Programs:

(a) **Principal Period of Maintenance.** (“PPM”) Unless otherwise provided in any Service Program, all Services will be provided during Impromp2u’s then current published ordinary business hours Monday to Friday, exclusive of public holidays.

(b) **Software.** For Polycom Products under a Service Program and listed on an Impromp2u Equipment Schedule, You will receive Updates and/or Upgrades (as defined below) specified in the applicable Service Program Description.

1. **Software Updates:** “Update” means Software to which Polycom has provided fixes or minor revisions to correct errors or defects in the existing operation of the Software in accordance with the published Product specifications, and which is limited to those Updates that Polycom generally provides to its maintenance customers at no charge. Software Updates are made available to the licensed end user customer of the registered Product at no additional charge. Updates are provided on a *fix on fail* basis. That is, to obtain an available Update the Customer must call Polycom to report a specific customer Product failure (identified by Product serial number) exhibiting a problem, which the Update corrects. Polycom will configure the Update according to the Software record of the registered Product. *Updates* do not include Upgrades or Software Options which are charged for separately.

2. **Software Upgrades:** “Upgrade” means new releases of the Software which contains enhancements improving functionality or capabilities of existing Software which Polycom generally provides to its maintenance customers. Software upgrades are available for download from the Polycom Resource Center web site (currently <http://extranet.polycom.com>) upon release.

3. **Software Options** “Options” means optional functionality or features of the Software that may be selected at the time of purchase and for which Polycom charges separately. In no event, shall Software Options be provided at no charge under this Program. Service Partner may purchase licenses for Software Options at Polycom’s then current prices.

(c) **Replacement Parts.** Replacement parts will be either new parts or parts equivalent in performance to new parts when used with the product and are warranted for 90 days from shipment. Parts removed from Polycom products for replacement will become the property of Polycom, and must be shipped back to Polycom within five (5) business calendar days of receipt of replacement part in the UK, ten (10) business days outside of the UK or you will be invoiced the full list price for the replaced part.

(d) **Exclusions.** Impromp2u’s Service Programs do not include any of the following: (i) Electrical work external to the Polycom product; (ii) Repair or replacement of damage to or defects in the Polycom product resulting from causes external to the Polycom product including disaster, fire, accident, neglect, misuse, vandalism, water, lightning, or failure of the installation site to conform to Polycom applicable specifications; or resulting from use of the Polycom product for other than intended purposes; or use of the Polycom product with items not provided or approved by Polycom; or resulting from the performance of maintenance or the attempted repair of an item of a Polycom Product by persons other than Polycom employees or persons authorized by Polycom; (iii) Furnishing supplies or accessories, or painting or refinishing the Polycom Product; (iv) Services in connection with the relocation of the Polycom Product, or the addition or removal of items of equipment or parts,

attachments, features, or to other devices not furnished by Polycom, including communications devices, networks or links; and (v) Services in connection with computer viruses or conflicts involving software that is not installed or introduced by Impromptu or Polycom. vi) Remote or on-site assistance with installation of the Polycom or any associated product unless purchased from Impromptu separately.

(e) **Continuing Availability.** Impromptu will generally make Service Programs available at Impromptu's then current prices for a period of five years following the delivery of Polycom Products.

6. **Term.** This Agreement shall commence on the Effective Date as stated in the Equipment Schedule and remain in effect unless terminated in writing as provided herein.

7. **Renewal of Service Program.** Impromptu endeavour to provide you with 45 days' prior written notice of expiration of each Service Program. Impromptu reserves the right to charge you the then current time and material rates for any Services requested by you and provided after the expiration of the Service Program if Impromptu does not receive a renewal Purchase Order prior to expiration.

8. **Recertification.** If you wish to order a Service Program for a Polycom Product, and such system has not been under a current Service Program, Impromptu may require that the Polycom product pass an inspection and/or re-certification by Polycom and/or that the Polycom product be brought up to the latest revision level, both at your expense, at Polycom's then current prices.

9. **Termination.** (a) Impromptu may at its option terminate this Agreement or any applicable Service Program in whole or in part for cause if: (i) You fail to perform any material term or condition of this Agreement or any applicable Service Program, and you do not remedy the failure within ten (10) calendar days after receipt of written notice of such default, or (ii) any person other than an Impromptu or Polycom employee, or designated service representative, alters or changes a Polycom product without Polycom's prior written consent, or in any way renders a Polycom product unsafe. Adjustments to a Polycom product made at the direction of Impromptu or Polycom do not constitute alterations or changes for the purposes of this section. (b) Either party may terminate this Agreement upon sixty (60) days prior written notice. Should Impromptu exercise its right to terminate this Agreement in accordance with this Section 9(b) or should Impromptu choose to terminate a particular Service Program, to the extent that you have paid in advance for a Service Program that is listed on the Equipment Schedule with a future expiration date that has not yet expired, Impromptu shall have the option, at its sole discretion, of either: (i) continuing to perform the Maintenance until such expiration date subject to the terms of this Agreement, or (ii) issuing a pro-rata refund to you. The termination or expiration of this Agreement or any individual order or Service Program shall in no way relieve you from your obligation to pay Impromptu any sums accrued hereunder prior to such termination or expiration.

10. Customer's Obligations.

- (a) You shall have the continuing obligation to keep all Polycom Products under Service Programs at either the then current version or immediately prior version release.
- (b) During the PPM, you will provide Impromptu personnel with access to the Polycom Products and adequate working space where applicable (including heat, light, ventilation, electric currents and outlets) at no charge to Impromptu.
- (c) At your expense, you will maintain the installation site and provide the necessary utility services for use of the Polycom Product in accordance with Polycom's applicable published specifications.
- (d) You will be responsible for replacing, at your own expense, any and all consumable items used in connection with the Polycom Products.
- (e) Polycom strongly recommends that you install and use a current, reputable anti-virus program in connection with any PC-based, open-architecture Polycom Product, and that You regularly update and run such anti-virus program, especially in connection with the emergence of any new viruses and/or 'worms'. Repair or restoration of any Polycom Product damaged or 'infected' by viruses is not covered under this Agreement or the Service Programs.

11. WARRANTY/LIMITATION OF LIABILITY.

- (a) IMPROMPTU WARRANTS THAT SERVICES WILL BE PROVIDED IN A PROFESSIONAL AND WORKMANLIKE MANNER. IMPROMPTU MAKES NO OTHER WARRANTY, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR OF MERCHANTABILITY. IMPROMPTU MAKES NO WARRANTY THAT OPERATION OF THE PRODUCT WILL BE UNINTERRUPTED OR ERROR FREE. IN NO EVENT WILL IMPROMPTU BE LIABLE FOR ANY DELAY IN FURNISHING SERVICES.
- (b) EXCEPT FOR CLAIMS FOR PERSONAL INJURY OR FOR DAMAGES TO REAL OR TANGIBLE PERSONAL PROPERTY, IN NO EVENT WILL IMPROMPTU BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES, LOST BUSINESS PROFITS, OR LOSS, DAMAGE OR DESTRUCTION OF DATA, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF WARRANTY OR OTHERWISE, EVEN IF IMPROMPTU HAS BEEN ADVISED AS TO THE POSSIBILITY OF SAME, AND IMPROMPTU'S MAXIMUM LIABILITY FOR ALL OTHER DAMAGES WILL BE LIMITED IN ANY EVENT TO ONE YEAR'S SERVICE CHARGES.

12. Force Majeure. Except for the obligation to make timely payments, neither party will be liable to the other for delays or failures to perform occasioned by causes beyond its reasonable control. In the event of such delays or failures to perform, any dates or times by which Impromptu is otherwise scheduled to perform shall be extended automatically for a period of time equal in duration to the additional time required because of the delay or failure to perform.

13. Indemnification. Subject to Clause 11 above, Impromptu will indemnify and hold you harmless from and against any and all losses, damages, expenses (including reasonable legal fees) finally awarded, claims, liabilities, suits or actions for death or personal injury or property damage resulting from the

performance or non-performance of Impromptu's work pursuant to this Agreement on your premises, solely to the extent caused by the negligence of Impromptu or its agent, provided that: (i) You promptly notify Impromptu in writing of the claim; (ii) Impromptu has sole control of the defence and all related settlement negotiations; and (iii) such indemnification and save harmless obligation will be limited in the case of real or tangible property to the reduction in value or replacement cost of such property.

14. General.

(a) This Agreement may only be modified by a written agreement duly signed by authorised representatives of both parties, and variance from or addition to the terms and conditions of this Agreement in any order or other written notification will be of no effect.

(b) Any notices required or permitted to be given under this Agreement shall be in writing and effective when received by a party at the address shown at the head of this Agreement or at such other address as the receiving party may request by prior written notice.

(c) If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, the remaining terms of the Agreement shall in no way be affected or impaired.

(d) The waiver by either party of a breach of any provision of this Agreement shall not be construed as a waiver of any subsequent breach.

(e) You may not assign any or all of your rights or obligations under this Agreement including by purchase, merger or operation of law, without the prior written consent of Impromptu, which consent shall not be unreasonably withheld. Any attempted assignment or transfer in violation of this provision shall be null and void. Impromptu may assign this Agreement without prior written consent or notice.

(f) This Agreement shall be governed by and construed in accordance with the laws of England without regard to the conflict of laws provisions thereof. The courts of London, England shall have exclusive jurisdiction and venue over all controversies in connection herewith. In any action to enforce this Agreement the prevailing party shall be entitled to be awarded all court costs and reasonable legal fees incurred

THIS AGREEMENT, TOGETHER WITH ANY APPLICABLE SERVICE PROGRAM, IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT OF TERMS AND CONDITIONS BETWEEN THE PARTIES, SUPERSEDING ALL PROPOSALS OR PRIOR AGREEMENTS OR COMMUNICATIONS, ORAL OR WRITTEN, BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT.