



**Enterprise Mobility Services
Zebra Technologies Contract
Time and Material Terms of Service**

All purchases by a Customer (as defined herein) of a service offer from Symbol Technologies, Inc., the Enterprise Mobility business of Zebra Technologies UK Limited or any of its direct or indirect subsidiaries, (collectively and individually referred to as “**The Seller**”), identified as a Symbol ‘time and materials’ or ‘flat rate’ contract and described in a Services Description Document (“**SDD**”) detailed at www.zebra.com/rma-emea (the “**Services**”) shall (as between the Seller and the Customer) be governed by these Terms of Service and the SDD. The Terms of Service, the SDD and the completed Repairs Return Form, form the agreement between the parties (the “**Agreement**”).

Any of the Customer's terms or conditions, that are different from or in addition to those contained within the Agreement, are hereby objected to and have no effect. For all purposes hereof, “**Customer**” shall mean either: the Seller's Authorized Partner; or an end user, being the ultimate purchaser or user of the Services who acquires the Services for direct use and not for resale from Authorized Partner. “**The Seller's Authorized Partner**” means a partner qualified to purchase Enterprise Mobility products for resale in accordance with the PartnerSelect Program.

- 1. TERM.** Subject to Customer's compliance with this Agreement, the Services are purchased by and supplied to the Customer for the term specified in the SDD (if any). The provision of the Services commences upon the Seller's acceptance of an order from an Authorized Partner. The Agreement terminates upon completion of the Services.
- 2. SUPPORTED PRODUCTS.** The Seller will provide the Services with the required levels of skills and experience. The Seller's obligation to deliver the Services is subject to the Seller's receipt of all required information regarding the Customer and the supported products as the Seller shall request. This information may include but is not limited to: product's installation address; authorized contact names; valid serial numbers; Services start date; valid e-mail address and company address; Customer proof of purchase of the product and the Services. The Services cover the products described in the SDD and/or the order. During provision of the Services replacement parts or products will be new or refurbished parts or products equivalent to new in performance.
- 3. INVOICING AND PAYMENT TERMS.** Invoices will be provided by the Seller and paid by the Customer. All terms are thirty (30) days net from the date of invoice. Without prejudice to its other rights or remedies, the Seller shall be entitled to charge and the Customer shall pay where demanded, interest at a rate equal to Prime Rate (being the publicly quoted nominal rate of interest per annum, at any relevant time, of a bank to be nominated by the Seller at such time from the date on which the invoice becomes due under this Agreement until the date on which payment is made. Such interest shall accrue daily and shall not be compounded.
- 4. RIGHT TO INSPECT.** The Seller reserves the right to inspect any unit of product that has not been covered by a service agreement or service warranty and, if necessary, make it operational. Customer may be responsible for an inspection fee as well as the cost of any repair work that may be necessary to make the product acceptable for coverage under the Agreement. Equipment which had been covered by an Agreement that has expired may also be subject to product inspection fees prior to renewal.
- 5. OUTSIDE OF THE SERVICES.** The SDD clearly states what is outside the scope of the Services and therefore such repairs shall incur additional costs to Customer. Where services are requested that are outside the scope of the Services, such services will require payment by the Customer of additional costs in accordance with the Seller's standard time and materials rates, as published from time to time by the Seller. Prior to carrying out such services, the Seller shall issue a quote to the Customer for approval and payment.
- 6. END-USER RESPONSIBILITIES.** Customer is responsible for: A) notification to the Seller immediately if there is any change regarding all information provided as part of this Agreement; B) making all reasonable efforts to cooperate with the Seller in resolving problems remotely, executing self tests or diagnostic programs, etc.; C) discharging all telecommunications charges associated with provision of telephone and remote Services; D) compatibility of non-supported products, accessories and devices with the product(s); E) security of its own proprietary and confidential information and for maintaining a procedure for reconstruction of lost, or altered files or data programs.



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7. **CHANGES AND NOTICES.** The Seller may change the serial number of product(s) covered by the Services when the original product is destroyed or beyond repair and a replacement product is provided by the Seller.
8. **TERMINATION.** The Services may be terminated by the Seller in the event of a failure by the Customer to perform its material obligations under this Agreement.
9. **FORCE MAJEURE.** The Seller shall not be responsible or liable for any failure to perform hereunder if such failure is caused by acts of God, acts of government, strikes or labor disputes, failures of transportation, fire or flood or other casualty, failures of subcontractors or suppliers, or any other cause or causes (whether or not similar in nature to any of those herein specified) which are beyond the Seller's reasonable control.

10. LIMITATION OF LIABILITIES

- 10.1. Nothing in this Agreement shall affect any liability that cannot be excluded or limited by law. The Seller accepts unlimited liability for death or personal injury resulting from its negligence. Clauses 10.2 and 10.3 do not apply to such liability.
- 10.2. Subject to Clause 10.1, the Seller is not liable to the Customer, either in contract, delict (including negligence) or otherwise for (i) any loss of profits; (ii) loss of revenues; (iii) loss of business; or (iv) anticipated savings; and/or (v) any destruction or loss of data (in each case, whether direct or indirect); and/or (vi) any indirect, special or consequential loss or damage.
- 10.3. The Seller's liability to the Customer in contract, delict (including negligence) or otherwise in relation to this Agreement is limited to performance of the Services or the fair market value thereof, except for instances of damage to tangible property where the Seller's liability shall be limited to the sum of R 3,796,010 (three million seven hundred ninety six thousand and ten South African Rand), or such higher amount imposed by a court of law.
- 10.4. Each provision of this Agreement, excluding or limiting liability, operates separately. If any part is held by a court to be unreasonable or inapplicable, the other parts will continue to apply.

11. **HOLIDAYS.** The Seller will observe all local public holidays when no Service shall be provided.
12. **DISPUTES.** If any legal proceedings are commenced to resolve any dispute or difference which may arise in connection with the Services, the prevailing party shall be entitled, in addition to any other award that may be made, to recover costs, attorney's fees and expert witness fees on a scale as between attorney-and-own-client, including any costs or attorney fees incurred in connection with any appeals.
13. **ENTIRE AGREEMENT.** No subsequent agreement, arrangement, relationship or understanding between the parties shall be valid, effective or enforceable and no obligation or liability shall be created on behalf of either party hereto unless and until it is contained in writing, signed by a duly authorized representatives of each party. The Agreement constitutes the entire understanding between the Seller and the Customer with respect to the subject matter, and supersedes and replaces all prior and contemporaneous agreements, whether written or oral, as to such subject matter.
14. **GOVERNING LAW AND VENUE.** For Services that are provided in South Africa, this Agreement shall be governed by and construed in accordance with South African law and each party submits to the non-exclusive jurisdiction of the South African courts



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as regards any claim or matter arising under this Agreement. The Convention on Contracts for the International Sale of Goods is excluded.

15. **EXPORT CONTROL.** Provision of the Services to the Customer may be subject to export control law and regulations. The Seller does not represent that any necessary approvals and licenses will be granted. The Customer will provide reasonable assistance to the Seller to obtain any necessary consent. If, through no fault of the Seller, any necessary consent is not granted, the parties can terminate this Agreement without any liability to the other.
16. **THIRD-PARTY RIGHTS.** A person who is not party to this Agreement has no right to enforce any term of this Agreement.
17. **ASSIGNMENT.** Customer may not assign the Agreement without the Seller's consent. The Seller may assign the Agreement to any third party or within its group of companies without Customer's consent.

Symbol Technologies Africa, LLC

4th Floor Aloe Grove, 196 Louis Botha Avenue,
Houghton Estate, Johannesburg 2198, South Africa
VAT: 4370154207, Company: 1995/013974/10

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Last revision 1, February 2016