

## REYNOLDS AND REYNOLDS POWER DMS SUPPLEMENTAL TERMS

These supplemental terms and conditions are supplemental to the Reynolds and Reynolds Limited General Terms and Conditions and apply in conjunction with those General Terms and Conditions.

These supplemental terms are the additional terms for the proper operation of the POWER DMS utilising the Customer's server.

### 1. ADDITIONAL DEFINITIONS

In these supplemental terms the following terms shall have the meanings ascribed to them:

**"Room Ready Agreement"** means the optional form prepared by Reynolds and Reynolds and acknowledged by the Customer describing the specifications and scheduled completion date for the Customer's computer room or site.

### 2 Installation and Maintenance

#### 2.1 Installation of Equipment

- (a) A Reynolds and Reynolds representative will, when necessary, make a site-planning visit after execution of this Agreement by Reynolds and Reynolds.
- (b) If considered necessary by Reynolds and Reynolds, the Reynolds and Reynolds representative will prepare detailed specifications, including a drawing of how the computer room is to be laid out and a drawing showing the location of all peripheral Equipment. These drawings will be sent to the Customer as a specification packet. Included in this packet will be a Room Ready Agreement if deemed appropriate by Reynolds and Reynolds.
- (c) The Customer will analyse the specifications, and, after consultation with contractors, as required, will complete, sign and return to Reynolds and Reynolds the Room Ready Agreement.
- (d) The Customer acknowledges and agrees that no scheduling of hardware installation, training schools or software installation will begin until receipt of the signed Room Ready Agreement from the Customer provided that the Customer was given a Room Ready Agreement by Reynolds and Reynolds to sign.
- (e) The Customer acknowledges and agrees that should the Customer fail to have the facility completed to correct specifications on the date specified in the Room Ready Agreement, Reynolds and Reynolds may have to reschedule the entire installation process, which may substantially delay installation of the System. Should rescheduling occur, the Customer agrees to pay a rescheduling charge of £1,500.

#### 2.2 Installation of Application Server

- (a) Upon delivery of the Equipment by the shipper, Reynolds and Reynolds will install the Application Server.
- (b) Reynolds and Reynolds will review with the Customer's designated System Administrator the basic operation of the Application Server.

#### 2.3 Customer Equipment Maintenance Responsibilities

The Customer acknowledges and agrees to accept the following responsibilities:

- (a) The Customer shall provide a full time connection to a local ISP and a direct outside telephone line with a plain standard, touch-tone telephone located in the room where the Application Server is located for the purpose of hardware diagnostics. This line may be used for the purpose of software diagnostics.
- (b) The Customer shall continuously maintain a computer-operating environment, which conforms to Reynolds and Reynolds published environmental specifications.
- (c) The Customer shall provide any Reynolds and Reynolds representative, while at the Customer's location, reasonable access to a terminal or workstation in order to allow such Reynolds and Reynolds representative to communicate with Reynolds and Reynolds' main office.

#### 2.4 Customer Responsibilities

The Customer hereby assumes the following responsibilities in connection with the purchase of the Equipment:

- (a) The Customer agrees to provide at their expense, 24-hour per day access to a phone line located near their Application Server. This phone line is necessary in order that Reynolds and Reynolds representatives are able to communicate with other Reynolds and Reynolds personnel.
- (b) The Customer also agrees to allow the Network Communications Unit III to be installed on their network (or LAN) with access to the Internet, for the purpose of providing Reynolds and Reynolds diagnostic access to the Application Server. The Customer agrees to allow Reynolds and Reynolds

data to travel over their network (or LAN) and to allow inbound and outbound TCP requests on the Reynolds and Reynolds ports of the Network Communications Unit III through the Customer's Internet router. The Customer also agrees that Reynolds and Reynolds will be the sole authority determining whether the Customer's router meets this requirement. Further, the Customer agrees to provide at their expense, a connection to the Internet such that the bandwidth to the Internet through the Customer's network (or LAN) to the Network Communications Unit III, will always be no less than 256K. Reynolds and Reynolds agrees that the Customer can use this connection to the Internet for other purposes provided that the above requirements for Reynolds and Reynolds data are met. Finally, the Customer agrees that dial-up Internet connections are not acceptable as a connectivity medium

- (c) An Intelligent LAN Firewall (ILF), or a Network Communications Unit III, requires an outside telephone line which does not require any special access codes for incoming or outgoing calls to operate. The Customer agrees that it is the Customer's responsibility to arrange and pay for this required telephone line.
- (d) The Network Communications Unit III must be located at the Customer's site, which houses the Customer's Application Server. Additionally, the Customer acknowledges and agrees that the Network Communications Unit III uses one LAN port on a LAN Switch.
- (e) The Customer agrees that telecommunications circuits that link its main computer system to dealerships that are at another location (even if on contiguous property) must be telephone company long-haul type data circuits (digital type, if available) or fibre-optic cable in underground conduits. The Customer agrees that Reynolds and Reynolds shall not supply, install or maintain such circuits.

**2.5 The Customer acknowledges and agrees that the POWER Application Program transmits significantly more data than is transmitted via serial connections. Therefore, the Customer is solely responsible for providing and paying for data circuits to remote sites that are capable of transmitting the data such that the response time that the Customer's users experience is adequate to accommodate the Customer's needs. The Customer acknowledges and agrees that;**

- (i) when using a POWER Server(s) such data circuits must have an upload and download bandwidth capable of transmitting data at all times with bandwidth of no less than 15 kilobits per second per user for the POWER Server connections.
- (ii) when not using POWER Server(s) such data circuits must have an upload and download bandwidth capable of transmitting data at all times with bandwidth of no less than 1.54 megabits per second (commonly referred to as T1 bandwidth).

If Reynolds and Reynolds conducts a bandwidth performance test and the minimum bandwidth performance for both upload and download is not always greater than or equal to 15 kilobits per second per user in respect of (i) above and 1.54 megabits per second in respect of (ii) above, such data circuit will be declared to be non-compliant. The Customer agrees that all time and material charges associated with such test, or other problems or investigation regarding a non-compliant data circuit will be paid by the Customer. The Customer understands and agrees that the only data that is to be sent or received over this data circuit will be data that is sent to, or received from, the Reynolds and Reynolds Application Server and that if the Customer sends or receives other data, that response time may become unsatisfactory and Reynolds and Reynolds will be unable to control or improve the response time.

- (a) Reynolds and Reynolds shall perform the installation of all wiring of the ILF, the Network Communications Unit III, the Application Server and the wiring between the Application Server and the ILF.

**3. Restrictions**

- (a) The parties agree that the POWER Server(s) purchased on Schedule A are subject to the following restrictions:
  - (i) The User count for POWER Server(s) is not based on concurrent Users, but on the total number of Users that licence POWER at locations remote from the POWER Server(s) location.
  - (ii) No third party applications' data will be able to be transmitted via the POWER Server. If the Customer desires to have third party applications to run in a terminal server mode, the Customer will need to purchase an additional terminal server from a third party.
  - (iii) The Third Party Personal Computers ("PC(s)") at the remote locations using POWER Server must be using either Microsoft Windows 2000 Professional or Microsoft Windows XP

- Professional.
- (iv) The bandwidth requirement between the remote location and the Application Server location is 15 kilobits per second per concurrent user.
- (b) Reynolds and Reynolds agrees that the Customer is allowed to have a single user (or multiple users, where licenced to do so) via a data circuit with a constant minimum bandwidth capability of a least 15 kilobits per second per user, for both upload and download, to access the Customer's Reynolds and Reynolds System through a LAN connection over the Internet from locations outside of the physical premises of the dealership. The Customer acknowledges that in order to access the Customer's Reynolds and Reynolds System through a LAN connection over the Internet, the Customer must have acquired a Network Communications Unit III and POWER Server(s) from Reynolds and Reynolds, and must have licenced from Reynolds and Reynolds a POWER Application Program for each device that will be accessing the Customer's Reynolds and Reynolds System. Each Customer's PC that will be accessing the Customer's Reynolds and Reynolds System via POWER Server may use any of the following connection methods to the Internet:

The POWER Server may use any of the following connection methods to the Internet:

- dedicated public IP address – no NAT
- static NAT between the POWER Server and the router

The customer agrees however, that dynamic NAT or overloading is not permitted or supported between the POWER Server and the Internet router

#### **4. Disclaimer of Equipment Warranties and Limitation of Liability**

Reynolds and Reynolds does not warrant that any specific level of system availability will be achieved. The Customer acknowledges and agrees that the operation of an on-line computer system is an undertaking of the highest level of technical complexity and that computer systems, like all mechanical devices, are subject to breakdown and some system unavailability (down-time) is inevitable. The Customer further acknowledges and agrees that lack of system availability howsoever caused does not constitute a breach of this Agreement.

#### **5. Disclaimer of Software Warranties and Limitation of Liability**

- (a) Reynolds and Reynolds warrants that the Licenced Software shall conform in all material respects to the design specifications and functions and will perform on the Equipment and with the Operating System for which it is designed. If Reynolds and Reynolds is not informed in writing of non-conformance due to errors which significantly affect performance of the Licenced Software in accordance with the design specifications and functions within the first five (5) days after installation, the Licenced Software shall be deemed to be conforming at the time of installation. Thereafter, Reynolds and Reynolds will provide Application Program Software Support as described in this Agreement.
- (b) Reynolds and Reynolds does not warrant that any specific degree of system availability will be achieved. The Customer acknowledges and agrees that the operation of an on-line computer system is an undertaking of the highest degree of complexity and that some system outage is inevitable. The Customer further acknowledges and agrees that lack of system availability will not constitute a breach of this Agreement. The Customer, therefore, agrees because of the foregoing facts that failure to obtain desired results is not the fault of Reynolds and Reynolds Software and that no liability shall fall on Reynolds and Reynolds for the Customer's failing to obtain results that it desires.

#### **6. Software Support Services to be performed by Reynolds and Reynolds**

- (a) Reynolds and Reynolds will distribute Software data and information files on magnetic tape or other media at the charge stated in Schedule B.
- (b) The Customer acknowledges and agrees that Reynolds and Reynolds is obligated to provide Software consultation only for Application Servers, disk drives, tape drives, memory, printer(s) and peripheral devices (of any type) purchased from Reynolds and Reynolds.
- (c) The Customer acknowledges and agrees that computer equipment that is not properly maintained and/or repaired can significantly affect the performance of the Licenced Software. Therefore, the Customer further acknowledges and agrees that Reynolds and Reynolds is only able to provide Software consultation if all Application Servers, disk drives, tape drives, memory and all other peripheral devices other than approved PC(s) and printer(s) are maintained by Reynolds and Reynolds.

- (d) Implement all revisions to the Operating System and Application Programs that are released by Reynolds and Reynolds within thirty (30) days after being received by the Customer.
- (e) Duplicate daily at the close of business, the Customer's data files contained on disk in the manner prescribed by Reynolds and Reynolds.
- (f) Maintain at all times at least thirty (30) days' copies of the Customer's data files.
- (g) Maintain tangible Customer documents required to recreate all of the Customer's data as necessary (i.e. invoices, purchase orders and all other source documents).
- (h) Provide 24 hour per day access to a phone line located at their Application Server and a full time connection to a local ISP for the purpose of providing diagnostic access to the System for Reynolds and Reynolds. The Customer shall not use this telephone line for any other purpose, including but not limited to, diagnostics for other machines or equipment, facsimile transmissions, telephone conversations, etc. For the avoidance of doubt the line may be used for the purpose of hardware diagnostics as set out in Clause 5.6(h).