

Applies to: 	SD-WAN Service: Terms and Conditions	SAL-TCO-007
Classification: External	Uncontrolled if printed	Rev: 1.01

SD-WAN Service: Terms and Conditions and Service Level Agreement

Terms and Conditions

Standard Terms and Conditions of Neos Networks Limited, a company limited by shares and registered in Scotland whose registered office is at Inveralmond House, 200 Dunkeld Road, Perth, PH1 3AQ and whose registered number is SC213457 ("**Neos Networks**")

- (A) Neos Networks is authorised under the Communications Act 2003 to operate an electronic communications network and to provide electronic communications services.
- (B) The Customer (being the entity specified in the Order Form) wishes to order software-defined wide-area network ("**SD-WAN**") technology services (and associated maintenance) which Neos Networks has agreed to provide and maintain (and/or procure the provision of such services), as set out in and subject to the terms of this Agreement.

Now it is hereby agreed that:

1. Definitions and interpretations

- 1.1. In this Agreement, unless the context otherwise requires, the following terms shall have the meanings assigned to them below, namely:

"Acceptance Tests" means a series of installation and testing procedures to be carried out by Neos Networks on the SD-WAN Service before the Completion Certificate is issued;

"Act" means the Telecommunications Act 1984 as amended and superseded by the Communications Act 2003;

"Agreement" means this Agreement and the SD-WAN Service Level Agreement attached at Schedule 1;

"Broadband Connectivity" means a type of Connectivity based on shared infrastructure which is either fixed or mobile (including FTTC);

"Completion Certificate" means the Neos Networks handover certificate;

"Connectivity" means a circuit to be supplied by Neos Networks for the delivery of the SD-WAN Service pursuant to this Agreement;

"Connectivity Installation" means the installation of Connectivity;

"Connectivity Installation Charge" means the installation charges payable by the Customer to Neos Networks in respect of Connectivity Installation pursuant to this Agreement and as set out in the OF;

"Connectivity Rental Charge" means the recurring charges payable by the Customer to Neos Networks in respect of Connectivity pursuant to this Agreement and as set out in the OF;

"Customer Apparatus" means, where Neos Networks is not providing Connectivity, any apparatus, and any software embodied therein, at any relevant Sites which does not form part of the Hardware (but which may be connected to the Hardware) and is used by the Customer in conjunction with the Hardware in order to obtain or use the SD-WAN Service;

"Developed Software" means the computer programs or suite of computer programs in human readable source code form and machine-readable object code form developed and paid for by Neos Networks and in which the Intellectual Property Rights are licensed to Neos Networks and includes but is not limited to interfaces and reports;

"Documentation" means all documents and other written material describing, explaining or assisting in the use of the Hardware and the Software and technical and operating manuals relating to the Software or any of it;

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“Due Date” means the due date for payment of an invoice pursuant to clause 13;

“Emergency” means any event or circumstance which results or could reasonably be expected to result in a risk of personal injury or death or material damage to property and, without prejudice to the generality of the foregoing, an event or circumstance defined as an Emergency in the Act;

“Fault” means a failure or defect or malfunction in the SD-WAN System or any part thereof which prevents it from performing in accordance with the applicable provisions of the Agreement and the relevant OF;

“Force Majeure Event” means an event beyond the reasonable control of the Affected Party (as defined in clause 16) including but not limited to any strike or industrial disputes, lock-out, labour dispute, act of God, war or military operations, riot, act of terrorism, insurrection or civil disorder, malicious damage, accident, fire, lightning, explosion, subsidence, flood, storm, global, local or national emergency, global, local or national health emergency, infectious disease outbreak such as an epidemic or pandemic, the act or omission of any highway, regulatory telecommunications authority or telecommunications supplier or central or local Government authority, insolvency of a supplier and / or acts or omissions of persons or bodies for whom the Affected Party is not responsible (which shall include, but not be limited to, third party electronic communication suppliers to Neos Networks);

“Go Live Date” means the date that each individual Site is handed over to the Customer and Neos Networks has received the Completion Certificate signed by the Customer (or deemed acceptance has occurred in accordance with clause 4.12);

“Group” in relation to a body corporate, means the body corporate, any other body corporate which is its holding company or subsidiary and any other body corporate which is a subsidiary of that holding company as defined under s.1261(1) of the Companies Act 2006;

“Hardware” means the customer premises equipment (CPE) owned by the Customer and managed by Neos Networks as part of the SD-WAN Service;

“Intellectual Property Rights” or **“IPR”** all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world;

“Interest Rate” means the statutory rate of interest in accordance with the Late Payment of Commercial Debts (Interest) Act 1998;

“Law” means the Act and any other law, statute or regulation, code of conduct (whether or not having the force of law), copyright or other third-party rights, obligation in contract or any term of any license to which Neos Networks or the Customer is from time to time subject;

“Managed Service” means a full in life end-to-end support model in support of the SD-WAN Service, including the provisioning and management of the SD-WAN System and break fixes;

“Managed Service Charge” means the recurring charges payable by the Customer to Neos Networks in respect of the Managed Service pursuant to this Agreement and as set out in the OF;

“Minimum Period” means the minimum contract term stated on the OF and beginning on the relevant the Go Live Date, provided that: (i) where Neos Networks is to provide the Customer with Ethernet Connectivity as part of an Ethernet VPN, the Minimum Period shall be no less than twelve (12) months; and (ii) where Neos Networks is to provide the Customer with Broadband Connectivity, the Minimum Period shall be no less than the Minimum Period stated in the relevant OF;

“Network Operations Centre” or **“NOC”** is sited at a Neos Networks office location from where network management functions are directed;

“New Version” means a new version of the Software which provides significant additional or enhanced functionality and/or significantly enhanced performance in comparison with the previous version;

“Orchestrator” means any third party engaged by Neos Networks to manage the Software in connection with the provision of the SD-WAN Service;

“Order Acceptance Form” means a form sent by Neos Networks' provisioning team which contains: (a) confirmation of Neos Networks' acceptance of the OF; and (b) confirms them Ready for Service Date;

“Order Form” or **“OF”** means the Order Form containing the details of the SD-WAN Service to be supplied to the Customer;

“Parties” means the Customer and Neos Networks (each, a **“Party”**);

“Premises” means the building(s) where the Hardware is located, and whether or not occupied by the Customer;

“Project Management and Installation” means the setting up of the SD-WAN Service (including migration where applicable), as more

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fully detailed on the OF;

"Project Management and Installation Charge" means the one-off charges payable by the Customer to Neos Networks in respect of Project Management and Installation pursuant to this Agreement and as set out in the OF;

"Ready for Service Date" means the date the Parties agree the SD-WAN Service shall be ready for service as set out in Order Acceptance Form;

"Release" means a revision of the Software which corrects Faults, contains consolidated error corrections and/or adds minor functional enhancements (but does not constitute a New Version) and which Neos Networks makes generally available without additional charge to all its licensees and sub-licensees who are then party to a maintenance service arrangement with Neos Networks in respect of the Software;

"RFQ" means a request for quotation submitted by the Customer to Neos Networks;

"SD-WAN Charges" means: (a) the SD-WAN System Charge; (b) the Project Management and Installation Charge (if applicable); (c) the Connectivity Installation Charge (if applicable); (d) the Connectivity Rental Charge (if applicable); and (e) the Managed Service Charge (if applicable);

"SD-WAN Products" means all the products and material to be supplied by Neos Networks in connection with the provision of the SD-WAN Service including: (a) the Hardware; (b) the Software; (c) the Documentation; and (d) Special Order Goods (if applicable);

"SD-WAN Service" means: (a) the SD-WAN System; (b) Project Management and Installation (if applicable); (c) Connectivity Installation (if applicable); (d) Connectivity (if applicable); and (e) the Managed Service (if applicable);

"SD-WAN Service Level Agreement" means the Neos Networks SD-WAN Service Level Agreement attached as Schedule 1;

"SD-WAN System" means the configuration of integrated components comprising all the Hardware and the Software which are installed at the Premises;

"SD-WAN System Charge" means the one-off charges payable by the Customer to Neos Networks in respect of the SD-WAN System pursuant to this Agreement and as set out in the OF;

"SD-WAN System Provider" means the third-party provider appointed by Neos Networks to provide the SD-WAN Products in support of the SD-WAN Service;

"Self-Certification Notice" means a notice issued by Neos Networks which when signed by Neos Networks is conclusive proof of satisfactory installation;

"Service Fee" means such sum calculated with reference to Neos Networks current charging rate and in accordance with clause 9.7 as shall be charged to the Customer in the event of maintenance services provided consequent on (an) event(s) specified in clauses 9.6.1 to 9.6.4 (inclusive) which necessitates a callout by a Neos Networks engineer;

"Site" means the Customer location where the Hardware is to be installed as set out in the OF;
"Site Occupier" means the occupier (for the purposes of the Electronic Communications Code as referred to in the Act) of a Site;

"Site Wayleave" means Neos Networks standard wayleave agreement to be executed by Neos Networks and the Site Occupier in respect of the relevant site if necessary for Neos Networks to provide the SD-WAN Service;

"Software" means the Third-Party Software and the Developed Software, or any of them or any part thereof as the case may be;

"Special Order Goods" means any instalment or parts of the SD-WAN System that is custom ordered or configured to the Customer's specifications, or otherwise designated as 'special order goods' by the SD-WAN System Provider and supplied pursuant to an OF, including any Documentation related thereto;

"Third-Party Software" means the computer programs or applications including any Releases or New Versions in which the Intellectual Property Rights are owned by third parties and licensed to Neos Networks and which are to be supplied by Neos Networks in connection with the provision of the SD-WAN Service;

"Working Day" means between 9am and 5pm local time, Monday to Friday inclusive, except for public holidays in the respective location where the Services are performed; and

"Virus" means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of the SD-WAN Service; prevent, impair or otherwise adversely affect access to or the operation of any programme

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or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, Trojan horses, viruses and other similar things or devices.

- 1.2. References herein to clauses are to clauses in these terms and conditions.
- 1.3. References in this Agreement to the **"Site Occupier"** shall include its respective successors (whether by operation of law or otherwise) and permitted assigns.
- 1.4. References in this Agreement to **"day"** shall be to a calendar day.
- 1.5. A reference in this Agreement to a statutory provision will, unless expressly provided otherwise, be interpreted as a reference to such provision as amended or re-enacted.
- 1.6. In this Agreement unless the context otherwise requires:
- 1.7. Words in the singular include the plural and vice versa; and
- 1.8. Words importing any gender include all genders.
- 1.9. The headings are for convenience only and do not affect the interpretation of this Agreement.
- 1.10. References in this Agreement to a **"person"** shall include any person, partnership, firm, company (as defined in Section 1 Companies Act 2006 as amended), body corporate or corporation (as defined in Section 740 Companies Act 1985 as amended) or organisation.
- 1.11. The words and phrases **"other"**, **"including"** and **"in particular"** shall not limit the generality of any preceding words or be construed as being limited to the same class as any preceding words where a wide construction is possible.

2. Purpose of agreement

- 2.1. Subject to the terms of this Agreement, Neos Networks shall provide the Customer with the SD-WAN Service as set out herein.
- 2.2. The Customer shall make the relevant payments to Neos Networks, as set out in clauses **12** and **13** and the OF herewith.

3. Wayleave

- 3.1. The Customer hereby irrevocably gives permission to Neos Networks and its employees, agents or contractors on reasonable notice at such reasonable times to: (a) Execute any works on the property comprised in the relevant Site(s) (the **"Property"**) for, or in connection with, the installation, maintenance, adjustment, repair, alteration, moving, replacement, renewal or removal of the Hardware; (b) Keep and operate the Hardware installed on, under or over the Property; (c) Enter the Property to inspect any of the Hardware kept on, under or over the Property or elsewhere.
- 3.2. Neos Networks agrees with the Customer to cause as little disturbance, damage and inconvenience as reasonably possible when exercising any of its rights under this permission and to make good (to the reasonable satisfaction of the Customer) as soon as reasonably practicable any damage that Neos Networks, its employees, agents or contractors may cause to the Property.
- 3.3. The Customer agrees not to do or allow anything to be done to the Property that may cause damage to, or interfere with, the Hardware or prevent reasonable access to it.
- 3.4. The Customer warrants that: (a) It is the current occupier of the Property; (b) It is either the freeholder of the Property or is a tenant of it under a lease expiring not before the expiry of the Minimum Period and any Subsequent Period; (c) It will not do or allow to be done at the Property anything which might damage the Hardware in any way and that it will take all steps reasonably necessary to ensure that no one interferes with or tampers with the Hardware; (d) If it wants to carry out works to refurbish, demolish or substantially reconstruct all or part of the Property and requires the Hardware to be removed or relocated or altered it will give Neos Networks as much notice of its proposed works as is reasonably practicable (and in any event no less than six (6) calendar months' prior written notice). Upon receipt of such notice the Parties shall agree to consult with each other and respectively to use all reasonable endeavors to find alternative sites or routes for the Hardware as are reasonably acceptable to Neos Networks and as are necessary to allow the Customer to carry out its refurbishment, demolition or reconstruction.

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3.5. Those wayleave terms set out in clauses 3.1 to 3.4 (inclusive) shall continue in force while this Agreement remains in force and for a period of sixty (60) days following termination of this Agreement. Upon such termination, the Customer shall provide Neos Networks or its sub-contractors or suppliers all reasonable access to the Property to remove the Hardware.

3.6. The Customer shall procure and/or continue throughout the term of this Agreement all site related permissions and approvals necessary for Neos Networks to deliver, install and maintain the Hardware for the provision of the SD-WAN Service.

4. Ordering and provisioning of the SD-WAN Service

4.1. If the Customer wishes to order an SD-WAN Service, it may submit an RFQ to Neos Networks sales team at pricing@neosnetworks.com.

4.2. If an RFQ is submitted to Neos Networks pursuant to clause 4.1, Neos Networks shall use all reasonable endeavors to respond in writing within ten (10) Working Days. At Neos Networks sole discretion, a credit check may be conducted against the Customer.

4.3. If the Customer submits a duly completed OF within thirty (30) days of a positive response from Neos Networks the following provisions will apply:

4.3.1. Neos Networks will send the Customer an Order Acceptance Form and the Customer shall use its reasonable endeavors to procure that the Site Occupier(s) of the relevant Site(s) enters into the applicable Site Wayleave(s).

4.3.2. On the grant of a Site Wayleave (if applicable) for the relevant Site and on execution of the Order Acceptance Form by Neos Networks and Neos Networks emailing it back to the Customer the OF will be deemed to be a binding contract for the provision of the SD-WAN Service in accordance with and subject to the terms of this Agreement.

4.3.3. Subject to clauses 14 and 15, the contract for the provision of the SD-WAN Service shall continue for the Minimum Period stated in the relevant OF.

4.4. Neos Networks shall use its reasonable endeavors to meet any dates specified in this Agreement and/or the OF.

4.5. Subject to the existence of the Site Wayleave if appropriate Neos Networks shall provide the Customer with the SD-WAN Service between the Sites in accordance with the terms set out in this Agreement.

4.6. Neos Networks shall provide the Customer with the relevant information to enable the Customer to prepare or procure the preparation of the Sites for delivery and installation of the Hardware and the Customer shall suitably prepare or procure the preparation of the Sites for delivery and installation of the Hardware and comply or procure the compliance in all material respects with Neos Networks' reasonable instructions and requirements relating to the preparation of the Sites. In particular, the Customer shall ensure that all third-party connections will have been decommissioned prior the start of the SD-WAN Service.

4.7. The Customer shall at its own cost procure the provision to Neos Networks at all times of suitable accommodation, sufficient rack space (minimum depth 500 mm) free from debris and of the correct/applicable standard for the Hardware, power, any carrier Network Terminating Equipment ("NTEs") required by Neos Networks, assistance, facilities and environmental conditions for the Hardware (as specified in clause 4.8) and all reasonably necessary electrical and other installations and fittings relating to the Hardware and shall ensure that any necessary preparation is effected before the Hardware is delivered and installed.

4.8. The Customer shall ensure that air conditioning and all other necessary operational and environmental conditions and controls in the Premises are maintained within the following humidity and temperature ranges for the use of the SD-WAN System:

	Minimum	Maximum
Humidity between	35%	65%
Temperature	10°C	35°C

4.9. Neos Networks shall deliver the Hardware to the Customer (or as directed by the Customer) and install the Hardware at the Sites. Neos Networks shall use its reasonable endeavors to comply with the Customer's requests in respect of installation but Neos Networks' reasonable decision on the routing of cables and wires and the positioning of outlets and other apparatus constituting the Hardware or part thereof shall be final and binding.

4.10. Neos Networks will use all reasonable endeavors to provide and install and the Parties will test the Hardware at the Sites so that the SD-WAN Service can be provided on or before the appropriate Ready for Service Date.

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4.11. Following the installation of the Hardware, Acceptance Tests shall be carried out by both Parties to ensure that the SD-WAN Service is ready for use. If the SD-WAN Service is not ready for use, Neos Networks shall either repair or replace, at its sole option, the Hardware or any part thereof and repeat the Acceptance Tests. All Acceptance Tests shall if the Customer so requires be carried out in the presence of a duly authorised representative of the Customer provided the representative is available at such reasonable times as Neos Networks may specify.

4.12. Neos Networks shall on successful completion of the Acceptance Tests present a Completion Certificate for signature to the Customer by a duly authorised representative of the Customer. The Customer shall ensure that its duly authorised representative signs such Completion Certificate without delay. If in the opinion of Neos Networks, the Customer delays in signing the Completion Certificate, Neos Networks shall have the right to issue a Self-Certification Notice. The original of such Completion Certificate or Self-Certification Notice shall be retained by Neos Networks who shall make a copy available to the Customer's representative at the time of delivery.

5. Service levels

5.1. Neos Networks shall provide the SD-WAN Service in accordance with the SD-WAN Service Level Agreement.

6. Customer obligations

6.1. The Customer shall be responsible for maintaining the security of the Premises in accordance with its standard security requirements.

6.2. The Customer shall notify Neos Networks of any special health and safety hazards of which the Customer is aware which exists on any of the Premises and which may affect Neos Networks and shall ensure that an asbestos register is available for each Site.

6.3. The Customer shall ensure that the location and position of the Hardware is central (in a comms room or similar) and complies with all applicable health and safety regulations in force on the date of this Agreement. The Customer shall pay for the relocation of the Hardware found to be in breach of any such regulations. Should new legislation or regulations come into force after the commencement of this Agreement which would require the Hardware to be relocated, the Customer will pay such relocation costs.

6.4. If the Customer wishes other than for reasons connected to applicable health and safety regulations to move any part of the Hardware to a different location within the Premises, the Customer shall give the maximum notice reasonably practicable (but not less than three (3) months' notice in writing). On the expiry of such notice Neos Networks shall at the Customer's expense move the Hardware to such different location within the Premises. Neos Networks shall consult with the Customer to ensure that any such relocation takes place at a time when the least disruption shall be caused to the Customer.

6.5. The Customer shall provide, in accordance with the relevant OF and subject to reasonable notification and charge, such information and facilities as is necessary to enable Neos Networks to carry out any service under a OF.

6.6. The Customer agrees to comply with all Neos Networks' reasonable instructions concerning the usage, modification, control and testing of the SD-WAN System.

6.7. The Customer shall keep and maintain true and complete records pertaining to its performance of this Agreement and/or any OF hereunder in sufficient detail to permit Neos Networks to accurately determine whether the Customer has fully complied with their terms. The Customer shall make such records available upon reasonable notice, during regular business hours, for inspection and copying by Neos Networks and its representatives and shall maintain such records for at least two (2) years after the end of the calendar year to which they pertain.

7. Hardware and SD-WAN Products

7.1. The Hardware shall remain the property of the Customer.

7.2. Neos Networks or its nominee may modify, substitute, renew or add to the Hardware from time to time at its sole discretion provided that such modifications, substitutions, renewals or additions shall not affect the supply of the SD-WAN Service.

7.3. The Customer shall be responsible for ensuring at all times the safe keeping and proper use of the Hardware at the Sites and shall be liable for any loss or damage to the Hardware and shall permit Neos Networks to inspect or test the Hardware at all reasonable times.

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- 7.4. The Customer shall be liable for any loss or damage howsoever caused at the Sites, (including but not limited to lightning or electrical damage) to any part of the Hardware within the Sites and the Customer undertakes to hold harmless and reimburse Neos Networks against all such loss or damage. The Customer will notify Neos Networks immediately of any such loss or damage.
- 7.5. The Customer shall obtain reasonable insurance of its liabilities.
- 7.6. Claims for non-delivery of the SD-WAN Products must be made in writing to Neos Networks as soon as reasonably practicable and, in any event, within three (3) Working Days of the agreed delivery date.
- 7.7. Neos Networks shall not be liable in respect of error in delivery, loss, damage or destruction to the SD-WAN Products during transportation of the SD-WAN Products to the Customer unless: (a) notice thereof is advised to Neos Networks by telephone immediately on receipt of the SD-WAN Products; and (b) confirmed in writing within three (3) Working Days of receipt of the SD-WAN Products. The Customer shall concurrently notify the carrier in writing of any such error, loss or damage and shall in all cases, where possible, enter a note of the same upon the carrier's bill of lading or other delivery receipt. If by reason of the Customer's failure to give any such notice as provided above, Neos Networks is unable to make recovery from the SD-WAN System Provider and/or the carrier in respect of the error, loss or damage complained of, then the Customer shall be liable to pay for the SD-WAN Products as though no such error, loss or damage occurred. No liability for the SD-WAN Products shortages will be accepted by Neos Networks unless such shortage is noted on the bill of lading or other delivery receipt.
- 7.8. The Customer shall indemnify and hold Neos Networks harmless for any and all delays, claims, losses, liabilities, costs or expenses related to Special Order Goods.
- 7.9. The Customer acknowledges that the SD-WAN System Provider has reserved the right to notify Neos Networks of the following:
 (a) changes in the specifications of the SD-WAN Products which are required in order to conform to any statutory or other legal requirements or which do not materially affect the performance of the relevant SD-WAN Products; and
 (b) changes to guidelines, restrictions or provisions imposed by the SD-WAN Service Provider's supplier in respect of the SD-WAN Products.
 In such an event, Neos Networks shall provide written notice of the same to the Customer as soon as reasonably practicable following receipt of the notification from the SD-WAN System Provider.
- 7.10. Compliance with Laws: Exports
 (a) The Customer acknowledges that the SD-WAN Products and any technical data related thereto is licensed or sold subject to and controlled by the export laws of the United States ("US") (including its Export Administration Regulations), the European Union ("EU") and countries within the European Free Trade Area ("EFTA") (collectively the "Export Control Laws") and the Customer hereby agrees not to export, re-export or otherwise distribute the SD-WAN Products, or direct products thereof, in violation of any Export Control Laws.
 (b) The Customer warrants that:
 (i) it will not export or re-export the SD-WAN Products with knowledge that they will be used in the design, development, production, or use of chemical, biological, nuclear, or ballistic weapons, or in a facility engaged in such activities, unless the Customer has obtained prior written approval from the appropriate department of the US Government or any other government with jurisdiction; and
 (ii) it will not export or re-export, directly or indirectly, the SD-WAN Products to embargoed countries or sell the SD-WAN Products to companies or individuals listed on the Denied Persons List published by the US Department of Commerce.
 (c) It is the Customer's sole and exclusive responsibility to obtain any and all appropriate approvals of from the US Government and/or member states of the EU and EFTA prior to exporting the SD-WAN Products, or any technical data related thereto, from the United Kingdom. Neos Networks shall not be responsible for any costs, liabilities or damages resulting from the Customer's failure to obtain any such required authorisation. The Customer understands that the Export Control Laws may change from time to time. It is the Customer's sole and exclusive responsibility to obtain guidance of counsel or other appropriate channels to ensure its compliance with these laws.
 (d) The Customer warrants that it will not to take any action or permit or authorise any action which will render Neos Networks liable for a violation of the US Foreign Corrupt Practices Act ("FPCA"), which prohibits the offering, giving or promising to offer or give, directly or indirectly, money or anything of value to any official of a government, political party or instrumentality thereof in order to assist it or Neos Networks in obtaining or retaining business and will:
 (i) not violate or cause Neos Networks to violate the FCPA in connection with the sale and distribution of the SD-WAN Products; and
 (ii) notify Neos Networks in writing if any of its owners, partners, principals, directors or officers are or become officials, officers or representatives of any government or political party or candidate for political office.
 (e) The Customer shall comply with EU Directives 2002/95/EC (Restriction on Hazardous Substances) and 2002/96/EC dated January 27, 2003 (Waste Electrical and Electronic Equipment) ("WEEE") generally and as instated within each country into which the SD-WAN Products are imported, exported or otherwise distributed by the Customer, such obligation which shall include registering as a "producer" under applicable WEEE legislation. The Customer shall notify Neos Networks in the event it should export any of the SD-WAN Products outside of the United Kingdom.
 (f) The Customer shall indemnify, defend and hold Neos Networks harmless from any violation or alleged violation by the Customer of clauses 7.10(a) to 7.10(f) (inclusive).
 (g) Upon Neos Networks' request, the Customer agrees to confirm, in writing, its compliance with applicable Export Control Laws and the FCPA.

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8. Customer apparatus

- 8.1. If applicable, the Customer shall be responsible for procuring that the Customer Apparatus is programmed, equipped, compatible and connected for the operation of the SD-WAN Service in accordance with Neos Networks' reasonable instructions.
- 8.2. The Customer acknowledges that Neos Networks shall not be responsible for the repair and maintenance of Customer Apparatus.
- 8.3. The Customer shall ensure or procure that all Customer Apparatus complies with all relevant Laws and applicable industry standards for the time being in force.
- 8.4. The Customer shall disconnect any Customer Apparatus if such apparatus does not, or ceases to conform to any relevant Law or to any applicable and industry standards for the time being in force. Neos Networks reserves the right to disconnect any Customer Apparatus if the Customer does not fulfill any of its obligations under this clause 8 or, if in the reasonable opinion of Neos Networks, such apparatus does not comply with any relevant Law or applicable industry standard for the time being in force or may cause the death of or any personal injury to any person, or material damage to property or materially impair the quality of any electronic communication service provided by Neos Networks.

9. Managed Service and maintenance

- 9.1. Where applicable, Neos Networks shall provide the Managed Service.
- 9.2. Neos Networks shall provide such maintenance services for the proper functioning of the SD-WAN Service in accordance with this Agreement.
- 9.3. The Customer shall permit or its agents upon reasonable notice (except in an Emergency, when no notice is required) to enter the Sites for the purpose of monitoring and maintaining the SD-WAN System.
- 9.4. If the Customer detects any defect or impairment in the operation or performance of the SD-WAN System, it shall notify Neos Networks of the nature of such defect or impairment. Neos Networks shall respond promptly after such notification and shall make the necessary corrections in accordance with the SD-WAN Service Level Agreement.
- 9.5. If Neos Networks detects any defect or impairment in the operation or performance of the SD-WAN System, it shall notify the Customer of the nature of such defect or impairment. The Customer shall after such notification comply with its obligations under clause 1.3 of the SD-WAN Service Level Agreement and shall make the necessary corrections in accordance with the same.
- 9.6. Neos Networks will be entitled to charge the Customer and the Customer will pay a Service Fee at Neos Networks then current reasonable charging rates to the extent that the need for any maintenance results from any one or more of the following:
 - 9.6.1. misuse or neglect of or accidental or willful damage to the Hardware where such misuse, neglect or damage occurs at the Sites; or
 - 9.6.2. failure by the Customer to comply with any of the provisions of this Agreement; or
 - 9.6.3. fault in, or other problem associated with the Customer's system (including the Customer's connectivity where Neos Networks is not providing Connectivity; or
 - 9.6.4. Where the Customer has direct access to the Orchestrator, any action or omission by the Customer and/or the Orchestrator, provided that in the case of any event referred to in this clause 9.6, Neos Networks shall have given the Customer reasonable written notice of its intention to charge such Service Fee.
- 9.7. Until otherwise notified by service of written notice to the Customer Neos Networks' current Service Fee is calculated on the following basis:
 - 9.7.1. £550.00 plus VAT for each callout which shall include a period of time of four (4) hours duration, which period shall include one engineer's travel time to the relevant Premises identified by the Customer; and
 - 9.7.2. thereafter each additional man-hour on the same callout shall be charged at £95.00 plus VAT, for a minimum of one (1) hour or part thereof.
- 9.8. In the event that the Customer prevents or delays the performance of the SD-WAN Service as described in this Agreement, Neos Networks shall have the right to charge to the Customer all reasonable costs incurred by such delay or prevention.

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10. Use of Service

- 10.1. The Customer shall not access, store, distribute or transmit any Viruses, or any material or knowingly permit anyone else to do the same during the course of its use of the SD-WAN Products that:
- 10.1.1. is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing, offensive, abusive, indecent, menacing or racially or ethnically offensive;
- 10.1.2. causes annoyance or inconvenience; or
- 10.1.3. is otherwise illegal or causes damage or injury to any person or property and Neos Networks reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.
- 10.2. The Customer shall not:
- 10.2.1. except as may be allowed by any Law which is incapable of exclusion by agreement between the Parties and except to the extent expressly permitted under this Agreement:
 (a) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the SD-WAN Products in any form or media or by any means; or
 (b) attempt to de-compile, reverse decompile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the SD-WAN Products;
- 10.2.2. access all or any part of the SD-WAN Products in order to build a product or service which competes with the SD-WAN Products; or
- 10.2.3. use the SD-WAN Products to provide services to third parties; or
- 10.2.4. subject to clause 23, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the SD-WAN Products available to any third party; or
- 10.2.5. attempt to obtain, or assist third parties in obtaining, access to the SD-WAN Products other than as provided under this clause.
- 10.3. The Customer shall indemnify and hold harmless Neos Networks against all liabilities, claims, damages, losses and proceedings arising out of or in any way connected with any such use of the SD-WAN Products by the Customer which infringes this clause, provided that Neos Networks shall not compromise, admit or settle any such actions without the prior written consent of the Customer which is not to be unreasonably withheld or delayed.

11. Suspension of services

- 11.1. Without prejudice to the Parties' other rights and remedies under this Agreement and otherwise at law and subject to clause 11.2, Neos Networks may suspend the performance of its obligations under this Agreement for a period of no longer than six (6) months, on prior written notice (such notice not to apply with respect to 11.1.2 and 11.2) in the event that:
- 11.1.1. Neos Networks is entitled to terminate this Agreement in accordance with clause 15 or the Customer is in breach of this Agreement; or
- 11.1.2. Neos Networks is required to suspend such performance in order to comply with any Law or request of any governmental department, emergency services organisation or other competent administrative authority provided that if Neos Networks is entitled to suspend this Agreement pursuant to clause 11.1.2, Neos Networks shall use its reasonable endeavours to minimise such period of suspension; or
- 11.1.3. The Customer has failed to comply with clause 10.
- 11.2. In the event of an Emergency, Neos Networks may at its sole discretion interrupt or suspend its obligations hereunder for so long as the Emergency lasts (but no longer) without giving any notice to the Customer but shall notify the Customer as soon as reasonably practicable following the start of the interruption or suspension and shall use its reasonable endeavors to minimize the period of such interruption or suspension.
- 11.3. Where the suspension is implemented as a consequence of the breach, fault, act or omission of the Customer, the Customer shall reimburse Neos Networks for all reasonable costs and expenses incurred by Neos Networks in connection with the implementation of such suspension and/or the recommencement of the provision of the SD-WAN Service.

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12. Charges and review

- 12.1. In consideration for the provision by Neos Networks of the SD-WAN Service in accordance with this Agreement, the Customer will pay the SD-WAN Charges.
- 12.2. The SD-WAN Charges shall remain fixed during the relevant Minimum Period. Notwithstanding the foregoing, where a third-party installation or ongoing charge is incurred by Neos Networks to deliver the SD-WAN Service, then Neos Networks may add the costs of such third-party installation or ongoing charge to the SD-WAN Charges (including a reasonable mark-up), and the Customer shall pay such costs in accordance with clause 13.

13. Payment

- 13.1. All SD-WAN Charges payable under this Agreement shall be payable (without any set off or deduction) within thirty (30) days of the date of receipt of invoices from Neos Networks.
- 13.2. The following SD-WAN Charges shall be invoiced by Neos Networks on each relevant Go Live Date: (a) SD-WAN System Charge; (b) Project Management and Installation Charge; and (c) Connectivity Installation Charge.
- 13.3. The following SD-WAN Charges shall be invoiced by Neos Networks quarterly in advance, unless otherwise set out in the OF: (a) Connectivity Rental Charge; and (b) Managed Service Charge.
- 13.4. All SD-WAN Charges expressed to be payable under this Agreement shall be exclusive of VAT. The Customer shall make all payments to Neos Networks without reduction for any withholding taxes (which shall be the Customer's sole responsibility), provided that if any such withholding or deduction is required, Neos Networks shall first notify the Customer and itemise the costs in the OF.
- 13.5. Following the expiry of the Minimum Period, the SD-WAN Charges shall be reviewed annually by Neos Networks and the Customer shall have no less than twenty-eight (28) days' notice of any revision to the SD-WAN Charges.
- 13.6. If the Customer shall fail to pay any amount due under this Agreement by the Due Date, Neos Networks shall be entitled to charge to and receive from the Customer interest in respect of any such amount outstanding at the Interest Rate (whether before or after judgment) as at the Due Date. Such interest shall be payable from and including the day after the Due Date until and including the date of payment in full. Such interest shall accrue day by day and shall be compounded quarterly.
- 13.7. In the event that Neos Networks is unable to proceed with the installation of the Hardware due to acts or omissions of the Customer which prevent or delay installation beyond an agreed Ready for Service Date, then Neos Networks shall have the right to invoice the Customer (which invoice the Customer shall pay) for all costs incurred in provisioning the Hardware in readiness for that original Ready for Service Date in accordance with the terms of clause 13.2 notwithstanding any such delay in actual installation of the Hardware.

14. Duration

- 14.1. This Agreement shall come into force on the date hereof and shall continue until the end of the Minimum Period and thereafter unless and until terminated in accordance with clauses 14.2, 15 or 16.2.
- 14.2. Either Party shall have the right to terminate this Agreement in relation to the provision of the SD-WAN Service with effect from expiry of the relevant Minimum Period subject to giving the other Party no less than three (3) months' prior written notice.

15. Termination

- 15.1. Notwithstanding anything to the contrary in this Agreement, either Party (without prejudice to its other rights) shall be entitled to terminate this Agreement forthwith by notice to the other Party if:
- 15.1.1. the licenses, authorisations and consents held by Neos Networks necessary for the provision of the SD-WAN Service are revoked or otherwise terminated for any reason whatsoever and are not immediately replaced by a new authorization or consent that would permit Neos Networks to continue to provide the SD-WAN Service on the same terms and conditions as set out in this Agreement, in which event Neos Networks shall give the Customer the maximum period of notice of termination practicable in the circumstances; or

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- 15.1.2. any action or proceedings under insolvency Law is taken against the other Party or the other Party makes any arrangement or compromise with its creditors, or ceases to carry on business or suffers any execution or distress over its assets, or shall be the subject of a voluntary or compulsory liquidation (other than for the purpose of reconstruction or amalgamation) or an administrator or administrative receiver is appointed; or
- 15.1.3. the other Party commits a material breach of any of the provisions of this Agreement (including without limitation, non-payment of any charges hereunder) and, in the case of a material breach of any of the provisions which is capable of remedy, fails to remedy the same within thirty (30) days after receipt of a notice in writing from the first Party giving particulars of the breach and requiring it to be remedied. If the Customer terminates this Agreement, it may do so by email to ceases@neosnetworks.com provided a copy of that notice is also sent to Neos Networks by fax or by letter in accordance with clause 24.
- 15.2. The right to terminate this Agreement shall not prejudice any other right or remedy of the relevant Party in respect of any breach or any rights, obligations or liabilities accrued prior to termination.
- 15.3. Upon the termination of this Agreement:
 (a) The Customer shall provide Neos Networks all reasonable access to the Property to remove the Hardware in accordance with clause 3.5.
 (b) Neos Networks will, subject to Neos Networks having a right of set off for any payment due to Neos Networks repay to the Customer the appropriate proportion of any SD-WAN Charges paid in advance for any period ending after the Customer's liability to pay such Charge ceases.
- 15.4. Without prejudice to the Parties' other rights and remedies under this Agreement or otherwise at law, if this Agreement is terminated by Neos Networks in accordance with clauses 15.1.2 to 15.1.3 (inclusive) the Customer shall pay Neos Networks all arrears of SD-WAN Charges and sums due payable to Neos Networks under this Agreement until the expiry of the Minimum Period or the date of termination (if longer).
- 15.5. The termination or expiry of this Agreement shall not operate so as to terminate any Site Wayleave.
- 15.6. The obligations of the Parties under clauses which are of a continuing nature and capable of surviving expiry or termination of this Agreement shall continue in full force and effect notwithstanding such expiry or termination.

16. Force majeure

- 16.1. If a Party is prevented, hindered or delayed from or in performing any of its obligations under this Agreement by a Force Majeure Event (the "Affected Party"):
 (a) each Party's obligations (save for each Party's payment obligations) under this Agreement are suspended while the Force Majeure Event continues and to the extent that it is so prevented hindered or delayed;
 (b) as soon as reasonably possible after the start of the Force Majeure Event the Affected Party shall notify the other Party of the Force Majeure Event, the date on which the Force Majeure Event started and the effects of the Force Majeure Event on its ability to perform its obligations under this Agreement (the "Force Majeure Notice");
 (c) the Affected Party shall use reasonable endeavours to mitigate the effects of the Force Majeure Event on the performance of its obligations under this Agreement; and
 (d) the Affected Party shall notify the other Party that the Force Majeure Event has ended and resume performance of its obligations under this Agreement
- 16.2. If the Force Majeure Event continues for more than three (3) months starting on the day the Force Majeure Event starts (as stated in the Force Majeure Notice), either Party may terminate this Agreement by giving not less than thirty (30) days' written notice to the other Party.

17. Limitations of liability

- 17.1. Nothing in this Agreement shall limit or exclude: (a) a Party's liability to the other Party in respect of: (i) death or personal injury caused by its negligence or that of its employees, agents or contractors; (ii) any fraud or fraudulent misrepresentation; or (iii) any liability which may not be limited or excluded by Law; and (b) the Customer's liability under clause 7.10(f).
- 17.2. Subject to clauses 17.1 and 17.3, a Party's maximum aggregate liability to the other Party for all losses or damages howsoever arising out of or in connection with this Agreement whether in contract, tort (including negligence), breach of statutory duty or otherwise shall be limited to One Million Pounds (£1,000,000) Sterling.

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- 17.3. Subject to clause 17.1, neither Party shall be liable howsoever arising out of or in connection with this Agreement whether in contract, tort (including negligence), breach of statutory duty or otherwise for: (a) loss of profit; (b) loss of revenue; (c) loss of business; (d) loss of goodwill; (e) loss of anticipated savings; (f) loss, destruction, or corruption of data; (g) injury or damage to reputation; (h) business interruption; (i) costs of wasted management time; in each case for (a) to (i) whether such loss or damage is “direct” or “indirect”; and (j) for any indirect or consequential losses. The foregoing exclusions shall apply in all cases whether the loss or damage is foreseeable or unforeseeable, and regardless of whether such Party has been informed of the possibility or likelihood of such loss or damage.
- 17.4. The Customer understands that Neos Networks is not the supplier of the SD-WAN Products. Accordingly, the SD-WAN Products are sold subject to the express warranty terms, if any, specified by the original supplier of the SD-WAN Products. Any software supplied to the Customer pursuant to an OF is supplied subject to the provisions of the original supplier’s licensing terms.
- 17.5. The provision of SD-WAN Service under this Agreement is supplied in accordance with the SD-WAN Service Level Agreement and Neos Networks’ sole obligations and liabilities in respect of that provision are as stated in this Agreement. All other innocent or negligent representations (but not fraudulent), conditions, warranties and terms express or implied whether by Law or otherwise (including without limitation those relating to satisfactory quality and fitness for purpose) are hereby excluded to the fullest extent permitted by Law.

18. Confidentiality

- 18.1. In this clause 18, “**Confidential Information**” means all information disclosed (whether in writing, orally or by another means and whether directly or indirectly) by a Party (for the purposes of this clause 18, the “**Disclosing Party**”) to the other Party (for the purposes of this clause 18, the “**Receiving Party**”) whether before or after the date of this Agreement.
- 18.2. During the term of this Agreement and after the termination or expiration of this Agreement for any reason, the Receiving Party:
- 18.2.1. May not use Confidential Information for a purpose other than the performance of its obligations under this Agreement; and
- 18.2.2. May not disclose Confidential Information to a person except with the prior written consent of the Disclosing Party.
- 18.3. Clause 18.2 does not apply to Confidential Information which:
- 18.3.1. Is at the date of this Agreement or, at any time after that date, becomes publicly known other than by the Receiving Party’s breach of this Agreement; or
- 18.3.2. Can be shown by the Receiving Party to the Disclosing Party’s reasonable satisfaction to have been known by the Receiving Party before disclosure by the Disclosing Party to the Receiving Party; or
- 18.3.3. Is required to be disclosed under any Law or by any stock exchange or other regulatory requirements.
- 18.4. This clause shall remain in force for five (5) years following the termination or expiration of this Agreement.

19. Publicity

- 19.1. Subject to clause 18 and the proviso below the Parties may directly or indirectly make public announcements, give releases or statements to the press, television, radio or other media relating to or connected with this Agreement (in this clause “**Publicity**”), provided that the Parties agree that no Publicity shall be given by either Party either directly or indirectly that is negative, derogatory or in any way adverse in nature to the interests of the other Party.

20. Intellectual property rights

- 20.1. IPR in all SD-WAN Products supplied by Neos Networks to the Customer in connection with this Agreement shall remain vested in Neos Networks or the IPR owner. Such SD-WAN Products are confidential and shall not be copied, disclosed or used (except for the purpose for which they were supplied) without the prior written consent of Neos Networks.
- 20.2. IPR in all Customer Apparatus supplied by the Customer to Neos Networks in connection with this Agreement shall remain vested in the Customer or the IPR owner. Such Customer Apparatus is confidential and shall not be copied, disclosed or used (except for the purposes for which they were supplied) without the prior written consent of the Customer.

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21. Data protection

- 21.1. Each Party agrees to handle all personal data in accordance with all applicable data protection legislation and in particular the Data Protection Act 2018 and the General Data Protection Regulation as may be amended from time to time.

22. General

- 22.1. This Agreement is made solely and specifically between and for the benefit of the Parties and is not intended to be for the benefit of, and shall not be enforceable by any person who is not named at the date of this Agreement as a party to it, under the Contracts (Rights of Third Parties) Act 1999 or otherwise and neither Party can declare itself a trustee of the rights under it for the benefit of any third party.
- 22.2. Failure by either Party at any time to enforce any of the provisions of this Agreement shall not be construed as a waiver by such Party of any such provision or in any way affect the validity of this Agreement or any part hereof.
- 22.3. No granting of time or other forbearance or indulgence by either Party to the other Party shall in any way release, discharge or otherwise affect the liability of the other Party under this Agreement.
- 22.4. If any provision of this Agreement shall be prohibited or adjudged by a court of competent jurisdiction to be unlawful, void or unenforceable, such provision shall to the extent required be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances or the validity or enforcement of this Agreement.
- 22.5. This Agreement may be executed in any number of counterparts each of which when executed and delivered is an original, but all the counterparts together constitute the same document.

23. Assignment

- 23.1. Subject to clause 23.2, neither Party shall assign, novate, delegate or otherwise deal with all or any of its rights or obligations under this Agreement (apart from on a solvent amalgamation or reorganisation) without the prior written agreement of the other Party which is not to be unreasonably withheld or delayed.
- 23.2. Either Party may assign the benefit, subject to the burden of this Agreement, to a member of its Group.
- 23.3. For the avoidance of doubt, nothing in this clause shall prevent the Customer from using the SD-WAN Service as part of any service it offers to its customers.

24. Notices

- 24.1. Any notice, invoice or other document or communication required to be given for the purposes of this Agreement shall be given by post or fax (confirming the same by post) or by email to info@neosnetworks.com. Notice served by e-mail must be confirmed in writing within two (2) days of transmission by the sender to be valid. Any letter sent for the purposes of this Agreement shall, if addressed to Neos Networks, be sent to The Company Secretary, Neos Networks, 1 Forbury Place, 43 Forbury Road, Reading RG1 3JH, Fax Number 0118 953 4585 and, if addressed to the Customer, be sent to the Customer's address on the RFQ – or to such other address of which notice has previously been notified by the party to be served.
- 24.2. Notice delivered by hand shall be deemed received when left. Notice given by post shall be deemed as served three (3) days after the date of posting. Notice given by fax shall be deemed served when transmitted provided that the sender shall have received a transmission report by way of confirmation.

25. Entire agreement and variations

- 25.1. This Agreement (which for the avoidance of doubt shall include Schedule 1 - SD-WAN Service Level Agreement and any subsequent Schedules hereto) constitutes the entire Agreement between the Parties relating to the subject matter of this Agreement and supersedes any previous agreements and all prior representations made between the Parties, whether orally or in writing.

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- 25.2. In the event of any inconsistencies between the contents of any of the following documents, the order of precedence shall (unless expressly stated to the contrary) be as follows: (i) the OF; (ii) this Agreement; and (iii) the SD-WAN Service Level Agreement.
- 25.3. A variation of this Agreement is valid only if it is in writing and signed on behalf of each Party, provided that Neos Networks reserves the right to modify this Agreement pursuant to changes to the SD-WAN Systems Provider's terms and conditions notified to it by the SD-WAN System Provider.
- 25.4. Each Party agrees that it did not rely on any statement made by the other Party before the signature of this Agreement in entering into this Agreement and hereby waives any remedy which but for this clause **25.4** might otherwise be available to it in respect of any untrue statement (whether made innocently or negligently) before the signature of this Agreement.

26. Codes of practice

- 26.1. Neos Networks has published a code of practice and a customer complaints code. These are available at www.neosnetworks.com.
- 26.2. If there is any dispute about the provision of the SD-WAN Service, Neos Networks will work in good faith with the Customer to resolve it. If the dispute is not resolved to each Party's reasonable satisfaction, details of Neos Networks complaint handling process including the availability of its independent dispute resolution service are set out in the customer complaints code. This is available on www.neosnetworks.com or by contacting the Network Operations Centre, who will send out a copy of the code.

27. Governing law and jurisdiction

- 27.1. The Parties each hereby acknowledge and agreed to abide by applicable Laws including the Bribery Act 2010.
- 27.2. This Agreement shall be governed by and construed in accordance with laws of England and Wales and both Parties hereby irrevocably agree to submit to the exclusive jurisdiction of the courts of England.

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Schedule 1: SD-WAN Service Level Agreement

1. Fault management

- 1.1 Faults may be reported to the Network Operations Centre on **0345 3053337** (or such other number as Neos Networks notifies the Customer) twenty-four (24) hours a day, seven (7) days a week at which time a Fault Reference Number will be issued.
- 1.2 Neos Networks will in the Notification Period take all reasonable steps to restore the SD-WAN Service in accordance with the terms of this Agreement.
- 1.3 On notification of a Fault by the Customer to Neos Networks, the Customer shall perform all necessary in-house tests as specified by Neos Networks and shall co-operate fully with the Networks Operation Centre in order to locate any Fault.
- 1.4 Incidents detected by Neos Networks or as reported by the Customer shall be classified on a priority/severity level. Such classification shall be based on:
- service impact;
 - number of impacted users;
 - the classification of involved applications; and
 - the classification of involved infrastructure.
- 1.5 The following table defines the priority levels for incidents:

Level	Classification	Description
P1	Emergency/Urgent Critical business impact	The incident has caused a complete and immediate work stop. It affects a critical function and a primary business process or a broad group of users (an entire department, floor, branch, line of business or external customer). No workaround is available.
P2	High Major business impact	A business process is affected in such a way that business functions are severely degraded, multiple users are impacted, a key customer is affected, or a critical function is operating at significantly reduced capacity or functionality. A workaround may be available but is not easily sustainable.
P3	Medium Moderate business impact	A business process is affected in such a way that certain non-critical business functions are unavailable to users or a system and/or service is degraded. A workaround is available.
P4	Low Minimal business impact	An incident that has little or no impact on normal business processes and can be handled on a scheduled basis during normal Office Hours. A workaround is available or there is minimal negative impact on a user's ability to perform their daily work.

- 1.6 From the end of the Notification Period, Neos Networks shall resolve incidents in accordance with the following service levels ("SLAs"). For the purposes of this SD-WAN Service Level Agreement, "Restoration" shall mean that the SD-WAN System has been restored.

Priority Level	Measure	SLA
P1 (Gold Site): Business critical, have a significant impact on the business when offline	Restoration	4 hours
P1 (Silver Sites): Local critical function, overall business still functions when offline	Restoration	5 hours

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P1 (Bronze Sites): Business functions specific to the site only, business impact is localised	Restoration	5 hours
P2	Restoration	8 hours
P3	Restoration	24 hours
P4	Restoration	5 days

- 1.7 For the avoidance of doubt, the SLAs shall be applicable from the end of the Notification Period and the point in time that Neos Networks has responded to the Customer and the incident has been logged and categorised by Neos Networks.
- 1.8 If Neos Networks does not meet the Target Time to Repair, the Customer may claim compensation (at the Customer's sole option) as follows, provided that Neos Networks' total aggregate liability to the Customer under this SD-WAN Service Level Agreement shall not exceed the sum of one (1) month's SD-WAN Connectivity Rental Charge for the affected Site(s):

Priority Level	Service Credits
P1 Restoration	2% of the aggregate of the SD-WAN Connectivity Rental Charge and the Managed Service Charge for the affected Site(s)
P2 Restoration	1% of the aggregate of the SD-WAN Connectivity Rental Charge and the Managed Service Charge for the affected Site(s)

- 1.9 Neos Networks shall not be responsible to meet the above SLAs where:
- (a) The Customer has not selected same day resolution and Neos Networks has determined that a Hardware Fault applies, in which event, for Sites in the UK, the Hardware Fault shall be cleared on the next Working Day; and/or
 - (b) Neos Networks has determined that a Hardware Fault is caused by a Software issue or requires a Software upgrade. Where an upgrade is required as a prerequisite for Hardware repair, updates or fixes, Neos Networks shall provide the Software upgrade subject to release by the OEM/manufacture; and/or
 - (c) Neos Networks has determined that the incident is caused by a third-party Broadband Connectivity issue; and/or
 - (d) Neos Networks arrives on Site and is denied or delayed access to the relevant Site by the Customer or any other third party; and/or
 - (e) Neos Networks has determined that the incident is caused by a third party or the Customer, including but not limited to: (i) third-party software (except for Third-Party Software) or Customer software; and (ii) where the Customer has direct access to the Orchestrator.

2. Connectivity – changes in bandwidth

- 2.1 Customers may submit to Neos Networks electronically a request for Neos Networks to increase or decrease the bandwidth capacity of any Connectivity ("**Capacity Change Request**").
- 2.2 Neos Networks will acknowledge the Capacity Change Request and confirm whether the bandwidth capacity is available to execute the Capacity Change Request. Neos Networks will, subject to the capacity limits and contractual time constraints of any associated Tail Circuits, arrange for the appropriate increase or decrease in bandwidth capacity.
- 2.3 The change in bandwidth capacity will be reflected and incorporated in an invoice on a pro rata basis.
- 2.4 Unless otherwise agreed by Neos Networks, the Customer may not request a decrease in bandwidth below any Connectivity's initial bandwidth capacity as set out in the OF.
- 2.5 Where Neos Networks is to provide the Customer with mobile Broadband Connectivity, the Customer acknowledges that the bandwidth capacity is monthly and that there is no option to increase the bandwidth capacity above the Mobile Broadband

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Connectivity Data Cap. Subject to clauses 3.1 to 3.3 inclusive of this SD-WAN Service Level Agreement, where the agreed bandwidth capacity of the mobile Broadband Connectivity is reached, mobile Broadband Connectivity will automatically be suspended and the agreed bandwidth capacity will reset at the start of the next monthly billing cycle.

3. Claims procedures

Fault Handling: All claims for compensation under these terms of this Agreement must be submitted to the Neos Networks Account Executive within thirty (30) days of the date of the Fault Reference Number.

4. SD-WAN Service Level Agreement definitions

In this SD-WAN Service Level Agreement, unless listed below, all words and phrases shall have the same meaning as in the Agreement.

The following terms shall have the following meanings:

"Fault Reference Number" the unique number issued when logging a Fault with Network Operations Centre;

"Mobile Broadband Connectivity Data Cap" means the maximum mobile Broadband Connectivity bandwidth capacity per calendar month available from Neos Networks as set out in the OF and as may be adjusted by Neos Networks from time to time upon notification to the Customer;

"Notification Period" the period of one (1) hour from the time a Fault is reported to Neos Networks or an alarm is registered by the Network Operations Centre;

"Office Hours" 0900 – 1730 Monday to Friday excluding any recognised public holiday in England;

"PoP" means a point of presence on Neos Networks' system where Neos Networks equipment is located, excluding Sites;

"Service Credits" means those service credits payable by Neos Networks for a failure to meet the SLAs as set out in this SD-WAN Service Level Agreement and/or the relevant OF;

"Tail Circuit" means a circuit on an electronic communications network provided by a supplier (other than Neos Networks) between a PoP and the Site over which Neos Networks supplies Ethernet Connectivity; and

"Target Time to Repair" the target length of time to restore SD-WAN Service which is measured from the end of the Notification Period registered by the Network Operations Centre in accordance with clause 1 of this SD-WAN Service Level Agreement