

## Definitions

- (1) "Client" means the client to whom Network Deployments Limited is providing the Services.
- (2) "Network Deployments Limited" means Network Deployments Limited Direct (UK) Limited, its subsidiaries and any of its subcontractors.
- (3) "Services" means the services which Network Deployments Limited will perform as described in a Packaged Service Description or a signed Statement of Works.
- (4) "Data" means Client data to the extent that it relates to their requirements for Services or is necessary for the proper provision of the Services to the Client
- (5) "Normal Working Hours" means 9.00 am to 5.30 pm on a Working Day.
- (6) "Working Day" means Monday to Friday, excluding Bank or other Public holidays in England.
- (7) "Statement of Works" or "SOW" means the document agreed by the parties which specifies the Services to be provided and the requirements for their provision.
- (8) "Equipment" means the products sold by Network Deployments Limited as set out in the Statement of Works or in a Packaged Service Description.
- (9) "Out of Hours" means time outside of Normal Working Hours.
- (10) "Packaged Service" means a standard pre-defined and repeatable service offering which Network Deployments Limited will perform as described in a Packaged Service Description.
- (11) "Packaged Service Description" means the document setting out the scope of a Packaged Service.

## Orders

- (1) All contracts for the provision of Services and Equipment by Network Deployments Limited shall be deemed to incorporate these terms and conditions, which shall prevail over any other terms from the Client. Once an order has been received, if the Client wishes to cancel the order, the Client will be liable for the cancellation and postponement charges as set out in these terms and conditions (see "Cancellation/Postponement" below).
- (2) All orders are subject to acceptance and to availability to provide the Services ordered: Network Deployments Limited is entitled to refuse any order placed by the Client.
- (3) The Client undertakes that all details it provides to Network Deployments Limited for the purpose of purchasing Equipment or Services are correct.

## Prices

- (1) Services and Equipment, together with VAT, are invoiced at the price as set out in the Statement of Works or quote. The Statement of Works and quote pricing are valid for 30 days only from the date of the Statement of Works or quote, unless otherwise stated therein.
- (2) Network Deployments Limited reserves the right to modify the prices from time to time for future orders.
- (3) Any estimates made by Network Deployments Limited for the cost of any Services and Equipment shall be estimates only. Whenever estimated prices are quoted, Network Deployments Limited shall use all reasonable efforts to perform the relevant Services at the estimated price but in no event shall such estimates constitute a fixed price or a not-to-exceed price agreement unless stated otherwise in the Statement of Works or quote.

(4) Any prices quoted by Network Deployments Limited in a local currency may be adjusted by Network Deployments Limited due to fluctuations in the US Dollar exchange rate.

## **Delivery, Title and Risk**

(1) Network Deployments Limited shall use reasonable endeavours to dispatch equipment by the date agreed with the Client but does not accept liability for failure to deliver within the stated time where this is caused by circumstances beyond Network Deployments Limited's control. This may include but shall not be limited to such as delays caused by couriers or manufacturer lead times. If it appears a delay may be likely, Network Deployments Limited shall use all reasonable efforts to contact the Client and advise of the delay.

(2) Network Deployments Limited does not accept liability for shortages or damage to deliveries unless the Client notifies Network Deployments Limited of the shortage or damage in writing within 48 hours of receipt of the delivery.

(3) Clients are required to be able to accept the Equipment when they are ready for delivery within Normal Working Hours.

(4) Title in the Equipment does not pass to the Client until payment is received in full by Network Deployments Limited. In any event title in software shall remain with the software vendor.

(5) If the Client cannot accept delivery, Network Deployments Limited may at its option: (a) store and insure the Equipment at the Client's expense and risk or (b) sell the Equipment at the best price reasonably obtainable and (after deducting reasonable storage insurance and selling costs) pay to the Client any excess over the sale price or charge the Client for any shortfall or (c) re-arrange delivery provided that Network Deployments Limited may charge the Client for the additional delivery costs incurred.

(6) Some of the products supplied by Network Deployments Limited fall within the scope of the EU regulation 428/2009 and these goods are subject to controls when transferred outside of the EU. In case of export of these products outside of the EU, the Client will be responsible for obtaining the required licenses from the relevant authority.

## **Product specifications**

(1) If Network Deployments Limited cannot supply the Equipment ordered by the Client, Network Deployments Limited reserves the right to offer Equipment of equal or superior quality at no extra cost. In such a case, if the Client does not wish to accept the alternative Equipment offered, it may cancel the order and require the refund of any money paid to Network Deployments Limited in respect of that order, including carriage charges. This shall be the sole remedy of the Client in these circumstances.

## **Pre-requisites & Essential Requirements**

(1) The Client shall provide Network Deployments Limited and its staff sufficient working space as well as such access to the Client's personnel, files and equipment at the Client's facility as Network Deployments Limited reasonably deems necessary for the performance of the Services.

(2) The Client shall:

- Comply with the obligations set out in these terms and conditions;
- Undertake the specific obligations specified in the Statement of Works or Packaged Service Description;

· Ensure that any assumptions or dependencies set out in the Statement of Works or Packaged Service Description are fulfilled or complied with as the case may be.

(3) If the Client fails to fulfil any of its responsibilities under these terms and conditions in a proper and timely manner and such failure causes a delay in the performance of the Services or results in additional costs to Network Deployments Limited, Network Deployments Limited shall take such action as it deems reasonably prudent and shall provide the Client with a written specification of such delay and the resulting costs. The Client agrees to pay these costs to Network Deployments Limited at the then current standard Network Deployments Limited rates for the Services involved.

(4) In the event that Network Deployments Limited removes any of the Client's hardware from its site, unless it is otherwise specifically agreed in writing by the parties at the time, Network Deployments Limited shall be entitled to assume that all data of a sensitive nature and personal data (as defined by the Data Protection Legislation) has been removed from the tapes or other media and the Client agrees to indemnify Network Deployments Limited from all and any claims and proceedings made or brought by any person in respect of any loss, damage or distress to that person by reason of any wrongful disclosure of any personal data on any such media or tapes.

(5) Client shall be solely responsible for maintaining back-up copies of all data.

(6) Unless specified in the Statement of Works or Packaged Service Description, Services do not include any electrical, network or external communications infrastructure cabling specification or installation.

(7) All such network cabling and associated sockets should be in their correct location and tested by the Client prior to the Equipment installation date.

(8) All agreed Equipment locations will be final and adequate power sockets must be available.

(9) No additional work will be undertaken if not included on the Statement of Works or Packaged Service Description. A Request for Change Document may be drawn up by Network Deployments Limited to cover such work but it must be agreed and signed by the Client before such additional work can be carried out.

(10) Under no circumstances will any Equipment be released or the Client given access to any Equipment, until Network Deployments Limited has finished the Services unless otherwise expressly stated in the Statement of Works or Packaged Service Description.

(11) Any existing equipment belonging to the Client being utilised or connected, must be fully operational and virus free, and fully accessible to Network Deployments Limited during the installation.

(12) Delays on site caused by faulty equipment, not supplied by Network Deployments Limited, services not being ready, or access restrictions may incur additional charges at the then current Network Deployments Limited rates.

## **Service Performance**

(1) Network Deployments Limited shall use reasonable endeavours to provide the Services by the date agreed with the Client but does not accept liability for failure to deliver within the stated time where this is caused by circumstances beyond Network Deployments Limited's reasonable control. If a delay is likely, Network Deployments Limited shall contact the Client and advise of the delay.

(2) Unless otherwise agreed, the arrival time on site is for a 9.00am start on the date booked.

(3) Installation and completion dates are an estimate and are dependent on the Client complying with its obligations and third parties complying with their obligations. Installation and completion dates are not

guaranteed. If, solely due to Network Deployments Limited's negligence, a component of the Services is unreasonably delayed the Client's sole remedy is to reject that component.

(4) Clients are required to give Network Deployments Limited access to provide/install the Services within Normal Working Hours and Out of Hours (where agreed).

(5) If the Client cannot allow Network Deployments Limited access to provide/install the Services on the agreed date Network Deployments Limited may re-arrange provision/installation of the Services provided that Network Deployments Limited may charge the Client for the additional costs incurred at the then current Network Deployments Limited rates.

(6) It is the responsibility of the Client to ensure that the Services provided correspond with the Statement of Works or Packaged Service Description.

(7) Upon completion of the Services, the Client will be notified of the same. The Services are deemed to be accepted if the Client has not raised any concerns in writing with Network Deployments Limited within 3 days thereafter.

## **Software**

Any software provided as part of the Services is subject to any accompanying End User License Agreement and the terms thereof. The Client agrees to be bound by the same.

## **Payment**

(1) Network Deployments Limited shall invoice the Client on the payment dates specified in the Statement of Works or in the Packaged Service Description, if none are specified, Network Deployments Limited shall invoice Client: on acceptance of the Client's order in respect of software; on shipment in respect of hardware; on completion of professional services or monthly in arrears in respect of recurring services unless otherwise agreed in writing; and in advance in respect of maintenance and support services. Payment is due on presentation of invoice unless credit terms have been agreed in writing with Network Deployments Limited.

(2) If payment is not made on the due date, Network Deployments Limited will be entitled to charge interest daily on the outstanding balance at the rate of 3% above Barclays Bank PLC base lending rate from time to time and in any event an administration fee in the sum of £50 shall be applied to each overdue invoice.

(3) The provision of any services outside the scope of the Services as set out in the Statement of Works or Packaged Service Description shall be billed to the Client at the then current Network Deployments Limited rates for such services.

(4) Amounts stated do not include taxes. All additional taxes or duties which Network Deployments Limited shall have to pay or collect in connection with the provision of the Services shall be borne by the Client (except for taxes based on Network Deployments Limited's income). VAT will be charged at the rate prevailing at the date of invoice.

## **Cancellation/Postponement**

Once a purchase order has been received for the services defined within the Statement of Works or Packaged Service Description, the Client will be liable for the following cancellation and postponement charges;

- Less than 48 hours in advance of agreed commencement date of Services - 100% of the service order value

- 5 days to 48 hours in advance of agreed commencement date of Services - 75% of the service order value
- 10 days to 6 days in advance of agreed commencement date of Services - 50% of the service order value
- 11 days to 14 days in advance of agreed commencement date of Services - 25% of the service order value
- 14 days or more in advance of agreed commencement date of Services - No Charge

Notwithstanding the above, any built-to-order or non-cancellable hardware or software cannot be cancelled.

## **Confidentiality and Data Protection**

(1) Both Network Deployments Limited and the Client acknowledge that they may receive information and material constituting trade secrets concerning the business, finances, systems, products and documentation of the other ("Confidential Information"). Confidential Information shall be limited to information clearly identified as confidential. Both Network Deployments Limited and the Client agree to protect and preserve the confidentiality of the other's Confidential Information using the same standard of care as it uses to protect its own Confidential Information of a similar nature, but in no event using a lesser standard than a reasonable standard of care. The parties agree to hold each other's Confidential Information in confidence while the Services are being performed and for a period of three years thereafter.

(2) Both Network Deployments Limited and the Client will only divulge Confidential Information to those employees, sub-contractors and agents who have entered into a binding written agreement to maintain confidentiality and for whom knowledge of the Confidential Information is necessary for the proper performance of their duties.

(3) Each Party shall process personal data in accordance with the Data Protection Legislation (which includes applicable data protection legislation including the General Data Protection Regulation (EU 2016/679) (GDPR), the Data Protection Directive (95/46/EC), and any national implementing laws, regulations and secondary legislation) as amended from time to time. Data processing will be accomplished through electronic and non-electronic means, for the purpose of these terms and conditions. Terms used throughout this clause including "data controller", "data processor", "data subject", "personal data" and "processing" are as defined in the Data Protection Legislation.

The Client is responsible for obtaining the consent of all Client related data subjects whose personal data is provided to or otherwise made available to Network Deployments Limited pursuant to these terms and conditions. Client authorises Network Deployments Limited to engage sub-processors to the extent required for the performance of the terms and conditions and/or order and/or SOW. Network Deployments Limited shall in respect of any personal data of the Client processed under these terms and conditions to maintain such personal data under appropriate, commercially reasonable and sufficient technical and organisational security measures to protect such personal data or information and both Parties warrant to have taken all appropriate registrations under relevant EU data protection legislation. Client authorises Network Deployments Limited to transfer and (sub)process any personal data outside of the European Economic Area (EEA) in order to perform these terms and conditions and/or the orders and/or SOW, other legal obligations and/or for Network Deployments Limited's other legitimate interests, provided that such transfer is made in accordance with Data Protection Legislation. Transfer made within the Network Deployments Limited group of companies will be made under a legal framework compliant with the Data Protection Legislation such as the Privacy Shield or the European

Commission approved Model Contract Clauses. Network Deployments Limited's privacy policy shall apply to orders placed and SOW. A copy of the policy can be found on Network Deployments Limited's website. Notwithstanding any other provision of these terms and conditions, Client agrees that Network Deployments Limited shall not be considered a data processor or data controller or in any other way have any responsibilities or liability (and the Client holds Network Deployments Limited harmless) in respect of the processing of personal data pursuant to a product or Service (including cloud service) provided by a third party supplier of product or services transacted by Network Deployments Limited and where Network Deployments Limited is not processing such data. Such processing of personal data shall be subject to the arrangements and contract terms entered in to directly between Client and the third-party provider.

## **Intellectual Property**

(1) All service data collected by Network Deployments Limited (including but not limited to asset data bases, call data and system configuration details) shall belong to Network Deployments Limited.

(2) All Intellectual Property rights in the Services provided by Network Deployments Limited shall belong to Network Deployments Limited.

## **Warranties**

(1) Network Deployments Limited warrants that:-

(a) it shall use reasonable skill and care to carry out the Services to the generally accepted industry standards and the Services shall be supplied and rendered by appropriately experienced, qualified and trained personnel in a professional and workmanlike manner

(b) the Services will be free from defects for a period of 30 days after completion. The Client shall report in detail any deficiencies in the Services to Network Deployments Limited in writing within 3 days of completion of the Services. In the event of a breach of warranty, Client shall allow Network Deployments Limited the opportunity to correct errors or re-perform the Services so as to comply with the warranties set out in sub clauses (a) and (c).

(c) the Services, when supplied, shall conform to the description and service level agreements set out in the relevant Statement of Works or Packaged Service Description;

(d) the provision of the Services and Clients' use thereof shall not infringe any Intellectual Property Rights of any third party. This warranty does not apply insofar as it relates to items of hardware, software or other equipment manufactured by third party OEM's;

(e) where the provision of the Services involves the supply or fitting of spare parts, title to such parts shall pass to the Client once the relevant part is fitted and the parts removed shall become the property of Network Deployments Limited, unless otherwise specified in a Statement of Works or Packaged Service Description;

(2) Network Deployments Limited cannot be held responsible for any fault or damage not caused by Network Deployments Limited. In the event of a claim arising relating to the level of skill and judgement applied in the course of providing Services, Network Deployments Limited reserves at its sole discretion the right to appoint an independent expert in the field to appraise the work carried out in the execution of the Services. Additionally, Network Deployments Limited cannot be held responsible for equipment installed or configured when the equipment has subsequently been altered or configured by persons other than Network Deployments Limited.

(3) In relation to Equipment, Network Deployments Limited warrants that Network Deployments Limited does not sell products on a trial basis. Clients are strongly advised to check suitability and specifications of Equipment before ordering. In some instances, Clients may benefit from special price discounts issued by a manufacturer specifically for their benefit. Such Equipment is not returnable to the manufacturer and may not be sold to other Clients.

(4) Unless otherwise stated in the manufacturer's documentation, all Equipment delivered to a UK mainland address carries a manufacturer's warranty. Clients who wish to make a warranty claim must comply with the manufacturer's instructions and warranty procedure.

(5) No software on which seals have been broken can be returned for credit. If any software discs are faulty, the manufacturer will replace them. Please note Software Licenses are not returnable unless the software is materially non-compliant with its specification or the physical media on which it is supplied is defective.

(6) Except as set out here all warranties and conditions, whether express or implied by statute, common law or otherwise relating to the Services are hereby excluded to the fullest extent permitted by law.

(7) The Client warrants that it has the authority to provide information and personal data to Network Deployments Limited and authorises Network Deployments Limited to handle the Client's information and personal data and to transfer it to third parties to the extent required to deliver the Services.

## **Network Deployments Limited's liability**

(1) Network Deployments Limited shall under no circumstances be liable for any consequential or indirect damage or loss, however caused, including (but not restricted to) loss of business or profits in the ordinary course, loss of goodwill, damage to trading relationships loss of data and other financial loss. Network Deployments Limited's liability in respect of all other losses shall be limited to the invoiced amount of the relevant order.

(2) Nothing in this agreement shall limit Network Deployments Limited's liability for death, personal injury fraud or fraudulent misrepresentation.

## **Force Majeure**

(1) Where, in spite of its reasonable efforts, Network Deployments Limited is unable to perform an obligation due to circumstances beyond its reasonable control, it shall not be deemed to be in breach of its contract with the Client.

## **Termination**

(1) If either party materially breaches any of its obligations and the breach has not been remedied within 30 days after written notice is given to the defaulting party specifying the breach, the party not in default may by written notice terminate this agreement (including the relevant Statements of Works or Packaged Service Description) as of the date specified in such termination notice.

(2) Either party may terminate this agreement or the relevant Statement of Works or Packaged Service Description or suspend work if:

(a) the other party fails to promptly pay any amount due to be paid under this agreement or Statement of Works or Packaged Service Description; or

(b) the other party passes a resolution for winding up (save for the purpose of solvent amalgamation or reconstruction) or suffers a winding-up order being made against it; or

(c) a receiver, administrative receiver, administrator or similar officer is appointed over the other party.

## **Errors and Omissions**

(1) Network Deployments Limited makes every effort to ensure that all prices and descriptions quoted are correct and accurate. In the case of a manifest error or omission, Network Deployments Limited will be entitled to rescind the contract, notwithstanding that it has already accepted the Client's order and/or received payment from the Client. Network Deployments Limited's liability in that event will be limited to the return of any money the Client has paid in respect of the order. In the case of a manifest error in relation to price, the Client will be entitled to purchase the Equipment or Services by paying the difference between the quoted price and the correct price, as confirmed in writing by Network Deployments Limited after the manifest error has been discovered.

(2) A 'manifest error', as the term is used in sub-paragraph (1) above, means, in relation to an incorrect price, a price quoted in error by Network Deployments Limited which is more than 10% less than the price that would have been quoted had the mistake not been made.

## **Compliance with relevant requirements**

(1) The Client shall:

(a) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);

(b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

(c) have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirement, the Relevant Policies and clause (a), and will enforce them where appropriate;

(d) promptly report to Network Deployments Limited any request or demand for any undue financial or other advantage of any kind received by the Client in connection with the performance of this agreement;

## **General**

(1) If any provision in these terms and conditions is held to be invalid or unenforceable, it shall be deemed severed from the terms and conditions and this shall not affect the validity or enforceability of the remaining provisions.

(2) Any variation of these terms and conditions must be in writing and signed by a duly authorised Network Deployments Limited official.

(3) Any notices given under these terms and conditions shall be in writing and sent (a) by first class pre-paid post to the last known address of the party; or (b) by fax to their last known fax number; or (c) by e-mail to the last notified e-mail address of the party.

(4) These terms and conditions shall be governed by and construed in accordance with the laws of England & Wales and the parties submit to the non-exclusive jurisdiction of the English courts.

(5) Network Deployments Limited may at its discretion record telephone transactions for staff training and quality control purposes.