

GENERAL TERMS AND CONDITIONS

NETNOD SERVICES

The Customer has ordered certain services (“Services”) to be provided by Netnod AB (“Netnod”). These General Terms and Conditions form part of the Agreement between Netnod and Customer and shall apply to the provision of Services to the Customer.

1. Introduction

- 1.1 Netnod provides infrastructure support and services, including but not limited to interconnection services, Internet Exchange, the provision of time and frequency (NTP and PTP), Transport (“DWDM”) and DNS services, jointly the “Services”.
- 1.2 The Customer has entered into a service contract with Netnod regarding one or more Services provided by Netnod. These General Terms and Conditions (“GTC”) shall apply to the provision of the agreed Services.
- 1.3 In addition to these GTC, specific terms and conditions apply to certain services provided by Netnod, as further detailed in “Services Specific Terms and Conditions

2. Definitions

Any definitions herein shall have the corresponding meaning in the Agreement unless specifically stated otherwise.

Acceptance	means Netnod’s written notification to the Customer of acceptance of an Order or subsequent call-offs of additional Services submitted to Netnod by the Customer.
Agreed Delivery Date	means the first day Netnod shall provide each agreed Service to the Customer in accordance with the Agreement.
Agreement	as specified in the Order, including amendments and revisions thereof made in accordance with these GTC.
Customer Portal	means the Customer specific information web page available for login at [https://portal.netnod.se/].

Disruption	means any disruption of Services that renders the Service unavailable or non-functional. Scheduled maintenance shall in no event constitute Disruption of Services.
Netnod Equipment	means hardware (such as hardware, network components, servers or other equipment) belonging to Netnod.
Notification/Notice	means written notification from one party to the other party's administrative e-mail address as set forth in the Order.
Order	means the Quote/Order – Netnod Services Order form entered into by Customer online or otherwise.
Ready for Service	means the day Netnod informs the Customer of delivery of the agreed Service in writing to the e-mail address given by the Customer (i.e. actual date of delivery).
Service/Services	means the service or services to be provided by Netnod as commissioned by the Customer in the Order and as further specified in the Specification of Services.
Service Level Agreement/SLA	means the service level agreed upon for certain Services as specified in the SLA for that Service.
Specification of Services	the description of Services, including technical specification for the same, as applicable from time to time and published on www.netnod.se .
Standard Business Days	means every day excluding Saturdays, Sundays and Swedish national holidays.
Standard Business Hours	means Netnod's normal business hours (9.00 a.m. – 5.00 p.m.) Swedish time, every day excluding Saturdays, Sundays and Swedish national holidays.
Term	The term of the Agreement as defined under Section 5.

3. Prerequisite

- 3.1 Acceptance by Netnod of the Order submitted by the Customer is a prerequisite for a valid agreement between the parties.

- 3.2 Netnod has a right to decline an Order. Upon submission of an Order via web or otherwise, Netnod shall send its Acceptance or decline the Order within seven days.
- 3.3 The Customer may at any time order additional Services via the Customer Portal, or via e-mail whereby the terms and conditions of the Agreement shall apply upon Acceptance.
- 4. Provision of Services**
- 4.1 Netnod shall provide the Services from the Agreed Delivery Date with due care and in a professional manner by using commercially reasonable efforts.
- 4.2 The Customer acknowledges that the provision of certain Services is subject to that the Customer provides necessary and correct information in the Customer Portal or by filling out forms provided by Netnod, and that the Customer shall update such information in the event of changes thereto.
- 4.3 Unless specifically agreed otherwise in writing, the provision of Services is solely for the benefit of the Customer's own business operations. The Customer may not sell, lease, or in any other manner provide the Services to an affiliate or a third party.
- 5. Term of Agreement**
- 5.1 This Agreement takes effect on the date of Acceptance by Netnod. However, unless specifically agreed otherwise regarding a specific Service, the Term of Agreement is 12 months from Ready for Service.
- 5.2 If more than one Service is agreed upon, the Term is initiated on their respective Ready for Service. If a party has not terminated the Agreement (in whole or as regards one agreed Service) at least three (3) months prior to the expiration of the initial Term, the Term of the Agreement shall be extended with a subsequent twelve (12) months' Term each time unless specifically agreed otherwise in writing.
- 5.3 Termination shall be made in writing or duly submitted through the Netnod customer portal in order to be valid.

6. Specification of Services

- 6.1 The description of and the technical specification for each Service is determined by Netnod. It is published on www.netnod.se (Specification of Service) unless otherwise specified in an appendix to the Order. Modifications of Specification of Service and of the Service itself are implemented by Netnod from time to time in which event Section 22 shall not apply.
- 6.2 In the event of modifications that will, in Netnod's sole opinion, have an essential effect on the Services provided, Netnod will notify the Customer not later than three (3) months prior to the implementation of such modification.
- 6.3 Regardless of the above, the Customer acknowledges that Netnod at all times is entitled to make any modifications without prior notification for the purpose of preventing Disruptions of the Services.

7. Customer's Obligations

- 7.1 The Customer shall comply with all technical requirements set out in the Specification of Services from time to time.
- 7.2 The Customer shall further allow Netnod or Netnod's sub-contractors access to its premises to the extent required to enable Netnod's delivery of the Services.
- 7.3 The Customer shall grant Netnod access to the Customer's equipment, such as hardware, network components, or other equipment, to the extent necessary to enable Netnod to perform its undertakings in accordance with this Agreement.
- 7.4 The Customer shall monitor its equipment and internet connections so that Disruptions do not occur in the Services, or in services provided by Netnod to any other customer. The Customer is obligated to without delay i) inform Netnod in case of disrupting equipment and ii) disconnect such equipment.
- 7.5 If explicitly agreed upon, the Customer shall bear costs for electricity and cooling.

8. Sub-Contractors

- 8.1 Subject to prior approval from the Customer, Netnod may commission work from sub-contractors for the provision of certain agreed Services. Such approval may not be unreasonably withheld.

9. Delivery

- 9.1 In the event Netnod fails to deliver on the Agreed Delivery Date due to circumstances for which Netnod is responsible, the Customer is entitled solely to the following remedy: the Term of the Agreement and Netnod's right to charge the agreed fee is based on the actual date of delivery (Ready for Service).
- 9.2 If Netnod is prohibited from delivery on the Agreed Delivery Date due to circumstances for which Netnod is not responsible, the Term and the right to charge the agreed fee shall be based on the Agreed Delivery Date.

10. Fees and Payments

- 10.1 The Customer shall pay the fees for the agreed Services from Ready for Service, unless Section 9.2 applies
- 10.2 The fees shall be paid quarterly in advance against invoice and within thirty (30) days from the date of the invoice unless specifically agreed otherwise regarding a specific Service. For any overdue payments, penalty interest shall apply according to the Swedish Interest Act (1975:635).
- 10.3 All fees are stated exclusive of VAT, which will be charged according to law. Customers in the EU must ensure that their registered VAT-number is stated in the Order.

11. Adjustment of Fees

- 11.1 Netnod is at all times entitled to increase the fee for the Services during the Term of the Agreement if Netnod incurs increased costs as a result of the introduction of new taxes or increases in taxes, fees, or other duties, which the Swedish Parliament, the Government or other authority may determine. Netnod shall notify the Customer in writing no later than 30 days prior to the entry into force of such fee increase.

12. Right to Disconnect

- 12.1 If the Customer has failed to pay an invoice by the due date, Netnod will issue a sixty (60) day written notice. If the Customer fails to pay by the end of the sixty (60) day notice period, Netnod is entitled to cease to provide the Services until full payment is made.

- 12.2 If the Customer fails to respond without delay and/or does not promptly disconnect equipment which causes Disruption in the Services, or disruption of any service provided by Netnod to any customer, Netnod may temporarily cease to deliver all Services (including but not limited to disconnecting the Customer from the Services) immediately following notice via email.
- 12.3 Netnod's cessation of provision of Services, or disconnection of Services pursuant to this section 12 does not relieve the Customer from its obligation to pay the agreed fees during the term of the Agreement.

13. Disruption of Service

- 13.1 When applicable, the service level for certain Services is set out in the SLA. Failure to fulfil the service levels entitle the Customer to compensation, as a sole remedy, as set forth therein.
- 13.2 Any claim for compensation or damages according to this Agreement due to failure to fulfil agreed service levels must be made within 30 days after the Customer discovered the grounds for the claim. Refunds shall be made by Netnod within 30 days from Netnod's receipt of the Customer's valid claim.

14. Fault Notification

- 14.1 Each party shall immediately notify the other party upon Disruptions or problems with the Services. Fault reporting to Netnod shall be made to Netnod as stipulated on <http://www.netnod.se/fault-report>.
- 14.2 Subject to Section 14.3, Netnod shall bear the cost for fault localization and/or reparation subject to that the Customer cooperates as needed in the event of fault isolation and restoration.
- 14.3 The Customer shall bear the cost for fault localization, maintenance, or repair work which is requested by the Customer to the extent such work is unwarranted (i.e. false alarm).

15. Inhouse Cabling

- 15.1 When applicable for an ordered Service: The Customer is responsible for the existing inhouse cabling. In the event there is no prior existing inhouse cabling, the Customer is responsible for the installation of the cabling. The Customer is at all times responsible for all costs related to the inhouse cabling, including but not limited to installation of fibre and operation and maintenance of the inhouse cabling.

16. Netnod Equipment

- 16.1 If and to the extent Netnod Equipment is located at the Customer's premises or at third party's premises as directed by the Customer due to the Agreement, the Customer shall ensure the safety of the Netnod Equipment, and that it is kept in an appropriate environment and in such a manner that unauthorised persons do not have access. All rights, title and interest to Netnod Equipment will remain with Netnod.
- 16.2 Customers shall ensure that Netnod has the right of access to Netnod Equipment at any time.
- 16.3 When this Agreement is terminated, regardless of reason, the Netnod Equipment provided to (or located at the Customer's or third party's premises as set out in section 16.1) shall be returned to Netnod. Netnod shall on its own account ensure freight of Netnod Equipment not later than four (4) weeks from the expiry of the Agreement unless the parties agree otherwise. Upon expiry of the Agreement and at Netnod's request, the Customer is obligated to enable Netnod, or any third party appointed by Netnod, to access and remove Netnod Equipment.

17. Insurance

- 17.1 Netnod shall, at its own expense, purchase and maintain customary liability insurance, taking into consideration the nature and scope of the Service.

18. Limitation of Liability

- 18.1 In addition to the limitations of liability set forth in this Agreement, a party's liability to the other party for direct damages shall in all events be limited to an amount per year corresponding to the agreed fee for the relevant Service during the twelve (12) months immediately preceding the event giving rise to liability. If more than one Service is giving rise to liability, the limitation of liability shall correspond to the combined fee for those relevant Services and as otherwise set forth herein.
- 18.2 The Parties are in no case liable for indirect, incidental, or consequential damages such as - but not limited to - damages resulting from loss of revenue, loss of time, loss of equipment, loss of data, costs of capital, claims from third parties or product liability, except for indirect, incidental or consequential damages caused by gross negligent or intentional act or omission by that Party.

18.3 Notwithstanding any other provisions herein, Netnod is in no event liable to the Customer for i) Disruptions or damages caused by another Netnod customer and/or ii) Disruptions or damages resulting from the use of the Service by the Customer or any of the Customer's customers.

18.4 Any claim for compensation or damages according to this Agreement must be made within 30 days after the Customer discovered the grounds for the claim, however not later than ninety (90) days from the date of discovery, otherwise the right to bring an action shall be deemed forfeited.

19. Indemnification

19.1 Notwithstanding the limitation of liability under section 18, the Customer shall indemnify, defend and hold Netnod harmless from and against any and all costs, expenses, losses, damages and liabilities (including reasonable attorney's fees) incurred by Netnod in connection with any claim against Netnod on account of the Customer's use of the Services, any action or omission of any of the Customer's customers, or any content in the traffic sent or received by Customer in the provided Service.

20. Force Majeure

20.1 A party is entitled to postpone the performance of its obligations and is relieved from the consequences of non-performance of its obligations under the Agreement where such performance is prevented or rendered significantly more complicated due to a circumstance beyond the control of the party, and which the party neither could, nor reasonably should have foreseen at the time of execution of the Agreement. Such circumstance ("Force Majeure Event") can comprise, e.g., acts of war or terrorism, sabotage or civil or military disturbance, nuclear catastrophes, interruptions, loss or malfunctions of utilities or communications, discontinuation of energy, flooding, lightning, pandemic or epidemic, labour disturbances, shortage of supply, unauthorised data access or governmental regulations. Any delay in delivery on the part of any sub-contractor in the performance of the Agreement which is caused by any such Force Majeure Event, shall also constitute grounds for discharge from liability.

20.2 A party will be excused from any further performance of its obligations for the duration of the Force Majeure Event, provided the party invoking such grounds for excuse of performance notifies the other party in writing without delay.

20.3 When the Force Majeure Event has persisted for two (2) months, a party to this Agreement shall be entitled to terminate the Agreement with immediate effect.

21. Personal Data

21.1 No personal data, as specified by article 4 of the EU General Data Protection Regulation (GDPR), will be processed by Netnod on behalf of the Customer in conjunction with provision of the Services. However, if and to the extent Netnod processes personal data on behalf of the Customer due to a specific Service agreement, the parties agree to duly enter into a data processing agreement in accordance with applicable privacy laws for that purpose.

22. Updates to these Terms and Conditions

22.1 Netnod reserves the right to modify these General Terms and Conditions during the Agreement period, provided Netnod notifies the Customer in writing not less than ninety (90) days prior to such adjustments taking effect. If the Customer does not accept the revised terms and conditions, the Customer may terminate the Agreement with immediate effect within two (2) months from notification. Any prepaid yearly fee will in that event be reimbursed in proportion to the number of days remaining of the prepaid term.

22.2 Where amendments to these General Terms and Conditions are required as a result of changes in law or regulations, or binding decisions by governmental authorities, the parties shall make every effort to jointly agree on how to amend the Agreement in order to best comply with new binding regulation.

23. Termination for Cause

23.1 Where a party has committed a material breach of the Agreement and has not rectified such breach within thirty (30) days following receipt of a written request from the other party, the latter party has the right to immediately terminate the Agreement. A cause for disconnection as stated above under Section 11 is always a material breach which allows Netnod to terminate with immediate effect as set forth herein, whether Netnod has exercised its right to disconnect the Customer or not.

23.2 A party may terminate the Agreement with immediate effect where the other party suspends payment, has commenced composition proceedings, has been placed into liquidation or bankruptcy, or is otherwise insolvent.

23.3 In addition, Netnod may terminate the Agreement with immediate effect if prevented by law to continue providing the Services to the Customer, or if deemed necessary by Netnod to cease providing the Services for security reasons that may affect Netnod, Netnod's customers and/or the Swedish nation.

24. Intellectual Property Rights

24.1 Any and all rights, title, and interest in and to the Services will remain solely with Netnod. This Agreement does not transfer any ownership or proprietary rights in the Services or any part thereof.

24.2 Netnod may not redistribute or use Customer's information or data for any other purpose than to fulfil Netnod's obligations pursuant to this Agreement or for the purpose of providing statistical information. The Customer may at any time on the Customer Portal choose to opt out of Netnod's right to use data for statistical purposes.

25. Confidentiality

25.1 During the term of the Agreement and for a period of three years thereafter, each party undertakes to observe confidentiality with respect to any information received or obtained from the other party as a result of the Agreement. The parties shall protect information with the same degree of care with which they treat and protect their own proprietary information, but not less than reasonable care. A party shall at all times comply with the other party's reasonable instructions for maintaining confidentiality.

25.2 This confidentiality undertaking does not apply to information which

- a) at the date of its disclosure is in the public domain or at any time thereafter comes into the public domain (other than by breach of this Agreement); or
- b) the receiving party can evidence was in its possession or was independently developed at the time of disclosure and was not obtained, directly or indirectly, by or as a result of breach of a confidentiality obligation.

25.3 In addition, this confidentiality undertaking shall not apply to the extent that any party is required to make a disclosure of information by law or pursuant to any order of court (or other competent authority or tribunal) or by any applicable stock exchange regulations or the regulations of any other recognized marketplace. The disclosing party shall without delay inform the other party of such disclosure.

25.4 Notwithstanding the above, Netnod may always disclose the Customer's administrative and technical contact to other Customers to the extent necessary to enable the provision of Netnod's services to Netnod's customers.

26. Entire Agreement

26.1 The Agreement represents the entire understanding and constitutes the whole agreement between the parties relating to the subject matter hereof and supersedes all prior agreements, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, agent, employee or representative of either of the Parties.

27. Assignment of the Agreement

27.1 A party may not assign its rights and obligations under this Agreement to another party without the prior written consent of the other Party. Such consent shall not be unreasonably withheld.

27.2 This Agreement may only be amended, changed or modified by an instrument in writing duly executed by the Parties in accordance with the principles set forth herein.

28. Notification

28.1 Notification to the other party shall be deemed to be given in writing if sent to the notification e-mail address (administrative contact) set forth in the Order.

28.2 Changes of e-mail address shall be notified to the other party without delay.

29. Governing Law and Disputes

29.1 This Agreement shall be governed by Swedish law, without regard to its conflict of laws rules.

- 29.2 Any dispute, controversy or claim arising out of or in connection with this contract, or the breach, termination or invalidity thereof, shall be finally settled by arbitration administered by the Arbitration Institute of the Stockholm Chamber of Commerce (the “SCC”).
- 29.3 The Rules for Expedited Arbitrations shall apply where the amount in dispute does not exceed EUR 100,000. Where the amount in dispute exceeds EUR 100,000 the Arbitration Rules shall apply. The Arbitral Tribunal shall be composed of a sole arbitrator where the amount in dispute exceeds EUR 100,000 but not EUR 1,000,000. Where the amount in dispute exceeds EUR 1,000,000, the Arbitral Tribunal shall be composed of three arbitrators. The amount in dispute includes the claims made in the Request for Arbitration and any counterclaims made in the Answer to the Request for Arbitration.
- 29.4 The seat of arbitration shall be Stockholm. The language to be used in the arbitral proceedings shall be English.
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