

## Supplemental Terms for the Supply of Leased Line Services

The Services set out in these Supplemental Terms shall be supplied by TMB to the Customer on the terms and conditions set out in TMB's General Terms and Conditions and the terms and conditions of these Supplemental Terms. All definitions set out in the General Terms and Conditions shall, unless otherwise specified below, have the same meaning when used in these Supplemental Terms.

### 1. SUPPLEMENTARY DEFINITIONS

- 1.1 'Bandwidth' means data transfer rate.
- 1.2 'Broadband' means an asymmetrical, contended Tail Circuit that is either based on single copper pair connectivity between the Customer's premises and a street-level cabinet and fibre connectivity from the cabinet to the Exchange or single copper pair connectivity between the Customer's premises and the Exchange.
- 1.3 'Core Network' means TMB's telecommunication network extending between its various Points of Presence.
- 1.4 'Core Network Services' means the services as set out in the Order, provided to the Customer by TMB including the availability and monitoring of the Core Network.
- 1.5 'CPE Router' means a router which is connected to the Network Terminating Equipment and the Customer's network.
- 1.6 'Customer Premises Equipment' means Equipment provided by TMB under the terms of this Agreement which facilitate connection to the Broadband Services, including router(s) and modems as set out in the Order.
- 1.7 'Downtime' means any period during which the Network Services or one or more Service Components is not available.
- 1.8 'Emergency Maintenance' means any period of maintenance for which, due to reasons beyond its reasonable control, TMB is unable to provide prior notice of.
- 1.9 'End User' means a user of the Services subscribed to by the Customer.
- 1.10 'Fibre Ethernet' means a symmetrical, uncontended Tail Circuit that is based on fibre connectivity between the Customer's premises and the Exchange.
- 1.11 'FTTC Ethernet' means a symmetrical, uncontended Tail Circuit that is based on single copper pair connectivity between the Customer's premises and a street-level cabinet and fibre connectivity from the cabinet to the Exchange.
- 1.12 'Local Area Network ('LAN') means the Customer's local area network which is beyond the service demarcation point, which may be a CPE Router or other Network Terminating Equipment.
- 1.13 'Malware' means software that is specifically designed to disrupt, damage, or gain unauthorized access to a computer system, including Trojan horses, viruses and ransomware.
- 1.14 'Managed Service' means the provision of Network Services including the Customer-premises based Network Terminating Equipment and the provision and remote management of CPE Router equipment.
- 1.15 'MPLS' means multi-protocol label switching, a network communication protocol.
- 1.16 'Network' means TMB's Core Network and any Tail Circuits attached thereto.
- 1.17 'Network Services' means Core Network Services and Tail Circuit Services.
- 1.18 'Network Terminating Equipment' ('NTE') means the equipment that terminates the Network at the Customer's premises, including a single the Customer-side socket for the connection of a CPE Router.
- 1.19 'Planned Maintenance' means any period of maintenance for which TMB has provided prior notice.
- 1.20 'Point of Presence' means a termination of the Core Network at an exchange, which may be a telephone exchange, data centre or an internet exchange.
- 1.21 'Public Internet' means the world-wide collection of private and public router-based networks that are interconnected via gateways and exchange points.
- 1.22 'Services' means Network Services and management services including Service Desk and where applicable, maintenance services.
- 1.23 'Service Desk' means TMB's dedicated team of support specialists.

- 1.24 'Service Request' means the report of an Issue by the Customer to TMB.
- 1.25 'Site' means the Customer- owned or occupied location(s) as set out in the Order, at which TMB's Tail Circuit Services terminate.
- 1.26 'Tail Circuit' means the telecommunications circuit which links the Customer's Site to the Core Network.
- 1.27 'Tail Circuit Services' means the services provided by TMB for the connection of the Customer's local area network to the Core Network as set out in the Order.
- 1.28 'Wires Only Service' means the provision of Network Services as far as the Customer-premises based Network Terminating Equipment, but excluding the provision of CPE Router equipment and the remote management thereof.

## **2. TERM**

- 2.1 This Agreement will be effective on the Commencement Date set out on the Order and shall run until the RFS Date ('Run-Up Period') and shall then run for the Minimum Term as set out in the Order.
- 2.2 TMB shall, not less than ninety days prior to the expiry of the Minimum Term or any Additional Term thereafter, notify the Customer of:
  - 2.2.1 The Charges payable for an Additional Term of one year's duration;
  - 2.2.2 The Charges payable for continued rolling use of the Services without a committed Additional Term;And the Customer shall notify TMB of its intention to:
  - 2.2.3 Agree to an Additional Term, whereupon TMB will provide the Services for an Additional Term following expiry of the current term; or
  - 2.2.4 Agree to receive the Services on a rolling basis whereupon TMB will provide the Services until terminated by either party at any time in accordance with the terms of clause 9;
  - 2.2.5 Terminate the Agreement on expiry of the extant term.
- 2.3 If the Customer fails to notify TMB of its intentions under the provisions of sub-clause 2.2, the Customer shall be deemed to agree to the continued supply of the Services as contemplated in sub-clause 2.2.4.

## **3. PROVISION OF SERVICES**

- 3.1 The Services comprise Tail Circuit Services, Core Network Services and support services as set out in the Order and described in the Service Schedule. TMB shall use reasonable endeavours to provide the Services twenty four hours per day, subject to the limitations set out in this Agreement.
- 3.2 TMB shall use reasonable endeavours to provide each of the Services set out in the Order to the Customer subject to acceptance of the Customer's Order, from the RFS Date. During the Run-Up Period, TMB shall carry out the necessary pre service-provision activities, including Site survey(s), installation work and agreement of the RFS Date with the Customer.
- 3.3 The Customer acknowledges that the RFS Date shall not be dependent on any planned migration onto the relevant Services or when the Customer commences using the Services.
- 3.4 TMB shall not be obliged to provide the Network Services prior to the completion of all construction and installation work at the Customer's premises, which may or may not be under the control of TMB.
- 3.5 For the avoidance of doubt, TMB shall not provide email or web-space facilities under the terms of this Agreement.
- 3.6 During the term of this Agreement, TMB shall be entitled to:
  - 3.6.1 Change the technical specification of the Network Services for operational reasons, statutory or regulatory requirements PROVIDED THAT such changes do not materially adversely affect the quality or performance of the Services;
  - 3.6.2 Make alterations to the Network Services. Such alterations may result in temporary disruption to the Services and TMB will use reasonable endeavours to minimise such disruption and will provide as much notice as possible.
- 3.7 TMB shall provide IP data packets to the boundary of the Customer's network that is:
  - 3.7.1 In the case of the supply of a Managed Service, the Customer's network-facing connection to the TMB-supplied CPE Router;

- 3.7.2 In the case of supply of a Wires Only Service, the Network Terminating Equipment;
- 3.7.3 In the case of services delivered to a third-party data centre on behalf of the Customer, the Customer's connection to TMB's terminating equipment in the data centre.
- 3.8 TMB shall provide transit and routing of email and internet traffic and shall, if specified in the Order, provide direct internet access.
- 3.9 TMB cannot guarantee and does not warrant that the Network Services will be free from interruptions, including:
  - 3.9.1 Interruption of the Network Services for operational reasons and temporary degradation of the quality of the Network Services;
  - 3.9.2 Interruption of the connection of the Network Services to other network services provided either by TMB or a third party; and
  - 3.9.3 Any such interruption of the Network Services referred to in this sub-clause shall not constitute a breach of this Agreement.
- 3.10 Although TMB will use reasonable endeavours to ensure the accuracy and quality of the Services, the Services are provided on an "as is" basis and TMB does not make any representations as to the accuracy, comprehensiveness, completeness, quality, currency, error-free nature, compatibility, security or fitness for purpose of the Services.

#### **4. ACCEPTABLE USE**

- 4.1 The Customer agrees to use the Network Services in accordance with the provisions of this Agreement, any relevant service literature and all other reasonable instructions issued by TMB from time to time.
- 4.2 The Customer agrees to ensure that the Network Services are not used by its End Users to:
  - 4.2.1 Post, download, upload or otherwise transmit materials or data which is abusive, defamatory, obscene, indecent, menacing or disruptive;
  - 4.2.2 Post, download, upload or otherwise transmit materials or data uploads or make other communications in breach of the rights of third parties, including those of quiet enjoyment, privacy and copyright;
  - 4.2.3 Send or knowingly receive data in such a way or amount so as to adversely affect the Network (or any part thereof) which underpins the Network Services, its suppliers or third parties;
  - 4.2.4 Carry out any fraudulent, criminal or otherwise illegal activity;
  - 4.2.5 Obtain access to restricted areas of the Network, data, systems or services;
  - 4.2.6 In any manner which in TMB's reasonable opinion brings TMB's name into disrepute;
  - 4.2.7 Knowingly make available or upload file(s) that contain Malware or otherwise corrupt data;
  - 4.2.8 Falsify true ownership of software or data contained in a file that the Customer or End User makes available via the Network Services;
  - 4.2.9 Falsify user information or forge uniform resource locator (URL) or email addresses;
  - 4.2.10 Act in any way which threatens the security or integrity of any computer system;
  - 4.2.11 Violate general standards of internet use, including denial of service attacks, unauthorised IP or port multicasting, spoofing, broadcasting, translation, routing, web page defacement and port or number scanning;
  - 4.2.12 Connect to the Network Services insecure machines or services able to be exploited by others to carry out actions which constitute a breach of this Agreement including the transmission of unsolicited bulk mail or email containing infected attachments or attempts to disrupt websites and/or connectivity or any other attempts to compromise the security of other users of TMB's Network or any other third-party system;
  - 4.2.13 Send email to anyone who does not wish to receive it.
- 4.3 The Customer shall without undue delay notify TMB of any contravention of sub-clause 4.2.
- 4.4 The Customer acknowledges that it is responsible for all data and/or traffic originating from the equipment and/or networks that it has connected to the Network Services.
- 4.5 If the Customer becomes aware that equipment under its control is generating data and/or traffic which contravenes this Agreement, the Customer agrees to:

- 4.5.1 Immediately disconnect (and subsequently secure prior to reconnection) such equipment;
- 4.5.2 Without undue delay notify TMB of such contravention.
- 4.6 The Customer acknowledges that it is solely responsible for its and its End User's to use of the Public Internet and any web pages accessed using the Network Services.
- 4.7 The Customer agrees not use the Network Services to violate any part of this Agreement or to disrupt or attempt to disrupt another Public Internet user's experience.

## 5. CUSTOMER'S OBLIGATIONS

During the term of this Agreement, the Customer shall:

- 5.1 Pay all additional Charges levied by TMB, including those arising from usage-based components of the Network Services.
- 5.2 Ensure that user-names, passwords and personal identification numbers are kept secure and:
  - 5.2.1 Ensure that End User access employs up to date authentication methods;
  - 5.2.2 Change passwords as appropriate when employees leave;
  - 5.2.3 Use strong passwords and immediately change any manufactures' default passwords;
  - 5.2.4 Without undue delay notify TMB if, or there is reasonable suspicion that such information has become known to any unauthorised person;
  - 5.2.5 Acknowledge that TMB shall be entitled to temporarily suspend the Network Services and / or change the Customer's passwords if in TMB's reasonable opinion, unauthorised persons may have access to the Network Services.
- 5.3 Ensure that the Equipment is not moved from its installed location unless expressly authorised to do so in advance by TMB and that its operating environment is kept within any limits specified by its manufacturer.
- 5.4 Agree that in all instances where it attaches equipment that has not been provided by TMB to the Network Services that such equipment shall be:
  - 5.4.1 Technically compatible with the Network Services;
  - 5.4.2 Conformant with all regulatory standards;
  - 5.4.3 Configured / programmed by the Customer;
  - 5.4.4 Connected to the client-network-facing port(s) of the CPE Router, or in the case of a Wires Only Service, the client-network-facing port of the Network Terminating Equipment;
  - 5.4.5 Conformant with any instruction issued by TMB in relation thereto; and
  - 5.4.6 Not installed, configured, maintained or supported by TMB under the terms of this Agreement.
- 5.5 Accept that if it attaches equipment that does not comply with the provisions of sub-clause 5.4 and such Equipment in the reasonable opinion of TMB is causing disruption to the Network Services, TMB shall be entitled to suspend the provision of the Network Services until such Equipment is disconnected from the Network Services.
- 5.6 Accept that TMB shall not be liable for failure to meet any service levels or any failure of the Network Services resulting from the Customer's failure to comply with the provisions of clause 5.4.
- 5.7 Accept that is the Customer's sole responsibility to take all reasonable steps to prevent the introduction of viruses into the Network Services via the Customer's equipment or Software.
- 5.8 Agree that TMB may at any time scan any IP addresses allocated under the terms of this Agreement, for anything which may compromise the security of TMB's network (including open relays and open proxies).
- 5.9 Acknowledge that static IP addresses allocated under the terms of this agreement shall only be allocated for the duration of this Agreement, and shall remain TMB's property at all times.
- 5.10 Be solely responsible for the configuration of its internal network, and agree that any interruption in or to the Network Services which result from the configuration of the Customer's internal network shall not be regarded as interruption in or suspension of the Network Services provided by TMB.
- 5.11 Be solely responsible for ensuring compliance with the terms of licence of any software that it supplies for use with the Network Services.

- 5.12 If TMB provides a Wires Only Service, as set out in the Order, the Customer shall be responsible for providing initial diagnosis in the event of a Customer-reported malfunction in the Network Services.
- 5.13 Prior to raising a Service Request, the Customer shall use reasonable endeavours to determine that the Issue does not lie in its LAN or other Customer-supplied equipment that is attached to the Network Services.
- 5.14 If the Customer reports a non-critical Issue, as described in paragraph 2 of the Service Schedule, the Customer agrees to:
  - 5.14.1 Accept up to two hours Downtime to allow TMB to carry out intrusive testing;
  - 5.14.2 Allow not less than five hours uninterrupted on-Site access, if requested by TMB.
- 5.15 Acknowledges that on occasions including arrangement of Site surveys, installations and during Issue diagnosis, TMB's supplier may contact the Customer directly.
- 5.16 Agree to not alter, re-configure or otherwise make any changes to any CPE Router that has been provided by TMB pursuant to providing the Network Services as a Managed Service.
- 5.17 Provide TMB with reasonable assistance if third-party consents are required prior to the provision of the Network Services.

## **6. TMB'S OBLIGATIONS**

During the term of this Agreement, and subject to the performance by the Customer of its obligations hereunder, TMB shall:

- 6.1 Configure the Network Services and on the RFS Date conduct commissioning tests to ensure that the Network Services are functioning correctly.
- 6.2 Provide and maintain the Services set out in this Agreement, subject to any service limitations set out in the Order and Service Schedule.
- 6.3 Save when the Services are to be delivered as a Wires Only Service, deliver fully configured and tested Equipment for the termination of the Network Services at the Customer's Site;
- 6.4 Install the Equipment and necessary cabling at the Customer's Site. TMB shall use reasonable endeavours to route cables and locate Equipment as requested by the Customer, however if in TMB's reasonable opinion it is not practical to accommodate the Customer's request, TMB's alternative shall be binding.
- 6.5 Respond to Service Requests raised by the Customer within the time-frame set out in the Service Schedule and make reasonable endeavours to repair any Issue within the Network Services within the time frame set out in the Service Schedule.
- 6.6 Make reasonable endeavours to provide the Network Services by the agreed RFS Date.
- 6.7 Make reasonable endeavours to provide reasonable notice of any bona fide restriction which, for operational reasons TMB may place on the Network Services.
- 6.8 If TMB provides Managed Services, as set out in the Order TMB shall:
  - 6.8.1 Deliver the fully configured and tested CPE Router for the termination of the Network Services at the Customer's Site;
  - 6.8.2 Install the Equipment at the Customer's Site;
  - 6.8.3 Provide a hardware maintenance service that covers the replacement or repair of any CPE Router supplied by TMB under the terms of this Agreement, in the event of the malfunctioning of such;
  - 6.8.4 Monitor the performance of the Network Services.
- 6.9 In response to individual requests from the Customer, TMB shall provide statistical reports showing bandwidth usage on requested Service Components.
- 6.10 Ensure that any Equipment provided under the terms of this Agreement (regardless of whether title is transferred or not) complies with the relevant standards, is safe, of satisfactory quality and is fit for purpose.

## **7. INDEMNITIES**

- 7.1 The Customer agrees to indemnify TMB from and against any liabilities, actions, losses damages, judgements, costs, fines, claims or expenses incurred by TMB or legal proceedings which are brought or threatened against TMB by a third party in the event of:

- 7.1.1 The Services being used in breach of the acceptable uses set out in clause 4 hereof, except where such a breach results from fraud by TMB;
  - 7.1.2 Any fraud committed by the Customer;
  - 7.1.3 All claims made by third parties arising from Issues in the Services.
- 7.2 If TMB becomes aware of any claim as set out in sub-clause 7.1 it shall:
- 7.2.1 As soon as reasonably practical, notify the Customer of such claim;
  - 7.2.2 Make no admission relating to such claim or legal proceedings without agreement of the Customer, such agreement not to be unreasonably delayed or withheld;
  - 7.2.3 Consult with the Customer regarding the conduct of any action and have due regard for the Customer's representations and not agree any settlement, legal proceedings or make any payment by way of liquidated damages without the prior written agreement of the Customer, such agreement not to be unreasonably delayed or withheld.
- 7.3 Subject to the limitations in clause 10 of the General Terms and Conditions, each party (the first party) to this Agreement will fully indemnify the other from any claim or liability whatsoever from a third party arising directly or indirectly from the failure of one of the first parties to obtain or maintain any of the licences, approvals, authorisations or consents as set out in sub-clauses 5.3 and 6.15 of the General Terms and Conditions.
- 7.4 TMB will indemnify the Customer against all claims and proceedings arising from infringement of any Intellectual Property rights in the Services or Equipment supplied by TMB under the terms of this Agreement, PROVIDED always that such claims or proceedings are not caused by the Customer using the Services otherwise than in accordance with the terms of this Agreement.
- 7.5 Nothing in this clause 7 shall restrict or limit the indemnified party's obligation in law to mitigate any loss which it may incur as a result of a matter giving rise to a claim.

## **8. GENERAL**

- 8.1 TMB shall be entitled to perform routine or unscheduled maintenance activities that may limit or suspend the availability of the Network Services. TMB shall:
- 8.1.1 Provide reasonable notice of Planned Maintenance;
  - 8.1.2 If it is necessary for TMB to perform Emergency Maintenance, TMB shall use reasonable endeavours to provide prior notice and if it is not possible to provide prior notice, shall notify the Customer as soon as reasonably practicable after the commencement of such maintenance;
  - 8.1.3 TMB shall use reasonable endeavours to ensure that any disruption caused to the Customer by such maintenance shall be minimised;
  - 8.1.4 Any disruption to or suspension of the Services pursuant to this clause 8.1 shall not be deemed to be a breach of the terms of this Agreement.
- 8.2 The Customer acknowledges that TMB exercises no control over and accepts no responsibility for information, services and content accessible via the Network Services and / or Public Internet and that the Customer accesses such information, services and content entirely at the Customer's own risk.
- 8.3 Use of the Services and Equipment by the Customer constitutes acceptance of the terms and conditions of this Agreement.
- 8.4 The Customer acknowledges that provision of the Network Services is subject to the satisfactory completion of Site surveys by TMB; and
- 8.4.1 If during commissioning of the Network Services, TMB discovers that the agreed bandwidth performance cannot be achieved, TMB shall, with the agreement of the Customer, cancel the Order at no charge to the Customer;
  - 8.4.2 If certain technical limitations become apparent after the RFS Date and despite its reasonable attempts TMB is unable to resolve the limitations, TMB shall, with the agreement of the Customer, cancel the Order at no charge to the Customer and refund all Charges;
  - 8.4.3 In the circumstances referred to in sub-clauses 8.4.1 and 8.4.2 TMB shall have no liability to the Customer for failure to provide the Network Services, the performance of the Network Services or their effect on any other services that may be reliant thereupon, save as set out in those sub-clauses.

- 8.4.4 TMB may provide Bandwidth in excess of the targets set out in the Service Schedule, however any subsequent decrease in Bandwidth that results in the Bandwidth remaining higher than the targets set out in the Service Schedule will not be regarded by TMB as an Issue in the Network Services;
- 8.4.5 Actual bandwidth on FTTC Ethernet-based Tail Circuits will be confirmed during commissioning, however the Customer accepts that bandwidth may alter with time due to a number of technical reasons, including distance from the Customer's Site to the street connection cabinet.
- 8.5 The Customer acknowledges that TMB or its sub-contractor will require access to the Customer's Sites to carry out the Site survey and install Equipment.
- 8.6 Site surveys will be carried out by TMB during the Working Day. If the Customer requests that any Site survey is carried out outside of the Working Day, TMB shall use reasonable endeavours to accommodate such request and shall make an additional charge to the Customer at its prevailing rate.
- 8.7 If the Customer is unable to agree to Site visit dates (including survey and installation dates) suggested by TMB, the Customer shall within fourteen days of TMB's notification of the suggested date, agree to an alternative date. If the Customer does not suggest an alternative date within the fourteen day period, TMB's suggested appointment date will be deemed accepted.
- 8.8 Site visits, including installations are subject to the Site being located in the United Kingdom, including Northern Ireland, but excluding Kingston upon Hull, the Channel Islands, Isle of Man and Scilly Isles. TMB shall be entitled to make reasonable additional Charges for Site visits in excluded areas.
- 8.9 During the term of this Agreement, the Bandwidth of the Core Network may be upgraded or downgraded, by the Customer raising a new Order:
- 8.9.1 The Bandwidth cannot be downgraded to a Bandwidth that is lower than that set out in the original Order for supply of the Network Services, or as initially provisioned, if different;
- 8.9.2 TMB will not accept more than one order for upgrading the Core Network Bandwidth in any one calendar month.
- 8.9.3 TMB will not accept more than one order for downgrading Core Network Bandwidth in any one twelve-month period;
- 8.10 During the term of this Agreement, the Bandwidth of the Tail Circuit may be upgraded or downgraded, by the Customer raising a new Order:
- 8.10.1 The Bandwidth cannot be downgraded to a Bandwidth that is lower than that set out in the original Order for supply of the Network Services, or as initially provisioned, if different;
- 8.10.2 TMB will not accept more than one order for upgrading or downgrading the Tail Circuit Bandwidth in any one twelve-month period;
- 8.10.3 If the upgrade or downgrade is requested within twelve months of the end of the current term of this Agreement, the current term will be extended to expire twelve months from the date of activation of the upgraded or downgraded Bandwidth.
- 8.11 The Customer agrees to pay the revised Charges as set out on the (new) Order that arise from upgrades or downgrades set out in sub-clauses 8.9 and 8.10 hereof.
- 8.12 If a converged (internet / IP telephony) service is being provided, TMB will not accept more than one change to capacity allocated between IP telephony and Public Internet access during the term of this Agreement.
- 8.13 If TMB ceases to trade and upon written notice given by TMB's supplier, TMB's rights and obligations, including all accrued rights and obligations shall be assigned and transferred to TMB's supplier or to its nominee.
- 8.14 The Customer permits TMB or its suppliers to use and store origin, destination, duration, route and time of data transmitted over the Network Services, exclusively for the purposes of:
- 8.14.1 Collating statistics for network planning purposes; and
- 8.14.2 Providing such data to government security agencies in response to specific requests.

## 9. TERMINATION

- 9.1 In addition to the provisions of clause 11 of the General Terms and Conditions, this Agreement may also be terminated:

- 9.1.1 By either party by giving the other not less than ninety days' notice in writing to terminate at the end of the Minimum Term, Additional Term or if there is not an extant Additional Term, at any time after the expiry of the latest-expiring term;
- 9.1.2 By the Customer giving thirty days' notice in writing if TMB makes changes to the terms of this Agreement which are to the detriment of the Customer (for the avoidance of doubt, not including changes to Charges) PROVIDED THAT such notice is given within thirty days of the effective date of the change(s);
- 9.1.3 Immediately by TMB if it is so instructed by government or a regulatory body.

## 10. CHARGES AND PAYMENT

- 10.1 In general, invoices for installation shall be raised by TMB immediately following the Commencement Date or RFS Date as applicable and invoices for fixed periodic Charges shall be raised in advance of the relevant period. The invoicing period is set out in the Order.
- 10.2 TMB shall commence charging for the Network Services from the RFS Date, regardless of the date on which the Customer commences use of the Network Services. If the RFS Date does not correspond with TMB's invoicing period as set out in the Order, TMB shall charge the Customer at a pro-rata rate for the first invoicing period.
- 10.3 The Customer acknowledges that the prices quoted in TMB's literature and in the Order are estimates based on the rates prevailing at the time the Order is placed and as such are subject to change and the rate charged will be the rate in force on the RFS Date.
- 10.4 Installation Charges set out in the Order may be an estimate. If during or following TMB's survey, to be carried out during the Run-Up Period, TMB identifies additional installation costs ('Excess Construction Charges'):
  - 10.4.1 TMB shall notify the Customer of such Excess Construction Charges as soon as reasonably practicable;
  - 10.4.2 The Customer shall within seven Working Days notify TMB of acceptance or non-acceptance of such Excess Construction Charges;
  - 10.4.3 All work to provision the Services shall be suspended by TMB until such notice is received;
  - 10.4.4 If the Customer does not accept such Excess Construction Charges, the Customer shall be entitled to terminate this Agreement forthwith without incurring cancellation Charges;
  - 10.4.5 If the Customer does not notify TMB of acceptance of such Excess Construction Charges within seven Working Days, TMB shall be entitled to terminate this Agreement and charge the Customer for costs reasonably incurred.
- 10.5 TMB shall be entitled to charge the Customer at its prevailing rate in the event of being unable to access the Customer's Site at the time of any pre-arranged Site visit (including the unavailability of a suitable escort for TMB's engineer), or if the Customer cancels a pre-arranged Site visit with less than two Working Days' notice.
- 10.6 If TMB requires more time than it reasonably expects to complete an installation at the Customer's Site and such additional time is not due to TMB's negligence, TMB shall be entitled to charge the Customer for the additional time.
- 10.7 If the Customer Premises Equipment is repaired or replaced, TMB shall be entitled to charge at its prevailing rate for the reconfiguration of such repaired or replaced CPE.
- 10.8 The Customer acknowledges that the Charges for the Minimum Term are calculated by TMB in consideration inter alia of the setup costs to be incurred by TMB and the length of the Minimum Term offered.
- 10.9 The Customer agrees that the Customer shall be liable for termination Charges, which shall be paid by way of liquidated damages in the event that:
  - 10.9.1 The Customer terminates this Agreement for convenience prior to the end of the Minimum Term or Additional Term or TMB terminates this Agreement prior to the end of the Minimum Term or Additional Term by reason of the Customer's un-remedied or repeated breach of the terms of this Agreement, the Customer shall be liable for:
    - a) Payment of all outstanding installation and Excess Construction Charges, including repayment of any discounts that may have been applied thereto;
    - b) Payment of all Services Charges and Equipment rental Charges due up to the end of the current term;



- 10.9.2 The Customer terminates this Agreement for convenience during the Run-Up Period, the Customer shall be liable for payment of all outstanding installation, termination and Excess Construction Charges, including repayment of any discounts that may have been applied thereto;
- 10.9.3 Any other agreement for the provision of underlying services on which the Network Services are dependent, terminates, the Customer shall be liable for:
- a) Payment of all outstanding installation and Excess Construction Charges, including repayment of any discounts that may have been applied thereto;
  - b) Payment of all Services Charges and Equipment rental Charges due up to the end of the current term.
- 10.10 The Customer shall not be liable for termination Charges if this Agreement is terminated by:
- 10.10.1 The Customer in accordance with the terms of clause 9;
  - 10.10.2 The Customer or TMB during the Run-Up Period by reason of TMB becoming aware that will be unable to provide the Services or part thereof;
  - 10.10.3 TMB at any time if it can no longer provide the Services or part thereof;
  - 10.10.4 The Customer by reason of TMB's un-remedied or repeated breach of the terms of this Agreement;
  - 10.10.5 The Customer if TMB or its supplier makes changes to the Services which materially adversely affect the Customer;
  - 10.10.6 The Customer if TMB makes changes the terms of this Agreement which are materially disadvantageous to the Customer PROVIDED THAT the Customer complies with the provisions of sub-clause 9.1.2 of these Supplemental Terms;
  - 10.10.7 The Customer if it does not accept Excess Construction Charges, PROVIDED THAT the Customer complies with the provisions of sub-clauses 10.4.2 and 10.4.5 hereof;

## 11. LIMITATIONS AND EXCLUSIONS

- 11.1 In addition to the terms set out in clause 12 of the General Terms and Conditions, TMB shall also be entitled to suspend the provision of the Network Services, in whole or part, without notice due to:
- 11.1.1 Emergency maintenance or other emergency operational reason;
  - 11.1.2 TMB is required by governmental, emergency service, regulatory body or other competent authority to suspend the Network Services;
- 11.2 TMB shall also be entitled to suspend the Network Services for the purpose of carrying out planned maintenance or upgrades, subject to reasonable notice. TMB shall use reasonable endeavours to minimise the frequency, extent and impact of such planned maintenance or upgrades.
- 11.3 If a committed Bandwidth is set out on the Order, TMB shall commit to providing such Bandwidths in the Core Network, subject to the following limitations:
- 11.3.1 Save as where the Tail Circuit Services are implemented by Fibre or Wireless WAN technology, the overall transfer speed may be restricted to a lower speed by the Bandwidth capacity of the Tail Circuit Services;
  - 11.3.2 TMB makes no commitment to the number of voice over IP sessions that can be concurrently supported.
- 11.4 TMB shall not be obliged to provide Network Services if it is not technically feasible to do so, including:
- 11.4.1 The distance between the Customer's Site and TMB's Point of Presence is too large;
  - 11.4.2 Having conducted its survey, TMB considers that the Customer's Site is not suitable for the provision of the Network Services;
  - 11.4.3 The Customer does not wish to pay Excess Construction Charges that have been identified by TMB during its survey.
- 11.5 If during its survey, or after installation, TMB identifies that due to reasonable technical limitations, additional limitations and / or terms and conditions will apply to the provision of the Network Services, TMB shall immediately notify the Customer of such; and
- 11.5.1 Such additional limitations and or terms and conditions shall take precedence over this Agreement; or

- 11.5.2 The Customer shall be entitled to terminate this Agreement at no charge PROVIDED THAT the Customer provides written notice to terminate within fourteen days of TMB's notification.
- 11.6 Certain Tail Circuit Services are not transferrable between Sites.
- 11.7 If backup Tail Circuit Services ('Backup Tail Circuit Services') are to be provided:
- 11.7.1 In the event of an Issue on the primary Tail Circuit, the Backup Tail Circuit Services will automatically become effective. The Customer agrees to only use the Backup Tail Circuit Services for the purpose of accessing the Core Network Services set out in the Order for the primary Services if the primary Tail Circuit Services are unavailable;
- 11.7.2 TMB shall use reasonable endeavours to install the Backup Tail Circuit Services prior to and as close as reasonably possible to the RFS Date of the primary Network Services;
- 11.7.3 The Customer acknowledges that it is not possible to completely align the RFS Date for the Backup Tail Circuit Services with the RFS Date for the primary Network Services and agrees that to provide the appropriate level of resilience, if necessary TMB shall extend the supply of the Backup Tail Circuit Services to align its expiry with the expiry of the final term of the Agreement to supply the primary Network Services and the Customer agrees to pay any additional Charges there so incurred;
- 11.7.4 The Customer acknowledges that the data transfer rate provided by the Backup Tail Circuit Services are likely to be significantly lower than that provided by the primary Tail Circuit Services and that the service levels are not the same as those for the primary circuits.
- 11.7.5 If the Backup Tail Circuit Services are based on Broadband technology, as set out in the Order:
- a) An uncommitted analogue telephone Line is required to provide the Backup Tail Services: If a Line is not available at the date of the Order for Lease Lines Services, the Customer must place a separate order for such with TMB and such must be provisioned in advance of provisioning of the Backup Tail Circuit Services;
- b) The analogue telephone Line shall terminate no more than two metres from the primary circuit NTE and CPE Router location;
- c) If after installation, Broadband proves inadequate, TMB shall, at the request of the Customer cease the Broadband-based Backup Tail Services and replace them with alternative Backup Tail Circuit Services where availability permits. TMB shall be entitled to charge the Customer for installation and provision of such alternative Backup Tail Circuit Services;
- d) Equipment and cabling required by the Backup Tail Circuit Services shall be installed at the Customer's Site by TMB at the same time as that required for the primary Network Services. If the Customer requests installation on different days, TMB shall make two installation Charges.
- 11.7.6 If the Tail Circuit Services are to be provided using FTTC Ethernet, an uncommitted analogue telephone line is required to provide the Backup Tail Circuit Services: If a line is not available at the date of the Order for Network Services, the Customer must place a separate order for such with TMB and such must be provisioned in advance of provisioning of the Tail Circuit Services;
- 11.7.7 If Tail Circuit Services are to be provided using Fibre Ethernet technology and Fibre Ethernet is also to be employed for the Backup Tail Circuit Services and after TMB's survey it is identified that the proposed routing of the primary and backup circuits would be common, TMB shall as soon as it becomes aware of such, notify the Customer of the limitation and the Customer shall be entitled to cancel the Order for Backup Tail Circuit Services forthwith without incurring installation or cancellation Charges;
- 11.7.8 The Customer accepts that primary Fibre Ethernet Tail Circuit Services backed up with Backup Tail Circuit Services which employ Ethernet in the First Mile technology shall terminate at the same Exchange.
- 11.7.9 The minimum term for Backup Tail Circuit Services is twelve months. If Backup Tail Circuit Services are added to existing Services and the Agreement for the provision of the existing Services is terminated, the Customer shall be liable for all Charges associated with the Backup Tail Circuit Services for their minimum term;
- 11.7.10 Internal shifts are not included in the provisions of the Services.
- 11.8 Maintenance of Equipment provided by TMB under the terms of this Agreement, regardless of whether such Equipment is sold, rented or loaned, excludes fixing faults that arise due to:

- 11.8.1 Misuse or neglect of the Equipment;
- 11.8.2 Accidental or wilful damage to the Equipment;
- 11.8.3 Issues or other problems that arise in the Customer's Local Area Network.

## **12. WAYLEAVE**

- 12.1 During the term of this Agreement and for a period of sixty days following any termination thereof, the Customer hereby irrevocably gives permission to TMB and its employees, agents, suppliers or contractors on reasonable notice at such reasonable times to execute any works on the relevant Site for, or in connection with, the installation, maintenance, adjustment, repair, alteration, moving, replacement, inspection, renewal or removal of the Equipment.
- 12.2 TMB agrees to cause as little disturbance, damage and inconvenience as reasonably possible when exercising any of its rights under clause 12.1.
- 12.3 The Customer warrants that it:
  - 12.3.1 Is the current occupier of the Site; and
  - 12.3.2 Is either the freeholder of the Site or is a tenant thereof under a lease expiring not before the expiry of the Minimum Term and any Additional Term thereafter;
  - 12.3.3 Shall not do or allow anything to be done to the Site that may cause damage to, or interfere with, the Equipment or prevent reasonable access thereto;
  - 12.3.4 Shall, if it or a third party proposes to carry out works to the Site which requires the Equipment to be removed, relocated or altered, give TMB as much notice of its proposed works as is reasonably practicable (and in any event no less than six calendar months' prior written notice);
  - 12.3.5 Shall procure all Site-related permissions and approvals necessary for TMB to deliver, install and maintain the Equipment and shall ensure the continuance of such throughout the term of this Agreement.

## **13. INSTALLATION**

- 13.1 Prior to installation of any Equipment that is to be installed (including CPE Router, firewall and hub as set out on the Order) the Customer shall ensure that:
  - 13.1.1 Sufficient electrical mains sockets and LAN connection are available within two metres of the site of the NTE;
  - 13.1.2 TMB has been notified of all Customer-requirements relating to the configuration of the CPE Router;
  - 13.1.3 Free local IP addresses are available for the CPE Router and any other Equipment that is to be installed;
  - 13.1.4 A network diagram of the Customer's Local Area Network has been provided to TMB;
  - 13.1.5 All necessary LAN access-control changes have been made;
  - 13.1.6 TMB has been notified of the LAN connection type;
  - 13.1.7 A named local contact, with suitable access rights and the authority to provide signed acceptance of the installation has been identified and whose availability on the date of installation has been confirmed;
  - 13.1.8 All redundant hardware has been removed from the site of the installation.
- 13.2 Installations shall be carried out Monday to Friday between 09:00 and 17:00, excluding bank and public holidays.
- 13.3 If the Customer fails to sign TMB's installation acceptance and either:
  - 13.3.1 The Customer fails to notify TMB of any Issue within a period of thirty days from the date of installation; or
  - 13.3.2 The Customer uses the Network Services;the Customer shall be deemed to have accepted the installation.

## Service Schedule

The following Service Schedule sets out all of the Services that may be provided by TMB within these Supplemental Terms. The actual Services to be provided under the terms of this Agreement are listed on the Order.

### 1. Service Description Overview

1.1 The Core Network Services provide a number of optional services, as set out on the Order:

- Access to the Public Internet, via TMB's internet exchange Point of Presence
- Point to Point connectivity, which in conjunction with Tail Circuits provides connectivity between pairs of Customer Sites. Two Tail Circuits are required to deliver this service
- TMB's MPLS-based private wide area network service is a fully managed wide area network solution that is ideal for multi-site businesses who wish to improve service while reducing costs. The service delivers performance, reliability and secure connectivity to enable efficient connection and communication between geographically diverse Sites as part of a single network. Prioritisation of critical business applications can be achieved by in-built quality of service mechanisms that ensure prioritised and guaranteed performance of voice, video and key business applications. The service includes a firewall which eliminates the need for a firewall at each Site and ensures End Users have the same high level of protection, across all network access points. The service requires a Tail Circuit at each Site
- The Core Network Services are fully managed and are proactively monitored 24x7

1.2 Tail Circuits provide connectivity between the Customer's Local Area Network and TMB's Core Network and are implemented using a number of different technologies. The technology type, bandwidth and resilience options provided under the terms of this Agreement are set out in the Order:

- Fibre Ethernet is the most scalable and reliable site connectivity type, offering the highest bandwidths available – up to 1Gbps. Fibre provisioning from Ethernet nodes (exchanges) to the Customer premises removes the degradation in performance experienced with copper tails. Ethernet over Fibre circuits are high-speed, uncontended, and symmetrical and deliver guaranteed throughput. With dedicated bandwidth, this service is suitable for real-time applications including VoIP and video conferencing
- FTTC Ethernet is a lower cost Ethernet access solution that uses a combination of an existing copper pair to connect the Customer's premises to a street cabinet and FTTC tail technology to connect the street cabinet to the local Exchange and an Ethernet-based back-haul connection from the Exchange to the Core Network. FTTC Ethernet access offers significantly reduced lead times and lower rental costs compared with Fibre Ethernet tail circuits. Bandwidth supplied is uncontended and symmetrical up to 20Mbps (with up to 80Mbps available as an option) depending on the capabilities of the copper line. FTTC Ethernet will typically support up to 20 users per site
- Fibre-To-The-Cabinet ('FTTC') Tail Circuit technology comprises a fibre connection from the local exchange to a street cabinet and a copper loop connection from the cabinet to the Customer's Site. The service supplied is asymmetrical and contended, with Bandwidths up-to 80 Mbps download and up-to 20Mbps upload, depending on the capabilities of the copper loop
- Fibre-To-The-Premises ('FTTP') Tail Circuit technology comprises a fibre connection from the local exchange to a street cabinet and a fibre connection from the cabinet to the Customer's Site. The service supplied is asymmetrical and contended, with Bandwidths up to 330 Mbps download and up to 20Mbps upload
- Single Order Generic Ethernet Access ('SoGEA') is technically identical to FTTC, but is supplied without the requirement for a PSTN connection. The availability of SoGEA is Exchange-dependent
- ADSL2+ Annex A Tail Circuit technology comprises a copper loop connection from the Customer's Site to the local exchange. The service supplied is asymmetrical, with Bandwidths up-to 24Mbps download and up-to 1.3 Mbps upload, depending on the capabilities of the copper loop
- ADSL2+ Annex M Tail Circuit technology comprises a copper loop connection from the Customer's Site to the local exchange. The service supplied is asymmetrical, with Bandwidths up-to 24Mbps download and up-to 2.5 Mbps upload, depending on the capabilities of the copper loop. The increase in upload Bandwidth is at the expense of download Bandwidth

- Backup Tail Circuit Services options, which are dependent on the primary Tail Circuit technology employed and are based on Fibre Ethernet, FTTC Ethernet, ADSL and FTTC Broadband
- Except where the Tail Circuit is provided as a Wires Only Service, Tail Circuits are fully managed and are proactively monitored 24x7

**2. Repair of Customer Premises Equipment**

Faulty Customer Premises Equipment will be replaced by TMB as follows:

- CPE that is within its twelve month warranty period will be replaced free of charge, provided that the faulty CPE is promptly returned to TMB
- CPE that is not within its twelve month warranty period will be replaced and the Customer will be charged for the replacement CPE
- The replacement CPE will be despatched on the next Working Day
- If the Customer is in receipt of a Managed Service, the replacement CPE will be configured with Services settings prior to despatch, but not Customer-specific settings (for example, additional open ports and wi-fi settings)

**3. Service Levels**

3.1 TMB has the following end to end Network availability and Network performance targets. Availability and performance are measured as a monthly average:

Network Services Availability Targets	
Availability without Backup Tail Circuit	99.90%
Availability with Ethernet (Fibre, EFM or FTTC Ethernet) backup Tail Circuit	99.99%
Availability with FTTC / SoGEA Backup	99.93%

3.2 Network performance is measured as a monthly average and excludes any delay caused by:

- The Customer or any third party
- Outage of FTTC Ethernet or Broadband based Tail Circuits
- Transit or peering connections
- Circuits to the traffic exchange points
- Planned or Emergency Maintenance
- Failure of, or of power to, equipment not supplied by TMB
- Failure of the Customer to give Site access to TMB during the resolution of an Issue
- The performance of the Public Internet

3.3 Tail Circuit Time to Repair Targets

3.3.1 Issue priorities are defined as follows:

- Priority 1 Issues include total outage of the Network Services resulting in a the Customer’s Site being unable to transmit or receive any data
- Priority 2 Issues include reduced bandwidth or network performance, resulting in delayed or slow transmission of data
- Priority 3 Issues include problems that affect less than 10% of users or a configuration problem
- Informational issues include requests about configuration, usability or documentation

3.3.2 TMB shall aim to fix a reported Issue within the Tail Circuit type based times below:

Target Repair Times	
<u>Tail Circuit Type / Issue Priority</u>	<u>Target Repair Time</u>
Fibre Ethernet Priority 1 Issue	7 hours
FTTC Ethernet Priority 1 Issue	10 hours
Fibre Ethernet, FTTC Ethernet / Priority 2 Issue	1 Working Day
Fibre Ethernet, FTTC Ethernet / Priority 3 Issue	3 Working Days
FTTC / SoGEA all priorities	48 hours
ADSL2 all priorities	Reasonable endeavours

3.3.3 Target Restoration and Resolution times do not cover Issues that are associated with physical cable breaks or vandalism within the local loop network. Estimated restoration of service will be communicated to the Customer via TMB's Service Desk. Approximate restoration of service will be 5-10 working days.

- 3.4 TMB shall make reasonable endeavours to ensure that the Network Services are fully available twenty four hours per day, three hundred and sixty five days per year. However it is not possible to guarantee 100% availability of the Network Services and TMB does not make such warranty.
- 3.5 Failure by TMB to meet the targets set out in this paragraph shall not be deemed a breach of this Agreement.

**4. Service Desk**

- 4.1 TMB's Service Desk provides support and assistance in the use of the Services, including the following:
  - Provision of help and guidance in the use and configuration of the Network Services
  - Management of the prompt resolution of Issues arising within the Network Services which are identified by TMB's monitoring system
  - Management of the prompt resolution of Issues arising within the Network Services which are raised by the Customer
  - Management of hardware and firmware upgrades to TMB-supplied CPE Routers as required as a result of routine maintenance or product / service improvement activities by TMB
  - Management and resolution of TMB-supplied CPE Router hardware failures
  - Escalation management if required in the event of protracted issue resolution
  - Remote access support if possible and appropriate
  - On-Site assistance when it is agreed between the parties that such is the best approach to resolving an Issue
- 4.2 The Customer shall make requests for assistance by one of the following methods:
  - Via TMB's customer portal, which is accessed from [www.tmb.co.uk/customer-login](http://www.tmb.co.uk/customer-login)
  - By email to TMB's Service Desk: [support@tmb.co.uk](mailto:support@tmb.co.uk)
  - M1 and P1 Issues (as defined in TMB's SLA document) by telephone to TMB's Service Desk: 0333 900 9050.
- 4.3 The Service Desk is available to take calls and respond to Service Requests between the hours of 9am to 5pm Monday to Friday, excluding bank and public holidays. The Customer may however send emails at any time.
- 4.4 The Service Desk is responsible for monitoring the Network Services (including TMB-supplied CPE Router) for availability.

- 4.5 Site visits will be provided at no charge for the resolution of Network Service-availability related Issues; Site visits for any other reason will be chargeable at TMB's prevailing rate.
- 4.6 TMB shall aim to make an initial response to the Customer's request for assistance within 30 minutes of the Customer making the request.

## 5. **Complaint Handling**

If dissatisfied with any Services-related matter, the Customer should make a complaint using TMB's escalation process which can be found at <http://www.tmb.co.uk/terms>.