

SERVICE SPECIFIC CONDITIONS FOR COMMUNICATIONS SERVICES

Service Specific Conditions for Communications Services

These Service Specific Conditions for Communications Services apply in addition to the Wavenet Master Service Agreement ("MSA") to the Customer's use of the Communications Services. All definitions from the MSA shall apply to these Service Specific Conditions for Communications Services.

1. DEFINITIONS

In these Service Specific Conditions the following words shall have the following meanings:

"Act" means the Communications Act 2003, as amended and/or replaced from time to time;

"Associated Facilities" means a facility falling within Clause 32(3) of the Act;

"Authorisation" means entitlement to provide Electronic Communications Networks under the Act;

"Cancellation Charges" means all arrears of Charges payable for the cancelled Communications Services and by way of liquidated damages as a sum equivalent to the Charges due in respect of the cancelled Communications Services from the date of cancellation to the end of the Initial Term of the Agreement;

"Communications Services" means the installations and provision of a dedicated transmission channel for the Customer's exclusive use for the conveyance of voice, data and information through Electronic Communications Network and Services;

"Conditions" means such applicable conditions as have been set under Clause 45 of the Act;

"Electronic Communications Network" means a network falling within Clause 32(1) of the Act;

"Electronic Communications Services" means a service falling within clause 32(2) of the Act;

"Internet" means the global data network comprising interconnected networks using Internet Protocol ("IP");

"Public Communications Provider" means a public communications provider as set out in Clause 151 of the Act;

"Public Electronic Communications Network" means a public communications network as set out in Clause 151 of the Act;

"Ready for Service Date" means the commencement date from which Wavenet through the Sub-contractor will be rendering the Communications Services;

"Service Specific Terms" means such additional terms and conditions that will apply to the Communications Services to be provided by the Sub-contractor at the stage when the order for the Communications Services is processed by the Sub-contractor;

"Sub-contractor" means the authorised provider of Electronic Communications Networks and Services contracted by Wavenet for the rendering of the Communications Services;

"Sub-contractor's Core IP Network" means the network of electronic communications networks, gateways, lines and equipment providing access to the Internet which has been developed and is used by the Sub-contractor or its associated companies for the purposes of providing Internet Communication Services; and

"User" means any party authorised by the Customer to use the Communications Services.

All other capitalised terms that are not defined in these Service Specific Conditions shall have the meanings stated in the MSA and/or in the Service Specific Conditions for Business Continuity and Disaster Recovery Services.

2. THE COMMUNICATIONS SERVICES

- 2.1. The Customer is solely responsible for the choice and use of the Communications Services, and as such, is responsible for reviewing and deciding whether the Communications Services will meet the Customer's business objectives.
- 2.2. Wavenet shall provide the Communications Services stipulated as "COMMS LINK" in the Order from the Ready for Service Date at the Service Centre stipulated in the Order for the duration of the term of the Agreement, unless agreed otherwise in writing or terminated earlier in accordance with the terms of the Agreement.
- 2.3. The Ready for Service Date is a general estimate only and is reliant on the Sub-contractor.
- 2.4. Wavenet shall use reasonable endeavours to ensure that the Communications Services are ready for use by the Customer at the Ready for Service Date.
- 2.5. The Ready for Service Date shall not be changed except:
 - 2.5.1. with the express agreement of the parties in writing;
 - 2.5.2. if a delay is caused by the Customer's wilful acts or failures to comply with its obligations set out in this paragraph; or
 - 2.5.3. if a delay is due to a cause beyond Wavenet's reasonable control.
- 2.6. Wavenet reserves the right to modify, change, add to or replace the Electronic Communications Network or any equipment and apparatus comprised therein. Any such modification, change, addition or replacement shall be carried out at Wavenet's own expense and Wavenet shall use reasonable endeavours to ensure it does not materially detract from, reduce or impair the overall performance or operation of the Communications Services, or require any material alteration to the Electronic Communications Network, physical interface or protocol used by the Customer in using the Communications Services.
- 2.7. In the event of any modification, change, addition to or replacement of the Electronic Communications Network or any equipment or apparatus comprised therein which in Wavenet's reasonable opinion is likely to substantially affect the overall operations of the Communications Services, Wavenet shall use its reasonable endeavours to provide the Customer with as much notice as is reasonably practicable.
- 2.8. Wavenet shall have the right to charge the Customer for work carried out by Wavenet or the Sub-contractor to locate, rectify or repair faults if such fault results from:
 - 2.8.1. any cause or reason associated with the Customer equipment or apparatus;
 - 2.8.2. power failure, accident, Customer's neglect or any Force Majeure Event;
 - 2.8.3. any fault or other problem caused by the Customer's wilful act, fault or negligence, or the

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Customer's failure to comply with its obligations hereunder; or

2.8.4. misuse of improper use of the Communications Services

2.9 Any Service Specific Terms will form part of these Service Specific Conditions.

3. CUSTOMER OBLIGATIONS

3.1. The Customer will submit to Wavenet all documentation which may be required by the Sub-contractor in advance.

3.2. The Customer will provide Wavenet promptly with all information, co-operation and complete and accurate technical details that Wavenet may reasonably require from time to time to enable Wavenet and/or the Sub-contractor to perform uninterrupted their obligations under this paragraph.

3.3. The Customer shall, if required by any applicable Authorisation granted under the Act or if so requested by Wavenet, notify or obtain, as applicable, any necessary permission or co-operation of a Public Communications Provider or other relevant person for the connection of the Customer equipment and apparatus to the Electronic Communications Network or the Public Electronic Communications Network.

3.4. The Customer shall ensure at all times:

3.4.1. that the Customer equipment and apparatus shall to the extent and manner necessary be approved for connection to Electronic Communication Networks in accordance with the Act and the Customer shall at all times comply with the conditions of such approval;

3.4.2. that the Customer equipment connected to the Electronic Communications Network is technically compatible with the Communications Services and will not harm the Electronic Communications Network or Communications Services or another Electronic Communications Network;

3.4.3. that the Customer equipment connected to the Electronic Communications Network is connected and used in accordance with any relevant instructions or laws;

3.4.4. that the Customer equipment connected to the Electronic Communications Network is used and connected in line with any relevant standards including any standards set out in the relevant Sub-contractor information notes used by the Sub-contractor to publish the technical description of the Communications Services, in the following order of precedence:

3.4.4.1. any legal requirements imposed upon the Customer, Wavenet and the Sub-contractor including requirements arising from General Condition 2 set under section 45 of the Act;

3.4.4.2. any relevant specification notified by the Office of Communications or its legal successors in implementation of the recommendations of the Network Interoperability Consultative Committee;

3.4.4.3. any relevant recommendations by the European Telecommunications Standards Institute; and

3.4.4.4. any relevant recommendations by the Telecommunications Standards Bureau

(formerly the International Telegraph and Telephone Consultative Committee) of the International Telecommunication Union.

3.4.5. that the Customer equipment, network and infrastructure are configured, connected and designed in accordance with recognised best practice to mitigate the risk of it being a target or a source disruption or network defects or attacks;

3.4.6. inform Wavenet immediately if it is aware of or believes that:

3.4.6.1. any security breach has occurred in connection with the Communications Services; or

3.4.6.2. any passwords that may have been provided to the Customer as part of the Communications Services have or are likely to become known to any unauthorised person;

3.4.7. that it uses all reasonable endeavours to give Wavenet advance notice if, at any time, it anticipates a significant increase in the traffic being conveyed via the Communications Services

3.5. Wavenet reserves the right to disconnect any Customer equipment and apparatus if the Customer does not fulfil its obligations under these Service Specific Conditions, or if in the reasonable opinion of Wavenet the Customer equipment and apparatus is likely to cause the death of, or personal injury to, or damage to the property of Wavenet, the Sub-contractor or any person, or may impair the quality of any Electronic Communications Services provided by means of the Electronic Communications Network.

3.6. The Customer agrees to connect Customer equipment to the Electronic Communications Network only by using the network terminating equipment provided by Wavenet or the Sub-contractor.

3.7. The Customer undertakes to immediately disconnect Customer equipment upon becoming aware that it does not meet the relevant instructions, standards or laws. If it fails to do so, Wavenet or the Sub-contractor may do so at the Customer's expense.

3.8. Neither Wavenet nor the Sub-contractor will be liable for a failure to meet any obligations under these Service Specific Conditions if any Customer equipment is found to be connected to the Electronic Communications Network otherwise than in accordance with these Service Specific Conditions.

4. MISUSE OF AND LIMITATIONS ON USE OF COMMUNICATIONS SERVICES

4.1. The Customer undertakes to use the Communications Services and to procure that each User uses the Communications Services in accordance with such reasonable operating instructions as may be notified in writing or verbally (and confirmed in writing) to the Customer by Wavenet or the Sub-contractor from time to time and in accordance with any Conditions which govern the running of an Electronic Communications Network by the Customer.

4.2. Without limitation to the generality of clause 4.1, the Customer undertakes not to use the Communications

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Services and undertakes to prevent each User from using the Communications Services:

- 4.2.1. for the communication, publication, transmission or receipt of any material which is defamatory, offensive or abusive or of an obscene, nuisance, hoax; threatening or menacing character;
- 4.2.2. in a manner which constitutes a violation or infringement or the rights of any person, firm or company (including but not limited to rights of copyright, privacy or confidentiality);
- 4.2.3. in a manner that is associated with a criminal offence;
- 4.2.4. to cause annoyance, inconvenience or needless anxiety; or
- 4.2.5. unlawfully or fraudulently or in breach of any legislation
- 4.3. The Customer undertakes not to re-sell for money or monies worth Communications Services or any part thereof to any third party.

5. CHARGES

- 5.1. Any delay of the Ready for Use Date at the Customer's request or by virtue of the Customer's wilful act, fault, negligence or failure to fulfil its obligations under these Service Specific Conditions, will not result in a postponement of the payment date for Charges for the Communications Services.
- 5.2. Where the Ready for Service Date has been delayed for reasons other than the Customer's wilful act, fault, negligence or failure to fulfil its obligations under these Service Specific Conditions, the Charges for the Communications Services will be reduced in accordance with the delay.
- 5.3. The Customer acknowledges that it will not be entitled to reduce the Charges in respect of the Communication Services at any time during the Term of the Agreement.
- 5.4. The Customer will be liable:
 - 5.4.1. for any additional costs incurred because of any delay or failure of the Customer to perform its obligations or responsibilities under these Service Specific Conditions; and
 - 5.4.2. and will be charged for all logged faults that are ultimately diagnosed as being the Customer's responsibility or caused by the Customer breaching any of its obligations or failure to perform any responsibilities, including any repair costs

6. TERMINATION

- 6.1. Wavenet shall have the right (without prejudice to any other rights to terminate) to terminate the Communications Services without liability to the Customer immediately on giving notice to the Customer in any of the following events:
 - 6.1.1. the Customer becomes subject to a direction under which it is prohibited from providing or restricted in its entitlement to provide the whole or part of an Electronic Communications Network, Electronic Communications Service or Associated Facilities or the Customer is in breach of the Conditions in respect of any such Electronic Communications Network, Electronic

Communications Service or Associated Facilities;

- 6.1.2. the Sub-contractor or Wavenet becomes subject to a direction under which it is prohibited from providing or restricted in its entitlement to provide the whole or part of an Electronic Communications Network, Electronic Communications Services or Associated Facilities, in which event Wavenet shall give to the Customer the maximum period of notice of termination practicable in the circumstances;
- 6.1.3. the Customer or a User is misusing the Communications Services under clause 4;
- 6.1.4. the Customer has provided Wavenet or the Sub-contractor with false, inaccurate or misleading information for the purpose of obtaining Communications Services (or any part thereof);
- 6.1.5. the Customer is suspected, in Wavenet's reasonable opinion, of involvement with fraud or attempted fraud or any other criminal offence in connection with the use of the Communications Services; or
- 6.1.6. the Customer commits a material breach of its obligations under these Service Specific Conditions.
- 6.2. In the event of termination of the Communications Services for any reason the Customer shall cease to make use of the Communications Services and Wavenet shall be entitled to disconnect the Customer's equipment and apparatus from the Electronic Communications Network.
- 6.3. In the event of the Communications Services being terminated in accordance with this Clause 6 prior to the end of the Initial Term of the Agreement (other than by reason of an event under clause 6.1.2) then notwithstanding any such termination, the Customer shall pay to Wavenet the Cancellation Charges within thirty (30) days from the date of invoice.

7. SUSPENSION OF COMMUNICATIONS SERVICES

- 7.1. Wavenet may at its sole discretion immediately suspend the provision of the Communications Services either in whole or in part until further notice on notifying the Customer either orally (confirming such notification in writing) or in writing in the event that:
 - 7.1.1. Wavenet shall be entitled to terminate the Communications Services;
 - 7.1.2. Wavenet shall be obliged to comply with an order, instruction or request of the Government, regulatory authority, emergency services organisation or other competent authority;
 - 7.1.3. Wavenet needs to carry out work relating to exceptional upgrading or maintenance of the Electronic Communications Network;
 - 7.1.4. the Sub-contractor needs to carry out work relating to the repair, improvement, upgrading or maintenance of the Sub-contractor's Core IP Network or any other facilities which are necessary to provide access to the Electronic Communications Network; or
 - 7.1.5. the Customer fails to make any payment to Wavenet under the Agreement.
- 7.2. Any exercise or non-exercise by Wavenet of its rights of suspension under this clause 7 shall be without

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prejudice to Wavenet's right to terminate the Communications Services subsequently in respect of the same or any other event.

- 7.3. The Customer shall reimburse Wavenet all costs and expenses incurred by the implementation of such suspension and/or the recommencement of the provision of Communications Services as appropriate arising out of an event referred to in clause 7.1.1, save that this shall not apply where the suspension is implemented otherwise than as a consequence of the breach, fault or omission of the Customer.
- 7.4. If Wavenet suspends Communications Services for the contravening of clause 4, it may refuse to restore Communications Services until it receives an acceptable assurance from the Customer that there will be no further contravention.

and/or any applicable legislation pertaining to the services rendered in terms of this paragraph.

- 8.5. The provision of this clause 8 shall continue to apply notwithstanding the termination or expiry of the Communications Services for any reason whatsoever.

8. LIMITATION OF LIABILITY AND INDEMNIFICATION

- 8.1. The Customer acknowledges that Wavenet has no control over the Internet, the Electronic Communications Services, the Electronic Communications Network or information and/or software transmitted or accessible via the Communications Services. Wavenet hereby excludes all liability of any kind for any information and/or software which may be accessible via the Communications Services, the transmission or the reception of or any failure or delay in transmission or reception of (or the ability to obtain access) any information and/or software of whatever nature and all liability for the accuracy or otherwise of any such information and/or software. The parties further acknowledge that information, software or other material accessible over the Internet via the Communications Services may contain viruses or other harmful or destructive components and Wavenet shall not be responsible for this.
- 8.2. Wavenet will not be responsible for any faults or interruptions in the Communications Services or any inability to access the Communications Services or for any loss as a result of such faults or interruptions where this is caused by a failure, inadequacy or inability in any Customer equipment or apparatus or the Electronic Communications Network or any incompatibility between any Customer equipment or apparatus and the Electronic Communications Network or where appropriate the Public Electronic Communications Network.
- 8.3. Wavenet shall have no liability whatsoever in any case where the notification as stipulated in clause 3.3 is not given or such permission of co-operation as stipulated in clause 3.3 is not obtained.
- 8.4. The Customer agrees to indemnify Wavenet and the Sub-contractor against all loss, damages, costs, claims, proceedings, liabilities and expenses arising or incurred in respect of any actions, claims or legal proceedings which are brought or threatened against Wavenet or the Sub-contractor if the Communications Services are used in breach of the Customers obligations under these Service Specific Conditions