

The Networking People (Northwest) Limited
-General Terms and Conditions-

1. Definitions and Interpretations

The terms and expressions set out in this Agreement shall have the meanings ascribed to them therein;
Agents: personnel employed by or acting on behalf of one of the Parties

Agreement: These Terms and Conditions together with any relevant Service Level Agreements for Services specified in the Order.

Anticipated Delivery Date: the date that a Service is projected to be delivered.

Charges: any or all of the charges or other sums payable by the Customer to the Supplier related to any Service covered by this Agreement.

Charge Period: As set out in the Order or otherwise as notified by the supplier, otherwise Annually.

Connection Charge: the non-refundable charge for installation and connection to the System as specified in the Order or otherwise notified to the Supplier.

Early Termination Fee: the Charges calculated as the total Rental due for the remainder of the Minimum Period.

Excess Construction Costs: Those charges which may be raised in addition to normal connection charges, where additional infrastructure work is required to provide new or extended service for a customer.

IPR: means all intellectual property rights including, without limitation, patents, trademarks, copyright, registered designs, mask works, design rights, know-how and all other similarly protected rights.

Minimum Period: the period of time as specified in the Order for which the Supplier is committed to deliver and the Customer committed pay for a Service.

CMC: The Suppliers Customer Management Centre

Notice Period: 4 weeks.

Offending Material: any material which may reasonably be deemed to be:

- in breach of any law, or the Supplier's acceptable use policy, or
- offensive, indecent, obscene, defamatory, menacing, racist or
- in breach of confidence, IPR, privacy or any right of a third party.

Order: the Purchase Order or such other document that the Supplier deems to constitute as an official request to deliver a Service.

Rental: the regular fee for the Charge Period as set out in the Order or otherwise notified by the Supplier.

Service: all of the services specified in the Order that the Supplier has agreed to supply to the Customer.

Service Credits: the payment that the Supplier will pay to the Customer in the event of a breach of the agreed Service Level Agreement for that Service.

Service Level Agreement: records a common understanding about services, priorities, responsibilities, guarantees, and warranties. The SLA will specify levels of availability, serviceability, performance, operation, or other attributes of the service. The level of service will be specified as Target and Minimum, which allows customers to be informed what to expect (the minimum), whilst providing a measurable average target value that shows the level of performance. The Agreement relates to the services the customer receives, and not how the service provider delivers that service.

Standard Connection Charge: the non-refundable charge for installation and connection to the System as specified in the Order or otherwise notified to the Supplier.

Supplier: The Networking People (Northwest) Limited (Company number 07667393) registered at c/o Hanleys, Spring Court, Hale, Cheshire, WA14 2JQ, United Kingdom.

Supplier's Equipment: Any equipment belonging to the Supplier or their Subcontractors which provide the Service and are connected to its operation and maintenance.

System: The electronic communications network used by the Supplier to deliver the Service.

Working Day: means 08:00 to 18:00 Monday to Friday but excluding public holidays.

For the avoidance of doubt the terms and expressions set out in this schedule shall have the following meanings;

- the masculine includes the feminine and the neuter,
- the singular includes the plural and vice versa;
- the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation".
- any reference to any statute enactment, order, regulation, regulatory body or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation, regulatory body or instrument as amended by any subsequent statute, enactment, order, regulation, regulatory body or instrument or as contained in any subsequent re-enactment thereof.

Headings are included in this Agreement for ease of reference only and shall not affect the interpretation or construction of this Agreement.

Terms or expressions contained in this Agreement which are capitalized but which do not have an interpretation in Schedule 1 shall be interpreted in accordance with the common interpretation within the ICT industry where appropriate; otherwise they shall be interpreted in accordance with their recognised dictionary meaning.

2. Duration and Scope of this Agreement

A separate Agreement shall be deemed to be in force for each Order accepted by the Supplier.

This Agreement starts on the acceptance date of the Order by the Supplier and shall terminate once all outstanding Charges are paid and no further Services are being provided by the supplier to the Customer under the this Agreement

Each Service specified on the Order shall start on the date of delivery and continue for the Minimum Period.

Any more specific Terms and Conditions issued by the supplier for a particular Service type in the Service's Service Level Agreement document will take precedence over the parts of these Terms and Conditions to which they apply.

The Parties acknowledge that the entire Agreement consists of this Agreement and the Order and any relevant Service Level Agreements for Services specified in the Order.

3. The Customer's Obligations

The customer will provide the Supplier or its Agents with any relevant information reasonably required to survey, install, provide and maintain the Service. The customer acknowledges that delivery of the service will be delayed and its ongoing operation will be negatively impacted if access or information is not provided in a timely manner and that such delays shall not count in calculating any Service Credits for the Service.

The customer will obtain any required permits needed to install the Service at the relevant site.

For each Service delivered the customer shall, at its own cost, ensure that the Suppliers Equipment is located in a secure and environmentally appropriate location and will provide an appropriate continuous mains power supply for the Supplier's Equipment.

The Customer will ensure that any equipment connected to the Suppliers Equipment is safe in operation and is approved for connection to the System. The Customer must take reasonable steps to ensure that connected devices or systems will not cause harm or disruption to the System or bring disrepute upon the Supplier either directly, or indirectly by deliberate action or inaction.

The Customer will at its own cost permit access from time to time to inspect, maintain, modify or change the Suppliers Equipment used to deliver the Service.

The customer is required to reasonably provide timely access to the Suppliers Equipment when requested by the supplier and shall provide a suitable and safe working environment for the Supplier or their Agents to the Customer's premises where the Suppliers Equipment is located.

The Customer shall not use or knowingly allow any service to transfer Offending Material, cause harm deliberately or through negligence or breach any statute.

The Customer will ensure that any faults are not due to its own equipment failures or actions before reporting any faults to the Suppliers CMC. The Supplier reserves the right to charge the Customer any reasonable Charges where a fault is reported but not due to a performance failure by the Supplier.

At the termination of any Service the Customer will permit the Supplier or its Agents timely access to retrieve the Supplier's Equipment used to deliver that Service.

The Customer will not interfere with the Supplier's Equipment, including moving, marking, defacing or disconnecting any cables (except those provided by the Customer) for whatever reason, other than if expressly required to do so by the Supplier or their Agents.

The Supplier will charge the customer if any of the Suppliers Equipment is lost, stolen, damaged (besides reasonable wear and tear), destroyed or made unavailable due to any action or inaction by the Customer.

4. The Supplier's Obligations

The supplier will exercise the expertise of a reasonably competent communications provider to perform the Services.

The supplier will use reasonable endeavours to deliver the service by the date agreed at point of order. In the event of delays or problems outside the supplier's control, we will take reasonable steps to keep the Customer informed.

The Supplier will use reasonable endeavours to meet the agreed Service Level Agreement as specified in the Order.

The Supplier will reasonably endeavour to give 14 days notice of any suspension required to maintain, repair, modify or upgrade the Service and reasonably endeavour to minimise the disruption of the Service to the Customer.

5. Charges

On submission of the Order the Customer acknowledges that it will become liable for:

- the Standard Connection Charge for any Services specified on the Order which shall be invoiced once Excess Construction Charges are confirmed (prior to delivery),
- any Excess Construction Costs for a Service as specified on the Order which shall be invoiced once the costs are confirmed (prior to delivery),
- the regular Rental Charge for a Service as specified on the Order that shall be invoiced in advance, 3 months Rental Charge is invoiced on order unless otherwise agreed,
- any variable Charges related to a Service as specified on the Order that shall be invoiced in arrears,

On acceptance of the Order the Supplier acknowledges that it will become liable for the payment of any Service Credits as specified in the Service Level Agreement for each Service.

The Customer will be charged for any site visits required to enforce parts of this Agreement

Where a fault is reported by the Customer and the Service is not at fault then the Supplier will charge all reasonable costs related to the incident to the Customer.

If the Customer wishes to dispute an invoice this must be done in writing as soon as is reasonably possible after receipt of the invoice and in any event within 21 days of the due date of the invoice providing their reasons for the dispute.

The Supplier reserves the right to reasonably amend its Charges at any time to reflect changes in the legislative or regulatory environment applying to the Service including any changes to the published OpenReach prices.

The Supplier may, once any Minimum Period has expired, change the Rental Charges for any Service. The Supplier will give the Customer four weeks written notice of the change.

6. Payment

All invoices and payments provided for under this Section shall be made in British Pounds Sterling free and clear of any deductions of any nature whatsoever. All amounts payable by the Customer for the Service under this Agreement are quoted exclusive of VAT in the Order. VAT will be included in each invoice by the Service at the rate of VAT applicable at the date on which the invoice is prepared.

All Payments to be made for a Service under this Agreement are due and payable in full within 30 days of the invoice date. Failure to pay the invoice by the specified time is a material breach of the Agreement. The supplier will not be committed to the Agreement until payments for any installation, Excess Construction Charges or initial Service Charges are received.

If the Customer fails to make any payment due for a Service under this Agreement, without prejudice to any other right or remedy available to the Service, the Supplier may:

- charge the Customer interest in respect of the sum overdue in accordance with The Late Payment of Commercial Debts (Interest) Act 1998 as amended and supplemented by the Late Payment of Commercial Debts Regulations 2002 from the due date for payment to the date of actual payment (both dates inclusive) and the reimbursement of all expenses (including legal fees) incurred with respect to collection of overdue charges; and/or
- suspend or terminate any further performance of the Services.

7. Suspension of the Service

The Supplier may suspend the Service for any of the following reasons:

- In order to comply with the provisions of the Communications Act 2003 or the Supplier's telecommunications license,
- The Customer is or is reasonably believed to be in breach of this Agreement,
- The Supplier receives a reasonable request from the telecommunications regulator or other legally empowered body capable of issuing such directions.

The Supplier will reasonably endeavour to notify the Customer as soon as reasonably practicable of such suspensions stating their reasons.

Where a suspension is due to a breach of this agreement by the Customer the Supplier will charge all reasonable costs relating the suspension and re-connection of the Service to the Customer.

8. Termination of a Service

Upon expiry of the Minimum Period for a Service the Customer may elect to terminate that Service and shall provide 4 weeks written notice to the Supplier.

Either party may immediately terminate a Service if the other party commits a material breach of Service Level Agreement of a Service that cannot be remedied.

If either party commits a material breach of Service Level Agreement of a Service that is capable of remedy then the other party may serve notice giving 30 days in which to remedy the breach. If the breach is not remedied in this period then the party that served notice may terminate the Service.

If a Service is terminated for any reason either before or after delivery (except when the cause of the termination is the Supplier being in material breach of the Service Level Agreement for the Service) then the Customer will be liable for the Service performed up to the date of termination, any Early Termination Fee and any other costs incurred in connection with the Service in accordance with the terms of this Agreement.

The calculations for the Early Termination Fee for a Service shall include any future foreseeable changes in Rental due to clause 5.

By mutual written agreement between the Supplier and Customer a Service can be terminated before or after installation.

9. Termination of the whole Agreement

Either party may immediately terminate this Agreement if the other party commits a material breach of this agreement that cannot be remedied.

If either party commits a material breach of this Agreement that is capable of remedy then the other party may serve notice giving 30 days in which to remedy the breach. If the breach is not remedied in this period then the party that served notice may terminate the Agreement.

The Supplier reserves the right to terminate or vary this agreement:-

- if the Supplier's contract with Openreach or other circuit supplier is varied or terminates.
- if there is a change in the legislative or regulatory environment,
- or asked to do so by the law enforcement agencies.

If at any time either Party becomes insolvent or ceases to carry on its business or goes into liquidation, whether compulsorily or voluntarily (other than a voluntary liquidation for the purpose of reconstruction or amalgamation); or, has a receiver or administrator appointed over the whole or any part of its assets or enters into any arrangement or composition with its creditors or a non-voluntary corporate rehabilitation or corporate re-organization, then the other Party may serve on it notice of termination which will have immediate effect. Termination of this Agreement shall be without prejudice to any rights of either Party against the other which may have accrued up to the termination date, however caused.

If this Agreement is terminated for any reason then all associated Services will be terminated and the Customer will be liable for all Services performed up to the date of termination.

In cases where the cause of the termination is not due to the Supplier being in material breach of this Agreement then the Customer will be liable for Early Termination Fees for all Services and any other costs incurred in connection with the Services in accordance with the terms of this Agreement including any future foreseeable changes in Rental due to clause 5.

10. Force Majeure

Both parties to this Agreement shall be excused from performance of their obligations under the Agreement if delayed or prevented by causes beyond their reasonable control. Such causes include but are not limited to acts of God, fire, flood, explosion, disease, inclement weather, lightning, war, insurrection, civil strife, riots, military operations, national or local emergency, power failure, radio interference, line-of-sight interference, acts or omissions of government, highway authority, regulatory body or other competent authority, industrial dispute of any kind (whether or not involving either party's employees), subsidence, or acts or omissions of suppliers, other communications network operators, persons or bodies for whom neither party is responsible ("Disability"). In such circumstances one Party will notify the other, as soon as is reasonably possible, should they be unable to meet any specified deadline or time for performance arising from such Disability.

Performance shall be excused only to the extent of and during the reasonable continuance of such Disability and its immediate aftermath. Any deadline or time for performance specified which is due during or subsequent to the occurrence of such Disability shall be automatically extended for a period of time equal to the period of the Disability.

If the Disability continues for more than three (3) months, the parties shall enter into a discussion to agree, in good faith, the best way forward.

11. Assignment, Amendment and Subcontract

The Supplier may subcontract part or all of its obligations, otherwise neither party shall assign or subcontract this Agreement without the prior written consent of the other Party which will not be unreasonably withheld or delayed.

The Supplier reserves the right to modify the Agreement at any time by giving the Customer 4 weeks written notice of such a change except for a variation due to a change in the legislative or regulatory environment in which case the variation comes into effect immediately.

12. Limitation of Liability, Warranty & Indemnity

Subject to Section 12 neither the Customer nor the Supplier shall hold the other liable for any damages, dispute or injury howsoever arising during the undertaking of the Service unless caused by a proven willful act, negligence or default of an employee, director, representatives, consultant or agent of that Party.

Nor shall one Party be liable to the other for any loss, damage, claims or demands, including without limitation any economic loss, loss or corruption of data, loss of profit, income or other loss of turnover and loss of business, opportunity or goodwill, whether by breach or by negligence and no matter how arising, whether by breach or by negligence and whether in contract, tort or otherwise.

Nothing in this Agreement limits or excludes either Party's liability for:

- (1) death or personal injury resulting from negligence; or
- (2) any fraud and/or statement made fraudulently,
- (3) or for any sort of liability that, under the governing law, cannot be limited or excluded.

13. Notices

Any legal notice to be given under this Agreement must be in writing, may be delivered to the other Party, and will be deemed to be received: the day of delivery (by hand or courier), or (5) five days after posting by first class airmail.

The address for service for the Customer shall be the same address as that used on the most recent invoice. The address for service for the Supplier shall be the current registered company address.

14. Waiver

No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such term, provision or condition or of any other term, provision or condition of this Agreement.

No remedies described in this Agreement shall be construed to limit or reduce either party's rights to any additional remedies available at common law or in equity.

15. Independent Contractor

Both Parties act as independent contractors and not as an agent, partner or employee of the other party. Neither the Supplier nor the Customer will have any authority to make agreements with third parties that are binding on the other Party.

16. Third Party Rights

A person who is not party to these Terms and Conditions has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of these Terms or Conditions, but this does not affect any right or remedy of a third party which exists or is available apart from that act.

17. Law and Venue

This Agreement shall be interpreted in accordance with the laws of England and Wales. Any dispute that may arise with regard to its interpretation, execution or resolution shall be brought in a court in England or Wales. This does not affect a Party's right to seek injunctive relief in any jurisdiction.