

Terms and Conditions

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1. Introductory Clauses

- 1.1 In this agreement the following words and expressions are defined as follows unless the context in which they are used suggests otherwise:

Parties

Netgroup and the company (the Customer) specified in this document and the accompanying Purchase Agreement.

Agreement

The following Netgroup Terms and Conditions Agreement and additional agreements the parties have entered into including the Purchase Agreement and these agreements' appendices.

The Duration of the Agreement

The Duration of the Agreement as specified in the Purchase Agreement entered into by the parties.

Traffic

Internet-based traffic (IP-traffic) supplied via fiber-optic connections, wireless connections (FWA), copper wire connections or any other connections.

Hosting Facility

Facilities for the hosting of IT and telecommunications equipment as specified in the Purchase Agreement.

Purchase Agreement

The Purchase Agreement signed by the Parties, in which the services and products supplied by Netgroup are specified.

Price Index Regulation

Regulation of the agreed price in relation to the corresponding increase in the Danish Consumer Price Index published by Statistics Denmark.

Date of Commencement

The date on which the customer takes a service or product into use including hosting facilities.

Ready for Use

A message from Netgroup indicating that hosting facilities, the Internet connection or the service ordered can now be taken into use by the customer.

Rental

A right to use hosting facilities, connections, rack cabinets, physical equipment or other services specified in the Purchase Agreement accorded in return for payment. By hosting facilities, connections, rack cabinets and physical equipment we mean the right to use these services accorded under the terms of the Purchase Agreement in return for payment. The rental of hosting facilities is not necessarily an exclusive right in that other Netgroup customers may have the right to place equipment in the same hosting facility.

- 1.2 This agreement governs the supply of hosting, system administration, Internet connections, Internet traffic and related services from Netgroup to the Customer and the relationship between the Parties. The specific services which the parties agree will be supplied by Netgroup are described in Purchase Agreements or appendices to these. Such Purchase Agreements and appendices are included in and governed by this Agreement, unless otherwise specifically stated in these documents.
- 1.3 Appendices to this document, the Purchase Agreement, or any other agreement between the parties referred to in the Purchase Agreement constitute a part of the Agreement.
- 1.4 In the event that the terms of this agreement are at variance with the terms of a Purchase Agreement the Purchase Agreement is to take precedence.

- 1.5 In the event that Netgroup supply physical Internet connections via, but not limited to, fiber-optic, copper or wireless (FWA) connections it is the relevant subcontractors terms and conditions that govern that aspect of the services supplied by Netgroup. These thus take precedence in relation to the Terms and Conditions.

2. Duration

- 2.1 The terms of this agreement and Purchase Agreements are binding for both parties during the Duration of the Agreement, as specified in the individual Purchase Agreements, whereafter the agreement can be canceled by either Party with 90 days written notice to the end of the month, services governed by the terms of paragraph 7 are, however, exempt from this stipulation. In the event that this agreement has not been canceled within a period of 90 days prior to its expiry, this Agreement and the the Purchase Agreement will automatically be extended by a further period of 12 months with the same terms and conditions applying.
- 2.2 The Duration of the Agreement governing each specific service is specified in the relevant Purchase Agreement.

3. Terms of Payment

- 3.1 Prices and terms of payment are specified in the Purchase Agreements. Unless specifically stated otherwise in the Purchase Agreement all prices are in Danish Kroner (DKK) ex VAT and any other taxes.
- 3.2 Unless otherwise specified in the individual Purchase Agreement, regular payments as specified by the terms of the Purchase Agreements must be paid in advance and by the quarter year from the commencement of the agreement or the date at which Netgroup declare the service is "Ready for Use" whichever date is earliest. The initial payment will be adjusted in relation to the quarter year such that the remaining period of the current quarter year plus the subsequent quarter year are paid upon the commencement of the agreement or upon Ready for Use, whichever comes first. Setup costs will be invoiced immediately when the Customer enters into the agreement.
- 3.3 All invoices issued by Netgroup must be settled within 14 days.
- 3.4 All payments made under the terms of the agreement must be made without any deductions or any sums being off-set in any way, unless otherwise agreed by the Parties and stated in the relevant Purchase Agreement.
- 3.5 If the Customer does not meet their payments punctually, the Customer will be liable for interest charges for the period in question. Interest will be charged by day at a variable interest rate of five (5) percent p.a. above the then valid discount rate of the National Bank of Denmark, and is to be calculated for the number of days passed from the date due to the actual payment date given a 365-day year. The Customer is further liable for any additional costs involved in recovering any monies owing and for any losses Netgroup may incur as a result of late payment or the failure to to pay.
- 3.6 All regular Netgroup service charges will be price index regulated once a year.
- 3.7 All prices and charges can, in addition to the annual price index regulation, be altered with one month's notice. Netgroup must inform the Customer of these price changes providing a minimum of 1 month's notice. The Customer is obliged to meet payments at the new price but has the option of canceling the agreement at one month's written notice. Price changes may occur without warning, however, in the event that these result from circumstances beyond Netgroup's control, including legislative changes and increases to Netgroup's suppliers' prices.

4. Delivery

- 4.1 Netgroup undertake to supply the services defined in the Purchase Agreement at the time specified in the Purchase Agreement.
- 4.2 Individual services will be delivered at the date specified in the Purchase Agreement.
- 4.3 When these services are Ready to Use, Netgroup will immediately inform the customer by sending them a letter or e-mail confirming that the services supplied meet the agreed specifications. Within 5 working days of their receipt of this information the Customer must inform Netgroup in writing should the services provided not meet the agreed specifications. In the event that the services provided do not meet specifications the Customer must provide a detailed written description of the fault to Netgroup. In the event that the Customer has not informed Netgroup in writing of any issue within 5 working days of the Customer being informed that their services are Ready for Use the services provided will be regarded as meeting the specifications agreed and all guarantees and warranties offered.
- 4.4 In the event that the Customer finds that the services do not meet the specifications agreed the Parties are to work together to identify and correct eventual deficiencies. Should a disagreement arise between the Parties in this relation the Parties should attempt to solve it amicably. Should the Parties be unable to settle the disagreement within 15 working days from the date on which the Customer reported any deficiency the issue should be turned over to an independent expert whose decision will be binding and final. This expert is to be appointed by both Parties in agreement.

5. The Parties' Additional Commitments

- 5.1 Each party shall provide all necessary permits and approvals and abide by all laws and regulations and meet all legislative requirements from any relevant public body which apply to the installation, ownership and use of the services supplied by the Party in question.

6. Transfer

- 6.1 The Customer is not entitled to transfer rights and commitments to third parties unless the third party acquiring these rights and commitments takes on all rights and commitments and only in the event that Netgroup approve this transfer in writing. The Parties are entitled at any time to transfer rights and commitments derived from this Agreement to affiliated companies so long as the transferring company owns at least 50% of the affiliate and continues to act as guarantor of all rights and obligations unless the Parties agree otherwise in writing.
- 6.2 The Parties have the right to transfer responsibility for payments made in respect of this Agreement to their respective banks without this implying that the bank becomes a party to the agreement. This action does not require the other Party's written permission.

7. Breaches

- 7.1 Both parties can cancel the Agreement and any Purchase Agreement in writing without notice should the other Party be guilty of a significant breach of the Agreement or Purchase Agreement or if the Party is declared bankrupt enters into receivership or similar.

- 7.2 In the event that one of the Parties breaches the agreement as specified in Paragraph. 7.1 the Party in breach of the terms of the agreement shall have 30 days to correct/cease the breach involved. This clause does not apply to breaches of the Terms of Payment or breaches of such a character that they cannot be corrected/cease.
- 7.3 Netgroup can cancel the Agreement in writing in the event that the Customer has failed to pay an invoice and has not transferred the full amount including accumulated interest etc. (see Paragraph 3.5) to Netgroup within ten days of receiving a written payment reminder.
- 7.4 Cancellation of the agreement, for whatever reason, will not affect those clauses of the Agreement which remain binding or which are activated by this cancellation. Cancellation of the agreement does not affect the Customer's obligation to make payments of any sort to Netgroup as specified in the Agreement or Purchase Agreements.

8. Responsibility

- 8.1 When the delivery is "Ready for Use" Netgroup's commitments are limited to Netgroup's maintenance responsibilities and any eventual services defined in the Purchase Agreement. Netgroup are not responsible for deterioration or damage to services described in this Agreement or for any error or malfunction, unavailability, delay, breakdown or interruption that results from the actions of the Customer.
- 8.2 Unless otherwise expressly stated in this Agreement the following holds:
- Each Party provides only such guarantees as are explicitly mentioned in this Agreement . No guarantee follows from customary practice etc.
 - None of the Parties are responsible to the other party or any other party including parent companies, subsidiaries, dealers, customers or other end users for indirect losses.
- 8.3 The Customer recognizes that they are bound to comply with all legislative requirements relevant to their line of business. The Customer is aware that Netgroup has no control over the content of the information which the Customer distributes from Netgroup's data center, and that it is the Customer's responsibility and the Customer's responsibility alone to ensure that the information that the customer sends and receives meets all relevant laws and regulations. The Customer confirms reading and accepting the provisions of Paragraph 11 Acceptable Use Policy.
- 8.4 Netgroup bears no responsibility for damage to or insurance of the Customer's equipment, unless insurance of the Customer's equipment is specifically included as a service in the Purchase Agreement.
- 8.5 Netgroup's maximum liability to the customer cannot exceed an amount equivalent to the amount the Customer has paid Netgroup in monthly/quarterly payments during the 6 months immediately prior to any claim being registered.

9. Confidentiality

- 9.1 The parties are bound to:
- Treat all information given or received which is relevant to the business of either party as being strictly confidential.

- Refrain from sharing confidential information with a third party without the prior written agreement of the Party the information relates to and only to use confidential information for the purposes described in this Agreement (with the exception of the circumstances described in Par. 9.3).
- 9.2 Information is regarded as confidential if it relates to the other party's business or circumstances and is information which a Party has come into direct or indirect receipt of whether this information be transferred in writing or orally and irrespective of whether it is transferred in connection with the party's performance of their commitments. Information which becomes public without having been revealed by a breach of this agreement by either of the parties is excepted from this requirement.
- 9.3 The Parties are entitled to transfer information to the relevant authorities to meet any legal obligations. Upon supplying such information, the Party which has done so is obliged to keep this fact confidential so far as this is possible.
- 9.4 Confidentiality clauses remain valid after contractual relations between the parties cease.

10. Obligations

10.1 The Customer's obligations

The Customer is familiar with the legislation and regulations that are relevant to the Customer's line of business. The Customer guarantees that so long as the following agreement is valid the Customer will not store or transmit material which is prohibited by current legislation. Should the Customer breach the law or fail to observe Netgroup's Acceptable Use Policy (see par. 11) Netgroup will be entitled, at Netgroup's initiative, to hinder all access to such illegal material and/or cease to provide services to the Customer, including the immediate cessation or interruption of services supplied to the Customer.

10.2 Netgroup's obligations

(a) Netgroup's Service Level Agreement (SLA) is valid where this is explicitly alluded to in the Purchase Agreement.

(b) No other warranty is offered. With the exception of the guarantees offered in subsection(a) above, all other services, products and facilities are provided by Netgroup as seen. Netgroup makes no express or implied guarantees or warranties, and Netgroup has no responsibility whatsoever with respect to conduct, satisfactory quality, non-violation, and suitability for a particular purpose or guarantees that follow from business practice or custom.

(c) No guarantees are offered for services controlled by a third party. Irrespective of the fact that Netgroup supplies an Internet connection to the customer, Netgroup cannot control the flow of information to and from Netgroup's data centers to other parts of the Internet. Such data flows are highly dependent on the performance of Internet Services supplied or controlled by third parties. These third parties may cause Netgroup's Customers' connection to be interrupted or to lessen in strength and Netgroup cannot guarantee that such circumstances will not arise, and is not liable in any way under such circumstances.

11. Acceptable Use Policy

All Netgroup's customers are responsible for ensuring that they have read and understood the current Acceptable Use Policy.

The actions described below are defined by Netgroup as system misuse and are not permitted. The examples provided below are not exhaustive and are only included in order to guide and inform Netgroup's customers. If the Customer is in any doubt as to whether an action or use of the system is admissible it is the Customer's responsibility to contact Netgroup for clarification. The following activities are strictly forbidden, and Netgroup reserves the right to take the necessary steps to stop such activities including suspending and interrupting services supplied to the Customer (see Paragraph 10.1 above).

The Customer may under no circumstances use Netgroup's network servers or services to:

- breach relevant laws, regulations and guidelines.
- breach acceptable use policies in the networks machines or servers accessed via Netgroup's network.
- breach others privacy.
- breach e-mail marketing guidelines.

Activities which are not permitted include but are not limited to:

- unauthorized use (or attempts to attain unauthorized use) of machines and networks.
- attempts to compromise sites and servers (e.g. denial of service attacks).
- falsification of header information or user IDs.
- distributing malicious software to the network or machines (e.g. viruses, worms, Trojan horses, etc.).
- monitoring or scanning other networks without permission.
- breaching security or disrupting Internet communication including gaining access to data to which the Customer should be denied access or logging onto a server to which the Customer ought not to have access.
- performing any sort of network surveillance (e.g. packet sniffer) in order to appropriate data which is not intended for the Customer.
- attempting to breach user ID information or security in any host or network (cracking).
- use of any program/script/command or sending messages of any type which are designed to disable or disrupt machines, servers and networks both locally and via the Internet.
- send ingunsolicited bulk e-mail (SPAM).
- maintaining and operating an open mail relay.
- gathering e-mail addresses from the Internet in order to send unsolicited bulk e-mail (SPAM).
- sending or receiving material that is illegal or in breach of copyright.
- storing illegal material on servers, machines, equipment etc. which form part of or are attached to Netgroup's network.
- providing false or incorrect data on sign-up forms.
- attempting to disrupt or disable Netgroup's bandwidth measurements, current and other services.

12. Force Majeure

- 12.1 None of the Parties are liable in anyway for contract breaches resulting from circumstances beyond the parties' control, including – and to the extent that such a service is prevented directly or indirectly by – strikes, lock-outs, stoppages, governmental action, failure or delay of regulatory approval, insurrection, armed conflict, accidents, shortage of raw materials or normal means of transport, acts of war, terrorism, natural disasters or any other cause which lies beyond what the Parties can reasonably be expected to be in control of.

13. Governing Law, Jurisdiction, Interpretation and Disputes

- 13.1 This Agreement is subject to and should be interpreted in accordance with the principles of Danish law.
- 13.2 The Parties undertake to attempt to achieve an amicable solution to any differences through negotiation and to do so in such a way that normal services or normal manufacture are unaffected. In the event that no amicable solution can be reached through negotiation the case is to be determined finally and bindingly by arbitration according to the rules of The Danish Institute of Arbitration or in the Danish Courts at the discretion of Netgroup.

14. Various

- 14.1 Netgroup and the Customer are independent companies and this Agreement should not be taken to imply any partnership, joint venture, employment, franchise or agent agreement between Netgroup and the Customer.
- 14.2 The Customer understands that Netgroup is entitled to use the Customer's name and logo and to briefly describe the Customer's solution and line of business to other customers and in Netgroup's marketing material – including but not restricted to Netgroup's website.
- 14.3 The Customer understands that the Customer has only been accorded the right to use the customer's area (rack cabinet, footprint etc.) and, that the Customer obtains no right of property or other rights in connection with the services provided by Netgroup unless otherwise explicitly expressed in writing in the Customer's Purchase Agreement.