

**These Terms and Conditions cannot be considered, under any circumstances, legally binding upon the parties for whatever purpose without the signature of the purchase order by the individuals duly authorized to represent them.**

## 1. PREAMBLE

1. The parties have concluded a license agreement for the use "in operating mode" of the NETIA software concerned, and pursuant to which NETIA has granted licensee the right to use the NETIA software described in the purchase order.
2. Licensee now wishes to benefit from maintenance services for the NETIA software concerned.
3. Licensee knows the maintenance services offered by NETIA, has assessed the desirability of such services in light of his own needs and wishes to benefit from maintenance services for the NETIA software concerned.
4. It is expressly agreed that licensee may benefit from the maintenance agreement for each NETIA software only if he has paid the licensee fee for the NETIA software concerned in its standard or customized version, the maintenance of any specific development being excluded.
5. By signing the NETIA maintenance proposal or purchase order applicable to the NETIA software, the parties accept these Terms and Conditions.
6. The parties agree to closely cooperate in order to prevent any difficulties that may be linked to the maintenance of the NETIA software concerned.
7. After a negotiation phase, the parties agree as follows.

## 2. DEFINITIONS

The following terms shall be construed herein according to their respective definitions set forth below:

- "NETIA" means the company editing the NETIA software, a French company with management board ("société anonyme à directoire"), registered with the Trade and Companies Register of Montpellier under number 478 757 966, with registered offices located, as of the day hereof, Halle Industrielle de Farjou, 34 270 Claret;
- "anomaly or incident" means any discrepancy between the use of the NETIA software and the documentation delivered with the NETIA software, to the exclusion of any misuse or malfunction of the operating environment; such discrepancy must be unfavorable, repetitive and reproducible by licensee;
- "blocking anomaly" means any anomaly that, alone or combined with others, adversely impacts the operation of the NETIA software; that licensee demonstrates to be not acceptable; or that hinders the normal use of the NETIA software and/or causes abnormal disturbance for licensee;
- "semi-blocking anomaly" means anomaly demonstrated by licensee as permitting the use of some functionalities of the NETIA software;
- "minor anomaly" means anomaly demonstrated by licensee as not hindering the use of the functionalities and resulting only in a mere disturbance that can be temporarily tolerated, such as a reduction in ergonomics, which may be bypassed pending its correction;
- "bug or error" means defect demonstrated by licensee in the design of the internal or external specifications of performance resulting in malfunctions;
- "operating environment" means all hardware, operating systems and databases on which the NETIA software is installed;
- "agreement" means these Terms and Conditions completed by the proposal or the purchase order;
- "documentation" means technical, functional and users' documentation supplied with the NETIA software on paper or electronic media or in the form of online help, as well as its updates and new versions;
- "licensee" means legal person (individual or company) to whom has been granted the right to use the NETIA software in the conditions stated in the NETIA software license agreement and who benefits from a maintenance service in the conditions hereafter stated;
- "update (minor release)" means version of the NETIA software that includes corrections and/or modifications of the existing functionalities.

Each update is supplied by NETIA from time to time at its discretion on any media and by any means of its choice. Each update is a compilation of the corrections and/or improvements made to the NETIA software for a better use such as flexibility and timeliness;

- "upgrade" means NETIA software that includes corrections of bugs, with equal functionalities;
- "new version (major release)" means version of the NETIA software containing new functionalities. Each new version is defined as a new state of the software commercialized by NETIA, which includes corrections and/or improvements in comparison with the previous state. Each new version is the result of new developments and integrates new functionalities. The index of each new version is identified as the first number of the software reference, for example version 2.1.1;
- "(NETIA) software" means documented executable program designed to be supplied to several users for a same application or function, such as described in the purchase order concerned by the maintenance;
- "level 1 support" means maintenance service for the correction of incidents linked to the use of the NETIA software, i.e. phone assistance to use the NETIA software.
- "level 2 support" means maintenance service for the correction of an anomaly of the NETIA software.

## 3. CONTRACTUAL DOCUMENTS

1. The contractual documents are, by decreasing order of priority:
  - the purchase order;
  - the proposal of NETIA;
  - these NETIA Software Maintenance Terms and Conditions.
2. In case of discrepancy, the document with the higher rank in the order of priority shall prevail.

## 4. PURPOSE

1. The purpose of the Terms and Conditions is to set forth the terms and conditions under which NETIA performs the maintenance service for the NETIA software described in the purchase order.
2. The maintenance service, corresponding to level 1 support and level 2 support, includes:
  - a notification procedure by the web interface made available by NETIA to its clients;
  - remote maintenance services (by e-mail or via the web interface of NETIA);
  - the supply of updates;
  - the supply of upgrades;
  - the supply of new versions.
3. The purpose of the maintenance service is to:
  - use the software in accordance with its documentation;
  - maintain the initial level of reliability of the software;
  - reduce the software unavailability.

## 5. TERM

1. These Terms and Conditions shall be effective as of the date mentioned in the maintenance invoice ("Maintenance Date").
2. They are entered into for a period of one year after their effective date.
3. Upon expiration of this first period, they will be renewed by tacit agreement for successive periods of one year each, unless terminated by either party at the end of each contractual period by giving a three (3) months' notice by registered letter return receipt requested prior the expiration date.

## 6. PRICE

1. The maintenance service is granted to licensee in consideration of the payment in full to NETIA of a yearly flat fee; the amount and terms of payment of such fee are specified in the purchase order.
2. Such fee has been expressed in euros and quoted exclusive of any foreign taxes, including VAT or any comparable tax, relating to this Agreement. Any foreign taxes, duties, including but not limited to VAT and withholding taxes, relating to this Agreement shall be solely borne by Customer who will pay them to the relevant tax administration under the applicable legislation.

## NETIA SOFTWARE MAINTENANCE TERMS AND CONDITIONS

As a consequence, the amount to be paid to GlobeCast shall in all cases be equal to what GlobeCast would have received if none of the above-mentioned taxes had been deducted, withheld or paid for.

3. The fee will be revised each year on the anniversary date of the agreement according to the variation of the Syntec index by applying the following formula - Syntec is a federation of French employers' trade associations representing French groups and companies specialized in engineering, computer services, study and counseling and professional training:

$$P1 = P0 (S0 / S1)$$

where:

P1 = the revised maintenance price;

P0 = the maintenance price of the previous revision or, for the first revision;

S0 = the latest published Syntec index as of the revision date;

S1 = Syntec index the day of the previous revision or, for the first revision.

3. If the Syntec index disappeared, the parties will decide to replace it by an index suited to the purpose of this agreement.

4. In addition to the aforementioned late payment penalties, a fixed recovery fee of forty Euros (40€) will be charged to cover debt recovery costs in accordance with the provisions of Decree of 2 October 2012. Should the debt recovery costs incurred by Nétia be greater than the fixed recovery fee, the customer will be liable to pay Nétia's actual debt recovery costs as duly evidenced by appropriate documents. The parties expressly agree that late payment penalties and recovery fee will be due automatically without any formality or notice.

For the provision of the Service contemplated under this Agreement, the Customer (i) warrants to NETIA that he is not part in any scheme that could be considered as circumventing applicable laws regarding VAT (e.g. , missing trader fraud schemes) and, (ii) undertakes to take any reasonable due diligence measure to control that the companies he is contracting with are not part of any such scheme.

## 7. OBLIGATIONS OF THE PARTIES

### 7.1 OBLIGATIONS OF LICENSEE

1. To enable NETIA to properly perform the maintenance service: licensee must supply NETIA with any means and information to facilitate the performance of the maintenance service, and in particular any existing documents, information and elements necessary for the good understanding of the problem encountered.

2. Licensee agrees to comply with the normal conditions of use of the NETIA software and the recommendations made by NETIA concerning said software.

3. Licensee shall in particular use materials compliant with the specifications advocated by NETIA so that the support requests made under the agreement be not caused by an environment not compliant with said specifications. In particular, licensee shall set up and maintain, at his own responsibility and expense, a remote maintenance system to enable the remote maintenance, to the extent that licensee is equipped with a communication equipment such as modem or Numeris adapter. Licensee's communication equipment must be compatible with NETIA's equipment; if such is not the case, licensee shall procure such equipment as soon as possible.

4. Licensee shall not perform any operation that will directly or indirectly block or slow down the operations of the support service without having obtained the prior consent of NETIA.

5. Licensee undertakes to maintain or cause to be maintained the hardware on which the NETIA software is supported.

6. Licensee undertakes not to entrust the maintenance of the NETIA software to a provider other than NETIA which reserves the right to correct errors.

7. Licensee shall designate two individuals who will be the contacts of NETIA and shall inform NETIA in writing and in advance of any change concerning such contacts.

8. As part of his duty to inform, licensee must communicate to NETIA any evolutions in his operating environment that would challenge the use of the NETIA software in production or the maintenance service of NETIA.

9. Prior any maintenance operations on the NETIA software, licensee agrees to backup his data, files or programs contained in the NETIA software in order to prevent any loss or deterioration.

### 7.2 OBLIGATIONS OF NETIA

1. NETIA agrees to implement all the means available to realize its maintenance service.

2. Given the sophistication of the NETIA software, NETIA does not warrant that the software will operate in an error-free or uninterrupted manner.

3. Given the state of the art, NETIA does not warrant that its support will solve the difficulty encountered or that after its support the same difficulty will not appear again or that another difficulty will not be generated as a result of such support.

4. NETIA however warrants that the maintenance services will be realized with all the diligence of a computer professional and with all reasonable care in light of the state of the art.

5. The obligations of NETIA under the agreement are limited to the correction of the dysfunctions of the NETIA software and the restoration of the proper operation of the NETIA software.

### 8. SERVICE PERIOD

1. The service period is the period during which NETIA may receive maintenance requests from licensee and realize the services stated in the agreement.

2. The service period is available on every NETIA's business days (Monday to Friday), at the following hours: from 9a.m to 6p.m. (Central European Time). The service period is not available in particular on French banking holidays, during NETIA holidays and in case of unavailability of the maintenance service according to conditions specified by NETIA.

3. During the service period, licensee may benefit from the maintenance service as follows:

- by telephone, at the number indicated in the purchase order or the proposal;
- by e-mail, at the following address: [support@support.com](mailto:support@support.com)
- by Internet at the following address: <http://www.netia.net> (then) support, (then) bugreporter; access is granted via a login and a password and the following functionalities are offered:
  - o access to the technical and users' documentation center;
  - o notification of software dysfunctions (Bug Reporting)
- by onsite support, where applicable, to the extent that licensee has chosen such type of maintenance service in the purchase order.

4. In addition, outside the service period and up to the limit of the maintenance services ordered by licensee, licensee may benefit from the maintenance service:

- by Internet access in the conditions mentioned above;
- by telephone, 24x7 by contacting the hotline at the number mentioned in the purchase order or the proposal;
- by remote maintenance support.

## 9. DESCRIPTION OF THE MAINTENANCE SERVICES

### 9.1 PREVENTIVE MAINTENANCE

1. NETIA agrees to made the following preventive maintenance operations, at the request of the client:

- a half-day visit at least once per quarter on licensee's site in order to check the operation of the NETIA software and detect any anomalies or errors.

2. Travel, lodging and meal expenses are not included in the yearly fee mentioned above and shall be borne by licensee.

### 9.2 CORRECTIVE MAINTENANCE

#### 9.2.1 Procedure for handling incidents

1. An incident ticket will be assigned to licensee each time licensee calls to report a specific problem.

2. Requests for support made by licensee are handled by NETIA as follows:

##### 9.2.1.1 Notification of problem to NETIA technical support

1. Whatever the way licensee accesses to NETIA maintenance services, licensee must communicate to NETIA all existing documents, information

and other elements necessary to understand the problem notified, and in particular:

- description of the problem: title, detailed description, consequences of the problem on the use of the NETIA software;
- environment: hardware, software, third-party software;
- reproduction: scripts, configuration and instructions necessary to reproduce the problem;
- reference of licensee.

#### **9.2.1.2 Recording of the incident and determination of its priority**

1. NETIA will answer to licensee's request within the time period stated in paragraph 9.2.3 below.
2. NETIA will acknowledge receipt of such request and assign a reference number to the incident, to be used in subsequent contacts.
3. The level of priority of an incident will be determined by NETIA technical support engineer, where applicable with the agreement of licensee.
4. The priority of the incident will be determined as follows, according to a three-level scale:
  - priority 1: blocking anomaly such as described in article "Definitions" of these Terms and Conditions;
  - priority 2: semi-blocking anomaly such as described in article "Definitions" of these Terms and Conditions;
  - priority 3: minor anomaly such as described in article "Definitions" of these Terms and Conditions.

#### **9.2.1.3 Handling and resolution of the incident**

1. NETIA will try to reproduce the incident by using the elements supplied by licensee, it will determine its nature and try to confirm whether it is a misuse or a defect of the NETIA software.
2. In case of misuse of the NETIA software by licensee ("level 1" incident), NETIA will consult the knowledge database of the NETIA software and of the related products, as the case may be, and will propose a solution to licensee. To this end, NETIA will try to answer the questions of licensee concerning the NETIA software by providing him with such information and advice on its operation and instructions as may be required for him to correct the incident. If such is not possible, an escalation procedure will be triggered ("level 2" incident).
3. In case of defect of the NETIA software, the incident will be handled by NETIA for a correction of the software ("level 2" incident). NETIA will try to propose a workaround solution acceptable to licensee. If such solution is found, the incident will be closed.
4. If a workaround solution cannot be found, NETIA will integrate a correction in the next update of the NETIA software. A version of said update will be made available to licensee. If such operation is not acceptable to licensee, he will inform NETIA thereof immediately so that NETIA may decide on the best way to solve the incident and satisfy licensee.

#### **9.2.1.4 Closing of an incident**

1. An incident will be closed when the cause of the problem is proved as being independent from the NETIA software and/or related products or if an update of the NETIA software or a satisfactory workaround is supplied to licensee.

#### **9.2.2 Authorized contacts**

1. One authorized contact of licensee may submit questions to NETIA.
2. Licensee may designate a deputy contact to replace the authorized contact on holidays.
3. The name and contact details of these authorized contacts will be mentioned in the purchase order and/or by letter.

#### **9.2.3 Acknowledgement of licensee's call and definition of response time**

1. Licensee's written notification is taken into account within two NETIA business hours.
2. Response time is the time between the moment when the problem is notified to NETIA and the moment when NETIA begins to handle the incident.

3. For level 1 support, the average time period during the service period described above is four NETIA business hours.

4. For level 2 support, the time periods given below are for information purposes only; they correspond to average time periods and are expressed in NETIA business days:

- one day for priority 1;
- two days for priority 2;
- three days for priority 3;

### **10. EXCLUSION**

1. Generally, it is agreed that NETIA will not be obliged to supply the maintenance service if licensee does not comply with his own obligations under the agreement.
2. The services performed do not include, without limitation:
  - support on licensee's site if licensee has not chosen such type of maintenance service in the purchase order;
  - the correction or supply of updates, upgrades and new versions in case of defects caused by (i) a misuse of the NETIA software by licensee (ii) modifications made to the NETIA software by licensee (iii) a malfunction of the operating environment of the NETIA software (iv) a failure or interruption of the telecommunications and/or electric networks or, generally, any force majeure event such as defined by the decisions of the French courts and tribunals;
  - the supply of any services other than those mentioned in these Terms and Conditions; any other services may be subject to a separate agreement between the parties;
  - the supplies and services necessary to benefit from the remote maintenance service (models, cards...);
  - the reconstruction of files or data that may be altered or lost, for any reason whatsoever.
3. It is reminded to licensee that he shall take any measures required to backup his elements because the reconstruction not only involves the re-entry of the data but also their knowledge.
4. It is expressly agreed that NETIA may refuse to licensee the benefits of this agreement at any time in the event where the NETIA software has been subject to specific developments by licensee or a third party on his behalf.
5. Licensee hereby expressly acknowledges and agrees that the maintenance services of NETIA will only cover the last version commercialized by NETIA (major release).

### **11. SITE AND TYPE OF CONFIGURATION**

1. Unless otherwise agreed by NETIA, licensee agrees to use the NETIA software in the conditions stated in the NETIA software license agreement.

### **12. INTELLECTUAL PROPRIETY**

1. Any copyright, trademark, logos, business names, patents or other intellectual property rights or distinctive signs appearing on the NETIA software, including on the corrections, updates, upgrades and new versions as well as on the documentation and manuals, remain the entire and exclusive property of NETIA.
2. Similarly, any other trademarks, business names, logos, patents, distinctive signs or other intellectual property rights related to third-party products concerned remain the property of their respective owner, which licensee hereby agrees to respect, without any warranty or liability for NETIA.
3. Licensee does not acquire any intellectual property right in the NETIA software, in particular the corrections, updates, upgrades and new versions, other than a right to use in the conditions and limits stated in the concluded license agreement to use the NETIA software.

### **13. LIABILITY**

1. The parties expressly agree that NETIA's liability under this agreement, and subject to the limits set forth below, may only be incurred if licensee duly proves that NETIA has committed a fault.
2. NETIA may only be responsible for direct, personal and certain damage suffered by licensee and NETIA cannot be obliged to compensate for indirect damage such as financial or commercial damage, loss of customers, any business trouble, increase of costs and other overheads, loss of profits, brand image, postponement or disruption of licensee's planning, project or

activities, loss of any data, files or computer programs that may arise out of the performance of this agreement.

3. Any action brought by a third party against licensee is indirect damage that cannot be compensated.

4. In the event where NETIA were condemned by a court for any reason whatsoever, the maximum amount of the actual damages to be paid by NETIA to licensee shall not exceed the amount without VAT of the yearly maintenance fee concerned paid by licensee.

5. Any legal action relating to the performance of the agreement must be brought by the client within two years after the fact giving rise to the action has occurred.

#### 14. ETHICS

14.1 The development of Orange SA is based on a set of values and guidelines in favour of actions and behaviours respecting people (including in particular clients, employees and shareholders). NETIA as indirectly part of Orange group has decided to adopt these values and guidelines. These values and principles are part of a more general framework of fundamental principles, provisions and commitments including without limitation the Universal Declaration of Human Rights, International Labour Organization standards, OECD guidelines (particularly regarding efforts to fight corruption), The US Foreign Corrupt Practices Act, the 2010 UK Bribery Act (the "Rules"), as it is shown on the Orange website. The Customer undertakes to strictly comply with and to cause its employees, affiliates and sub-contractors and each respective representative, to comply with the Rules.

14.2 The Customer undertakes to define and implement the appropriate and effective means in order to respect the Rules, and regularly shall ensure a good application of them. In case the Customer becomes aware of a violation of the Rules by any of its employees, affiliates or sub-contractors, the Customer shall promptly notify NETIA of such violation and of the measures undertaken to address the violation and thus to comply with the Rules.

14.3 On request of NETIA, the Customer undertakes to inform NETIA of the measures adopted to ensure compliance with the Rules. NETIA may, by itself or through an auditor nominated by it, audit the Customer, in order to assess the Customer's conformity with the Rules.

14.4 In the event that a failure to comply with the Rules is detected (whether by audit or by any other means), the Customer shall, upon written notice from NETIA, immediately remedy such failure so that its conduct conforms to the Rules. If such failure is not remedied within thirty (30) days following receipt of said notice, NETIA may terminate the Agreement.

14.5 Notwithstanding the foregoing, the Customer agrees that any event of serious violation of the Rules, shall entitle NETIA to terminate immediately and automatically the Agreement without any other formality than the sending of a notice by NETIA to the Customer for this purpose in accordance with the relevant provisions of the Agreement, without prejudice of any damages that may be claimed by NETIA to the Customer.

14.6 The Customer represents that neither itself nor any of its employees, affiliates, sub-contractors or representatives has been or is currently:

- convicted of any offence including but not limited to corruption or fraud or money laundering;
- the subject of any investigation, inquiry or enforcement proceedings by any governmental administrative or regulatory body regarding any offence or alleged offence;
- listed by any government agency as being debarred, suspended, proposed for suspension or debarment or otherwise ineligible for participation in government procurement programmes or other government projects;
- subject to any international trade sanctions or embargoes, which shall include but shall not be limited to any sanctions that may be in force as a result of a resolution passed pursuant to Chapter VII of the UN Charter by the UN Security Council, any sanction that may have been imposed by the European Union, the United States Government, the French Government or applicable law; or
- listed on any watch list, list or consolidated list maintained for the purpose of enforcing international trade sanctions. Such lists shall include but shall not be limited to the Consolidated Travel Ban and Assets Freeze List published by the UN Sanctions Committee, the Specially Designated Nationals and Blocked Persons list maintained by OFAC and the Consolidated list of persons, groups and entities subject to EU financial sanctions.

14.7 The Customer shall immediately notify NETIA in writing if any of the statements above are no longer satisfied and in such a case, NETIA shall be entitled to terminate the Agreement.

#### 15. TERMINATION

1. If either party breaches the obligations stated in this agreement, the other party may request the breaching party by registered letter return receipt requested to remedy such breach within 30 days.

2. If the breaching party fails to remedy such breach within the time period mentioned above, the non-breaching party may terminate as of right the agreement by registered letter return receipt requested.

3. In the event of termination by licensee for any reason whatever, NETIA will keep all the amount of the maintenance fee paid by licensee.

#### 16. CONFIDENTIALITY

1. Any information transmitted by one party to the other as well as any data transmitted for the performance of the agreement and to which each party will have access for the performance of this agreement, are confidential.

2. Each party agrees to implement any relevant measures to keep in absolute secrecy the confidential information and documents to which it may have accessed in the course of performing the services covered by this agreement.

3. Each of the parties undertakes that this obligation will be complied with by its employees, agents, parent company and subsidiaries.

4. Upon the end or expiration of the agreement for any reason whatsoever, each party will return to the other or destroy all the documents containing confidential information of the other party supplied to it during the term of the agreement, as well as any copies of the same, except for the copy of the agreement.

5. Except as otherwise agreed in writing by one party, the obligations of the parties hereunder with respect to the confidential information of any nature shall end ten years after the distribution of said information under the agreement.

6. Each party warrants that the commitments taken in paragraphs 1 and 2 of this clause will be complied with by all its employees and/or persons involved in the maintenance services.

7. This non-disclosure commitment does not apply to the information already known by the public at the time of its distribution or thereafter entering the public domain through no breach of the obligations of this agreement by any of the parties.

#### 17. ASSIGNMENT

1. This agreement cannot be totally or partially assigned by licensee without NETIA's express written agreement.

2. NETIA may assign to any legal entity of its choice its rights and obligations under this agreement, provided only that it informs licensee thereof by the means of its choice.

#### 18. MISCELLANEOUS PROVISIONS

1. The parties mutually agree that if one of the parties tolerates a situation, it shall not grant rights to the other party. Such a tolerance shall not be construed as a waiver of the rights in question.

2. If one or several provisions of this agreement were to be held invalid or so declared by a law, a regulation or a final decision rendered by a court having proper jurisdiction, the other provisions shall remain in full force and effect.

#### 19. HEADINGS

1. Headings are inserted for convenience only and in case of difficulty of interpretation between the section headings and any of the sections, headings shall be declared null and void.

#### 20. GOVERNING LAW

1. This agreement shall be governed by the laws of France formal and substantive requirements are governed by French laws.

#### 21. TRIBUNAL

1. IF NO OUT-OF-COURT SETTLEMENT CAN BE FOUND, ALL DISPUTES SHALL BE SUBJECT TO THE EXCLUSIVE JURISDICTION OF THE COMMERCIAL COURT OF MONTPELLIER, WHATEVER THE NUMBER OF DEFENDANTS OR ANY

**NETIA SOFTWARE MAINTENANCE TERMS AND CONDITIONS**

INTRODUCTION OF THIRD PARTIES, EVEN FOR URGENT PROCEEDINGS, PROTECTIVE MEASURES, INTRODUCED BY SUMMARY PROCEDURE OR PETITION.

**22. APPENDICES**

1. The following appendices form an integral part of these Terms and Conditions:

- Appendix 1: "NETIA Registration Form"

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**APPENDIX 1**

"NETIA Registration Form"

Company:

Address:

Number of users/entries:

Software Version:

Commercial Contact:

Maintenance Agreement:

Initial Maintenance Period Date:

Option:

**Contact**

Name:

Surname(s):

E-mail:

Telephone:

Mobile:

Service:

**Deputy Contact (in case of holidays)**

Name:

Surname(s):

E-mail:

Telephone:

Mobile:

Service: