

Vision Network Wholesale Service Agreement

Vision Network Pty Limited (ACN 087 533 328) ("**Supplier**") supplies the Service on a wholesale basis and the Customer agrees to acquire the Service from the Supplier on the terms set out below.

The Supplier is a wholly owned subsidiary of Vocus Group Ltd (ACN 084 115 499) (""). Pipe Networks Pty Limited (ACN 099 104 122), TransACT Capital Communications Pty Ltd (ACN 093 966 888) and TransACT Victoria Communications Pty Limited (ACN 063 024 475), which are also wholly owned subsidiaries of Vocus, supply wholesale services to the Supplier under services agreements.

1. Agreement

- 1.1 Under this Agreement, the Customer is entitled to submit Orders with the Supplier for Services during the Term subject to the terms and conditions set out in this Agreement.
- 1.2 This Agreement commences on the later of 1 October 2022 or the Execution Date and continues until 1 October 2024 (**Initial Term**). Following the Initial Term, this Agreement will automatically renew for additional 1 year periods (each an **Additional Period**) unless the Supplier provides the Customer with a written notice at least 90 days before the end of the Initial Term or Additional Period (as applicable) that it does not wish for this Agreement to so continue, in which case, this Agreement will expire on the date set out in the written notice (**Expiry Date**) unless terminated earlier in accordance with its terms.
- 1.3 Notwithstanding the acquisition of multiple individual Services, there will only be one Agreement between the Supplier and the Customer in relation to the supply of the Services.

2. Service Description

- 2.1 As further described in the Service Description, the Service means a layer 2 (or in respect of HFC, a layer 2 or layer 3) fixed line broadband service between an End User Demarcation Point and the NNI and which is supplied over the Regulated Network. The Service may be supplied using various access technology types and, depending on the access technology used, includes the following components which may be ordered by the Customer by separate Orders:
 - (a) an Access Circuit;
 - (b) one or more HAC Circuits or in the case of HFC (Layer 3), one or more Layer 3 Realms;
 - (c) one or more NNIs; and
 - (d) any such additional Service components applicable to HFC as set out in the applicable Service Description (**Additional HFC Components**).
- 2.2 The Service is designed for resale by the Customer to End Users who are located in a Building.
- 2.3 A Service ordered under Part 19 of the Telecommunications Act will comply with the Qualifying Fixed Line Carriage Service Criteria.
- 2.4 Unless specified in the Order Form, the Service does not include installation, ownership or management of the copper that exists within the Building on the End User side of the End User Demarcation Point. Unless specified in the Order Form, the Customer is responsible for installation of a copper jumper between the network side of the main distribution frame and the End User side of the main distribution frame. The Supplier expressly excludes any liability for any failure or defect in the Service caused by that jumper or in Building copper.
- 2.5 The Service includes second level support. The Customer is required to provide first level support to its End Users. The Customer must ensure that none of its End Users contacts the Supplier.
- 2.6 The Service is only available to Buildings within relevant network coverage area where there is available infrastructure to provision the Service as further described in the Service Description.
- 2.7 The provision of Services on FTTB or FTTN using G.Fast access technology is subject to the availability of ports in the relevant Building or DSLAM. The Supplier will make ports available to its customers on a first come first served basis.
- 2.8 Where an FTTB or FTTN Service cannot be activated using G.Fast access technology, the Supplier will activate the Service on the highest achievable plan using VDSL technology. In this case the Customer may within 10 Business Days from being notified by the Supplier that G.Fast access technology is not available at the Site either terminate the relevant Service at no charge or accept the downgrade offer and the Supplier must adjust billing for that Service accordingly.
- 2.9 The Service comes in a range of speed variants that are set out in the Price Book. The connection speed of the Service will be high speed broadband delivered using GPON, G.Fast, ADSL2+, VDSL or

HFC access technology, as available at the Site. The Supplier does not guarantee Customers will achieve maximum GPON, G.Fast, ADSL2+, VDSL or HFC connection speeds as specified in this Agreement or the Order.

- 2.10 The speeds for the Service can vary substantially due to many factors. Actual throughput speeds may be slower and could vary due to various factors including interference, customer cabling and equipment, download source, and quality and distance of in-building copper and copper connections.
- 2.11 The Service is not a standard telephone service and the Customer Service Guarantee (“**CSG**”) does not apply to it. The Supplier recommends that the Customer obtain from End Users a waiver in relation to the CSG. The Customer indemnifies the Supplier in respect of any claim made against the Supplier (including a claim made by the Customer) under or in connection with the CSG.
- 2.12 If the Service is installed on a copper pair at the Site, the Customer acknowledges and agrees (and warrants that its End User acknowledges and agrees) that it will not be able to use that copper pair for any telecommunications service supplied by a third party carrier.
- 2.13 The Service does not include the switching of voice calls. If the Customer wishes to provide a voice service to its End Users, the Customer must establish their own voice switching capability. The Customer should inform its End Users that no calls can be made to the emergency service number (000) over the Supplier Network until the Service is activated and the Customer’s voice switching capability is enabled on the Service and that, if the Service is disconnected or there is a power outage, calls to 000 will not be carried. The Customer should recommend to End Users that they should have a mobile service available for use when seeking emergency assistance in case of disconnection or outage. The Customer indemnifies the Supplier in respect of any claim made against the Supplier (including a claim made by the Customer) under or in connection with carriage of voice calls to emergency services.
- 2.14 The Customer acknowledges and agrees the Service does not meet the requirements of priority assistance and if the Customer’s End User requires priority assistance in accordance with Communications Alliance Code ACIF C609:2007 (“**Priority Assistance**”), the Customer will need to provide its End User with an appropriate service from another service provider. The Customer indemnifies the Supplier in respect of any claim made against the Supplier (including a claim made by the Customer) under or in connection with Priority Assistance.
- 2.15 It is the sole responsibility of the Customer to comply with all regulatory and legal obligations that is applicable to the Customer’s resupply of the Service to its End User. The Customer indemnifies the Supplier in respect of any claim made against the Supplier (including a claim made by the Customer) under or in connection with the Customer’s failure to comply with such obligations, except to the extent such failure has been caused or contributed to by any material breach by the Supplier under this Agreement.

3. Sandpit

- 3.1 Following execution of this Agreement, the Customer agrees to enter a sandpit phase if directed by the Supplier (“**Sandpit Phase**”) during which:
 - (a) the Customer must order at least one HAC Circuit and an NNI and the Supplier shall provision those Services;
 - (b) the Supplier will advise the Customer about the B2B Systems that will be available for the Customer to use during the Term;
 - (c) the Customer must establish its systems to interact with the B2B System; and
 - (d) the Supplier must provide reasonable testing and reporting information to the Customer for the purposes of assisting the Customer to establish the Customer’s systems that interface with the B2B Systems.
- 3.2 The Sandpit Phase may last for a period of up to 3 months from the signing of this Agreement, following which the Supplier will have no ongoing obligations under clause 3.1.

4. Ordering

- 4.1 The Customer may order HAC Circuits, Layer 3 Realms and NNIs via an Order Form (whether paper or electronic) or such other ordering process as may be accepted by the Supplier.
- 4.2 The Supplier will supply and maintain the B2B System and, subject to this Agreement, Access Circuits may be ordered by the Customer via the B2B System.
- 4.3 Each Access Circuit will be deemed ordered when the B2B System transmits to the Customer (or the Customer’s system) confirmation of receipt of the Order.
- 4.4 Once ordered, a HAC Circuit, a Layer 3 Realm, an NNI, an Access Circuit or an Additional HFC Component

may only be cancelled in accordance with clause 6.

5. Provisioning of Service

- 5.1 Upon acceptance by the Supplier of the Order, the Supplier agrees to provide and the Customer agrees to acquire the Service as set out in the Order Form.
- 5.2 The Supplier is responsible for delivering the Service between the NNI and the End User Demarcation Point at the Building. Unless specified in the Order Form, the Customer is responsible for all cabling and wiring within the Building for UBE and VDSL, including jumpering between the network side of the main distribution frame and the End User side of the main distribution frame. Where cabling does not exist or the Customer has a fault with the wiring in the Building, the Customer must arrange for its own contractor to rectify this.
- 5.3 Subject to clause 5.4, the Service will be activated on the later of the date on which the Supplier is able to provide the Service and the requested activation date nominated in the Order Form. The Supplier will use commercially reasonable endeavours to activate the Service in accordance with the timeframes requested by the Customer.
- 5.4 For Services ordered under Part 19 of the Telecommunications Act, if the Customer has satisfied its obligations under clause 5.2, and the Order is for no more than a single Service per premise, then the Services will be activated on the later of the date on which the Supplier is able to provide the Service and the requested activation date nominated in the Order Form, provided that the Service will be connected by no later than 5 Business Days from acceptance of the Order.
- 5.5 The Customer can request for a Local Access Line to test the service end to end, at the standard Local Access Line cost to test its Hardware. The Customer must post or courier a preconfigured modem or router to the Supplier's address. The Supplier will connect the preconfigured modem and or the router for the Customer to test its configuration. This Local Access Line test service is available by prior arrangement and timeslots. Remote hands assistance are limited to simple technical tasks, such as power cycling the unit or connecting a laptop to the modem or router.

6. Cancelling a Service

- 6.1 Once ordered, a Service may only be cancelled by the Customer as follows:
 - (a) A HAC Circuit and an NNI may be cancelled by the Customer at any time by providing the Supplier with at least 30 days written notice.
 - (b) An Access Circuit may be cancelled by the Customer using the B2B System. If the Access Circuit is cancelled within 6 months of activation, a cancellation fee as set out in the Price Book will apply.
- 6.2 The Supplier may cancel a Service, without penalty, where:
 - (a) a Regulatory Event occurs which materially affects the Supplier's ability to operate its business or supply of any particular service, subject to the Supplier having first taken all reasonable steps to mitigate the effect(s) of such Regulatory Event prior to electing to cancel the Service. The Supplier is not obligated to take all such reasonable steps where and to the extent that doing so would prevent it from complying with the Regulatory Event, or where the Supplier has been directed to cancel such Service(s) by any order or direction from any law enforcement agency or Regulator); or
 - (b) the Supplier has given to the Customer not less than 60 days' written notice of cancellation.

7. Service Levels

- 7.1 The Supplier does not warrant that the Service will be uninterrupted or fault free. The Supplier will use its best endeavours to supply the Service with a high availability and to rectify a fault or service difficulty following a report by the Customer as soon as reasonably possible and, for Services ordered under Part 19 of the Telecommunications Act, within 3 Business Days of the date the Customer has requested the Supplier to conduct a Site inspection. Any delays experienced by the Supplier in conducting a Site inspection that are attributable to an End User will not be included in the calculation of the 3 Business Day period.
- 7.2 No credits or rebates will be given for any outage or fault with the Service.

8. Customer Obligations

- 8.1 Ensure Proper use of the Service: Customer agrees that it will not, and will ensure that its End Users will not, or by any negligent act or omission:
 - (a) use or permit the use of the Service in any manner which constitutes a violation or an infringement of any duty or obligation in contract, tort, or otherwise to any third person;

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- (b) use or permit the use of the Service in connection with the commission of an offence against the laws of the Commonwealth or the States or Territories;
 - (c) use or permit the use of the Service for the transmission of any defamatory, offensive, abusive, indecent, spam or menacing material or the making of any hoax call or in any other manner in contravention of the Acceptable Use Policy;
 - (d) use or permit the use of the Service in connection with the transmission of any computer virus that may adversely affect the Supplier Equipment, the Supplier Network, the equipment or network of any third party provider to the Supplier or any network users;
 - (e) use or permit the use of the Service to engage in any activities in a manner that may expose the Supplier or any third party provider to the risk of any legal or administrative action including prosecution under any law; or
 - (f) interfere or attempt to interfere with the operation of the Service, Service number or an IP address; any Supplier Equipment; the Supplier Network or the equipment, network or IP Addresses of any other person.
- 8.2 Assistance: Customer must, and, where reasonably required, will procure its End Users must, do everything reasonable to help, and co-operate with, the Supplier and any person engaged by the Supplier to provide to the Customer the Service at the Site. The kinds of assistance the Supplier may require from the Customer (or Customer's End User) include:
- (a) ensuring that it is possible and safe for the Supplier and persons engaged by the Supplier to obtain necessary access to a Site (including for any emergency);
 - (b) ensuring that relevant people are available and give to the Supplier timely instructions;
 - (c) ensuring that Customer Equipment is ready at the appropriate times;
 - (d) at Customer's own expense and following the Supplier's reasonable instructions in connection with making any modifications to Customer Equipment reasonably necessary to enable the Supplier to provide the Service;
 - (e) informing the Supplier of the location of Supplier Equipment (if any); and
 - (f) working together with the Supplier to establish procedures to reduce fraud or the opportunity for fraud in relation to the Service.
- 8.3 Reporting and Inspections: The Customer agrees to supply to the Supplier or the Supplier's nominated agent any information reasonably requested by the Supplier relating to the Customer:
- (a) for credit management purposes (see also clause 14);
 - (b) to enable the Supplier to monitor and help reduce the incidence of fraud;
 - (c) to assist the Supplier in complying with its regulatory obligations and its obligations to report on compliance with those obligations;
 - (d) to assess whether or not the Customer has complied, is complying and will be able to continue to comply with all obligations imposed on the Customer under this Agreement; and
 - (e) for other purposes reasonably required by the Supplier from time to time and agreed by the Customer.
- 8.4 Wholesale only: The Customer acknowledges and agrees that the Supplier is only permitted to supply the Services to the Customer on a wholesale basis and the Customer represents and warrants that it is only acquiring the Services on a wholesale basis for resupply to its End Users.

9. Equipment

- 9.1 Supplier Equipment. If required for the provision of the Service, the Supplier will supply to the Customer the Supplier Equipment. Customer is responsible for the Supplier Equipment and must compensate Supplier for any loss or damage to it, (fair wear and tear excepted), unless the Supplier or Supplier's agent causes such loss or damage. If the Customer becomes aware of any loss of, damage to, claim over, or malfunction of the Supplier Equipment, the Customer must promptly notify the Supplier. The Supplier may, at any time and at the Supplier's cost, modify or replace Supplier Equipment provided there is no material adverse impact on the provision of the Service. In respect of Supplier Equipment, the Customer must and ensure its End User must:
- (a) provide an adequate power supply and a suitable physical environment in accordance with the Supplier's reasonable directions;
 - (b) only permit the Supplier Equipment to be repaired, serviced, moved or disconnected by the Supplier unless otherwise permitted by the Supplier in writing;

- (c) not remove or obscure any identification marks on the Supplier Equipment;
- (d) make title to the Supplier Equipment clear to all persons;
- (e) comply with all reasonable instructions given by the Supplier to protect the Supplier's ownership of the Supplier Equipment; and
- (f) not do anything or allow anything to be done which might affect the Supplier's ownership of the Supplier Equipment.
- (g) The supplier equipment must be returned to the Supplier or other arrangements must be made on termination of the service.

9.2 **Customer Equipment:** Customer is responsible for the installation of any Customer Equipment and connections to the Supplier Network necessary for the Supplier to provide the Service. Customer must ensure that Customer Equipment does not have a detrimental effect, as determined by the Supplier, on the Supplier Network and accords with all relevant laws.

9.3 The Supplier may, without liability, immediately disconnect all or any of the Customer Equipment if the Supplier reasonably considers that Customer Equipment may:

- (a) cause death or personal injury;
- (b) cause damage to the property of the Supplier or another person; or
- (c) materially impair the operation of the Supplier Network,

provided that, where and to the extent that it is reasonable for the Supplier to do so, the Supplier will notify the Customer before disconnection. Where the Customer Equipment is located at a place under the control of the Customer, the Customer must promptly comply with a written request from the Supplier to disconnect Customer Equipment in accordance with this clause 9.3.

9.4 The Supplier supports a limited number of hardware modems, the make and models of the supported modems and router are listed in the Supplier's website and will be updated periodically.

9.5 Where the Customer chooses to deploy a different make or model modem or router to the models listed in the Supplier's website, no vendor hardware support will be provided.

10. Charges and Payment

10.1 The Price Book sets out the Charges that will be payable in connection with the supply of the Services.

10.2 Other ad-hoc and ancillary Charges may be incurred by the Customer. Such ad-hoc charges include remote hands fees, out-of-hours or incorrect call out fees, administration charges for moves, adds or changes or other charges notified by the Supplier from time to time. Such ad-hoc fees will only be charged when the Customer has been advised of the fees in advance of ordering the service that leads to the fee.

10.3 The Customer's obligation to pay for the Service and for each element of the Service will accrue on and from the Service Commencement Date for each component of the Service (that is, for each HAC Circuit, each Access Circuit, each Layer 3 Realm, each NNI and each Additional HFC Component).

10.4 Supplier will periodically issue to the Customer an invoice for the Service and the Customer must pay each invoice in Australian dollars within 30 days of the Invoice Date ("**Due Date**"). The Customer agrees that Supplier may use a Related Body Corporate of Supplier to perform billing and collection services for Supplier in relation to Invoices and that amounts invoiced by and paid to that Related Body Corporate shall be treated as payments under this Agreement.

10.5 To the extent that it is not precluded by regulation from doing so, if Supplier has omitted Charges from an invoice for any reason, Supplier may include such Charges in a later invoice.

10.6 If the Customer disputes the validity of any Charges in an invoice:

- (a) the Customer must notify Supplier in writing of the reasons for the dispute within 30 days of the date of that invoice;
- (b) the Customer must pay the full amount of the Charges in the disputed invoice unless the Customer has notified Supplier in writing of the reasons for the dispute by the Due Date of that invoice and will pay the undisputed portion of the Charges in the invoice by the Due Date of that invoice;
- (c) Supplier will endeavour to give the Customer a determination on the dispute within a reasonable time of receiving the Customer's notice of dispute and Supplier must keep the Customer informed as to the expected timeframe for finalisation;
- (d) where the determination is that a disputed amount is payable to Supplier, the Customer must pay such amounts within 5 Business Days of receiving notice of the determination; and
- (e) if the Customer disagrees with the determination, the Customer will be entitled to engage the dispute resolution mechanisms set out in clause 21 below.

10.7 If the Customer fails to pay when due any amount Supplier will be entitled to:

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- (a) charge interest on the overdue amount (both before and after judgment), at the rate of 6% above the cash rate set by the Reserve Bank of Australia. This interest will be calculated daily and compounded every 30 days;
 - (b) impose a charge to cover its reasonable expenses and costs incurred in enforcing any failure or delay in the payment (including the cost of engaging a debt recovery agent); and
 - (c) suspend provision of the Service in accordance with clause 15 below.
- 10.8 The Customer agrees and acknowledges that the Supplier may pass on any increases in charges incurred by the Supplier following any new or varied regulation that applies in respect of the Regulated Network where such charges impact the cost of supply of the Services to the Customer, including any new tax, levy or other charge. The Supplier will give the Customer 14 days written notice of any increase to the charges under this clause.
- 10.9 There is a presumption that records held and logging procedures adopted by the Supplier or any other third party provider with which the Supplier Network is interconnected are correct and that the Charges have been incurred and are payable by the Customer in the absence of manifest error.
- 11. GST and Other Taxes**
- 11.1 Words used in clauses 11.2 and 11.3 which have a defined meaning in the GST Law, have the same meaning as in the GST Law unless the context indicates otherwise.
- 11.2 Unless otherwise stated, the consideration for any supply under or in connection with this Agreement is exclusive of any GST. To the extent that any supply made under or in connection with this Agreement is a taxable supply, the Customer must pay, in addition to the consideration to be provided under this Agreement for that supply (unless it expressly includes GST), an amount equal to the amount of that consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. The additional consideration is payable at the same time as the consideration to which it relates. The Supplier must issue a tax invoice to the Customer of the supply prior to the time of payment of the GST inclusive consideration or at such other time as the parties agree.
- 11.3 Where an adjustment event arises under or in connection with this Agreement the Supplier must issue to the Customer an adjustment note in accordance with the GST Law within 14 days of becoming aware of the need to make the adjustment. If, as a result of an adjustment event, an additional amount is required to be paid by the Customer this payment will be made subject to an adjustment note being issued by the Supplier. If either party is entitled under this Agreement to be reimbursed or indemnified by the other party for a cost or expense incurred in connection with this Agreement, the reimbursement or indemnity payment must not include any GST component of the cost or expense for which an input tax credit may be claimed by the party being reimbursed or indemnified.
- 11.4 The Customer must pay all taxes (including any goods or services tax or any equivalent thereof), duties, stamp duties, impost, levies or government charges (excluding income taxes payable by the Supplier) relating to this Agreement, the supplied Services or the provision of the Supplier Equipment. Should there be an introduction of any new tax, duty, levy or government charge (excluding income taxes payable by the Supplier) relating to any charges (including Charges) under this Agreement, the Customer must pay the Supplier for such taxes, duty, levy or government charges imposed under such relevant legislation.
- 12. Variation of Agreement**
- 12.1 Except as set out in this clause, this Agreement may not be varied except in writing signed by the parties.
- 12.2 The parties acknowledge that the Service may be a regulated service and that the Supplier may from time to time wish, or be required, to make changes to this Agreement or the Services for all persons acquiring Services under this Agreement.
- 12.3 The Supplier may at any time vary this Agreement due to any Regulatory Event by giving to the Customer written notice of the variation (a **Variation Notice**). If the Supplier gives a Variation Notice and the Customer does not accept the variation, the Customer must notify us in writing within 20 Business Days from the date of the Variation Notice. If the Customer fails to do so, the Customer will be deemed to have accepted the variation and the new terms and conditions will take effect from the next billing period after the Variation Notice was given or at the time specified in the Variation Notice.
- 12.4 If the Customer notifies the Supplier that it does not agree to the variation, the Customer and the Supplier must discuss the proposed variation in good faith. If no agreement on a variation arises within a further 20 Business Days, either party may terminate the Service upon the giving of a further 20 Business Days' notice. For the duration of the further notice period, the terms and conditions applicable immediately preceding the delivery of a Variation Notice will continue to apply.
- 12.5 Any other variation between the parties will only be binding where agreed in writing.

13. Transition to new version of the Agreement

- 13.1 The Supplier may publish a new version of this Agreement (**New Agreement**) to replace and supersede this version in its entirety on and from the Expiry Date.
- 13.2 If the parties sign the New Agreement before or on the Expiry Date, then on and from the Expiry Date:
- (a) the Services will be supplied on the terms and conditions of the New Agreement;
 - (b) each Order placed prior to the Expiry Date that has not been completed will become an Order under the New Agreement; and
 - (c) each Order placed on or after the Expiry Date will become an Order under the New Agreement.
- 13.3 If the Customer has not signed the New Agreement on the Expiry Date, the Customer acknowledges and agrees that it will be deemed to have accepted the New Agreement on and from the Expiry Date by continuing to acquire Services on or after the Expiry Date or by placing an Order on or after the Expiry Date.
- 13.4 This clause 13 survives termination or expiry of this Agreement.

14. Creditworthiness

- 14.1 The Supplier's obligations to supply a Service, and to continue supplying a Service, is subject the Supplier being satisfied as to the creditworthiness of the Customer.
- 14.2 The Supplier may, from time to time, review the Customer's creditworthiness. In doing so, the Supplier may seek from the Customer or an independent person such as a credit reporting agency or credit provider information or advice to assist in the creditworthiness review.
- 14.3 Customer agrees promptly to cooperate with a review by:
- (a) providing to the Supplier any information (including a completed the Supplier credit application form) the Supplier reasonably requires to conduct any such review; and
 - (b) giving to the Supplier permission (which permission is by the signing of the Order Form granted) to communicate with credit reference associations about the Customer's creditworthiness.
- The information sought in this clause can include any information reasonably required by the Supplier about the Customer's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive under law.
- 14.4 The Customer warrants that all material information that it provides to the Supplier in any creditworthiness review will provide a true and fair view of the Customer's financial position at the time it is provided, and that all other information is accurate and complete.
- 14.5 The Customer is entitled to see and to correct any credit information that the Supplier holds about the Customer.
- 14.6 Following a creditworthiness review of the Customer which may occur at any time before or during the supply of the Service, the Supplier may give to the Customer a written notice specifying a credit limit and/or the security that the Customer is required to give to the Supplier, which must be in a form and amount that is no more than reasonably required.
- 14.7 If the Customer fails to provide the security required by the Supplier within a reasonable time or exceeds the nominated Credit Limit, the Supplier may suspend the supply of the Service.

15. Service Suspension

- 15.1 In addition to any other rights of suspension contained in this Agreement, the Supplier may suspend the provision of the Service, or access to the B2B System, to the Customer:
- (a) immediately and, because of the urgency of the need, without prior notice, where:
 - (i) the Supplier is required to undertake the repair, maintenance or service of any part of the Supplier Network (or an interconnected third party provider is required to undertake such work on its network) to attend to any emergency;
 - (ii) it is reasonably required to reduce or prevent fraud or interference within the Supplier Network;
 - (iii) the Supplier believes it is necessary to do so to comply with any law or an order, instruction or request of government, the ACMA, emergency services or other competent authority;
 - (iv) a Force Majeure Event occurs which materially affects the Supplier's ability to provide the Service; or
 - (b) upon giving 10 Business Days' notice where the Customer is not in breach of this Agreement, or 5 Business Days' notice where the Customer is in material or persistent breach of this Agreement, such suspension to continue for so long as the breach subsists or until termination of this

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16. Termination

16.1 A party may, at its election, terminate this Agreement:

- (a) immediately by written notice to the other party if a receiver, liquidator, provisional liquidator or administrator is appointed over any of that other party's undertakings or assets and that appointment continues for a period of 5 Business Days, or if that other party enters into any arrangement with any of its creditors or any class of such creditors or if that other party ceases to carry on business;
- (b) immediately by written notice to the other party if that other party breaches any other provision of this Agreement and does not rectify that breach within 30 days of receiving written notice from the other party requesting it to do so.

16.2 The Supplier may immediately, by giving notice to the Customer, terminate this Agreement if:

- (a) following a suspension of the Service under clause 15.1(b) or 14.7 the Customer fails within 14 days of the commencement of the suspension to rectify the breach giving rise to the suspension;
- (b) the Customer commits persistent breaches of this Agreement, or in particular, the Acceptable Use Policy;
- (c) the Customer is in breach of a license, permit or authorisation relating to the use of or connection of equipment to the relevant access line, or the use of Services;
- (d) the Supplier reasonably suspects that the Customer has suspended payment of its debts generally;
- (e) the Supplier reasonably suspects fraud in respect of, or misuse of, the Service by the Customer; or
- (f) the Supplier is ceasing to sell the Service to any person and the Supplier has given to the Customer not less than 60 days' written notice of this cessation.

16.3 A party may terminate this Agreement with immediate effect from the date of service of a notice, or a later date specified in the notice, if a Force Majeure Event significantly affects the other party's ability to perform its obligations (other than an obligation to pay money) under this Agreement for a continuous period of more than 20 Business Days.

16.4 Each party must notify the other party immediately if any event referred to in clause 16.1(a) occurs or any step towards the occurrence of such event occurs.

17. Effects Of Termination

17.1 On termination of this Agreement:

- (a) the Customer's right to use the Service ceases;
- (b) if the Supplier requests, the Customer must immediately inform the Supplier of the specific location of any Supplier Equipment;
- (c) the Customer must immediately cease using and return to the Supplier the Supplier Equipment used in relation to the Service and, if the Customer does not comply, it must, subject to any usual security arrangements, permit, or procure permission for, the Supplier to access the location at which that the Supplier Equipment is situated at any time or times for the purpose of removing that the Supplier Equipment;
- (d) the Customer must immediately pay to the Supplier, without deduction or set off, all outstanding Charges and any other amounts payable to the Supplier under this Agreement at the date of termination; and
- (e) the Supplier will refund to the Customer the balance (if any) of any Charges or other money paid in advance to the Supplier under this Agreement after deducting all amounts payable to the Supplier under clause 17.1(d) above.

17.2 Termination of this Agreement does not affect the accrued rights or liabilities of either party nor does it affect the provisions which expressly or by implication are intended to operate after termination, including, without limitation clause 9.1 (the Supplier Equipment); clause 19 (Liability and Indemnity); and clause 20 (Confidentiality).

18. Force Majeure

18.1 Neither party will be liable to the other party for any failure to perform or delay in performance of any obligation under this Agreement caused by a Force Majeure Event (other than an obligation to pay money). Each party will provide notice of the date of commencement of a Force Majeure Event and the date of cessation of a Force Majeure Event.

19. Liability and Indemnities

19.1 Indemnities

- (a) Subject to clause 19.2, Customer indemnifies Supplier against any and all losses or claims suffered or incurred by Supplier in connection with:
 - (i) Customer's acts or omissions, or the acts or omissions of a third party acting on Customer's behalf or engaged by Customer in any capacity, relating to the use of (or any End Users or Downstream Service Providers - which means a Carrier, Carriage Service Provider or Content Service Provider to whom Customer on-sells, re-sells or re-supplies one or more Services- use of) the Services; and
 - (ii) a claim made by any End User or Downstream Service Provider (including a claim based in negligence) in any way related to the Services or this agreement,
 excluding any losses or claims suffered or incurred as a result of the negligence, fraud or wilful misconduct of Supplier.
- (b) Subject to clause 19.2, each party (**Indemnifying Party**) indemnifies the other party (**Indemnified Party**) against any and all losses or claims suffered or incurred by any Indemnified Party in connection with:
 - (i) loss or claim in relation to personal or real property (up to the value of the damage to the damaged property); and
 - (ii) personal injury, sickness or death,
 each to the extent it is caused directly by the negligence of the Indemnifying Party in connection with this agreement;
 - (iii) breach of law by the Indemnifying Party or its personnel (including employees, agents, principals, directors, officers and contractors);
 - (iv) fraudulent act or omission solely of the Indemnifying Party or its personnel (including employees, agents, principals, directors, officers and contractors);
 - (v) breach of clause 11.4 by the Indemnifying Party;
 - (vi) any infringement or alleged infringement of the intellectual property rights of any person which occurs by reason of any:
 - 1. performance or non- performance by the Indemnifying Party of its obligations and responsibilities contemplated by this agreement or any Order; or
 - 2. possession, use or development by an Indemnified Party (and where the Indemnified Party is Customer, any End User) of any material provided by an Indemnifying Party under this agreement or any Order, except to the extent that such possession, use or development is in breach of this agreement.

19.2 Consequential Loss

Neither party is liable for any loss, not arising naturally, not arising according to the usual course of things, from the relevant breach or acts or omissions, which is suffered or incurred by the other party.

19.3 Limitation of Liability

- (a) (**Unlimited liability**) Subject to clause 19.2, neither party limits its liability under this agreement or any Order for:
 - (i) Customer's obligation to pay fees;
 - (ii) negligent or wilful acts or omissions that causes loss or damage in relation to third party (being a person who is not the Supplier or Customer Group Member) personal or real property;
 - (iii) loss or damage arising from any act or omission of fraud;
 - (iv) wilful default or misconduct;
 - (v) for infringement of intellectual property rights or unauthorised disclosure of Confidential Information;
 - (vi) personal injury, sickness or death;
 - (vii) wrongful termination or repudiation;
 - (viii) any liability to the extent that the same may not be excluded or limited as a matter of applicable Law;
 - (ix) in the case of Supplier's liability:
 - 1. liability under section 118A of the Consumer Protection Act; or
 - 2. required payments to End Users pursuant to the *Telecommunications (Customer Service Guarantee) Standard 2011 (CSG)*.
- (b) (**Supplier's liability**)
 - (i) Subject to clause 19.3(a), Supplier's liability in respect of all losses or other claims incurred

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by the Customer Group under or in connection with this agreement and all Orders shall not exceed:

1. in respect of any particular Service, 50% of the fees received by Supplier for the Service for the 12 months preceding the event giving rise to the liability for each event or series of connected events; and
 2. in respect of any other liability, in the aggregate, the amount of fees received by Supplier under the agreement.
- (ii) Supplier accepts liability to Customer by (at Supplier's election) repairing or replacing the relevant goods or resupplying any relevant or equivalent services which are capable of being resupplied, or in either case paying Customer the cost of doing so (subject to the limitation in clause 19.3(c)).
- (c) (Customer's liability)
Subject to clause 19.3(a), Customer's aggregate liability in respect of all Losses or other claims incurred by Supplier under or in connection with this agreement and all Orders shall not exceed the amount of the fees paid or payable to Supplier by Customer in that calendar year.

19.4 Supplier and Customer Group Members

- (a) The benefit of clause 19.1 is held by each party on their own behalf and on trust for each of their respective Related Bodies Corporate from time to time.
- (b) In addition to its loss, each party may recover the loss of any other Related Body Corporate (whether arising under an indemnity or otherwise under or in connection with this agreement or a Order) (**Related Group Member**).
- (c) In any claim under the indemnity in clause 19.1(a), the indemnified party may recover any sum to which any Related Group Member would be entitled if it personally enforced the indemnity.
- (d) In addition to loss recoverable by a party (**first party**) from the other party in accordance with this agreement, the other party is liable to the first party for, and the first party is entitled to seek to recover from the other party, any Loss suffered by the first party as a result of any negligent act or omission of the other party's Related Bodies Corporate, or any other act or omission of the other party's Related Bodies Corporate as if the act or omission were acts and omissions of the other party, to the extent that the other party would have itself been in breach of this agreement.

19.5 Indemnification procedures

- (a) If a claim by a third party or End User is made against a party (**Indemnifying Party**) which would give rise to a claim under an indemnity in clause 19.1(a), the Indemnifying Party must:
 - (i) notify the other party (**Indemnified Party**) in writing of such claim as soon as practicable;
 - (ii) provide the Indemnified Party with such assistance as it reasonably requests in conducting the defence of such a claim at the Indemnified Party's expense; and
 - (iii) provided the Indemnified Party acknowledges that clause 19.1(a) applies with respect to such claim, give the Indemnified Party the option to conduct the defence of such a claim, including any negotiations for its settlement or compromise.
- (b) If the Indemnified Party assumes the defence of a claim as contemplated by clause 19.5(a)(iii) it:
 - (i) must consult with the Indemnifying Party and keep the Indemnifying Party informed in relation to any negotiations or litigation; and
 - (ii) must not enter into any settlement or compromise of a claim, without the prior written consent of the Indemnifying Party, such consent not to be unreasonably withheld except that no such consent will be required if the only remedy agreed to in such settlement is the payment of money by Indemnified Party without the admission of any liability or the granting of releases.

20. Confidentiality

20.1 Each party acknowledges that the Confidential Information of the other party is confidential and secret and each party must preserve the confidential and secret nature of the other party's Confidential Information.

20.2 A party must not:

- (a) disclose or copy the other party's Confidential Information (including the terms and conditions of this Agreement) for any purpose other than as contemplated by this Agreement;
- (b) make the other party's Confidential Information available to any third party, other than by the Customer to its employees, and by the Supplier to its employees and the employees of any

Related Bodies Corporate of the Supplier which are engaged in the wholesale supply of carriage services, in each case if and only to the extent the employees have a need to know the information to enable the Service to be used in the manner contemplated by this Agreement; or

- (c) use the other party's Confidential Information for any purpose other than as contemplated by this Agreement.

20.3 Neither party may use in any way any the name, logo, trade mark, registered design, or copyright material of the other party without having first obtained the written consent of the owner of the property to such use. Neither party will issue a press release, or make any public announcement, concerning the existence of, or any fact arising out of, or connected to, this Agreement or the other party without first having obtained the prior written consent of the other party to the terms of such press release or announcement.

21. Disputes

21.1 Before resorting to external dispute resolution mechanisms, the parties must seek to resolve any dispute in relation to this Agreement by referring the matter to the respective chief executive officers of the parties or their nominees.

21.2 If the parties cannot resolve the dispute in accordance with clause 21.1 within 60 days, either party may refer the dispute to mediation by the Australian Disputes Centre (**ADC**) for resolution in accordance with the Guidelines for Commercial Mediation of the ADC.

21.3 Nothing in this clause prevents a party from seeking interlocutory relief.

22. Notices

22.1 For a notice under this Agreement to be effective, it must be

- (a) in writing;
- (b) addressed to the contact person of the other party; and
- (c) personally delivered, or sent by prepaid post, to the address, or by email to the address, email address stipulated for each party in an Order or last notified by each party to the other in writing.

22.2 A notice given in accordance with clause 22.1 is received:

- (a) if left at the recipient's address, on the date of delivery;
- (b) if sent by prepaid post, five days after the date of posting; and
- (c) if sent by email, when the sender's email system generates an electronic delivery receipt confirming the successful transmission from the sender's mail server unless the sender receives an electronic notification that the transmission was unsuccessful.

23. General

23.1 Headings are for ease of reference only and not as an aid to interpretation.

23.2 Subject to clause 23.3, a party must not assign, novate or otherwise transfer this Agreement or any right or obligation under this Agreement without the prior written approval of the other party, which will not be unreasonably withheld.

23.3 The Supplier may assign, novate or otherwise transfer this Agreement without the consent of the Customer to its Related Body Corporate or to the purchaser of all or substantially all of the Supplier's business or assets.

23.4 Nothing in this Agreement or any circumstances associated with it or its performance give rise to any relationship of partnership, employer and employee or principal and agent between the Supplier and the Customer.

23.5 The Supplier may set off or apply any credit balance in any of the Customer's accounts with the Supplier or any amounts owed by the Supplier to the Customer against any amount due and payable by the Customer to the Supplier under this Agreement.

23.6 Failure by either party to exercise or enforce any right conferred by this Agreement will not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement of the right or of any other right on any later occasion.

23.7 If part or all of any clause of this Agreement is illegal, invalid or unenforceable it will be read down to the extent necessary to ensure that it is not illegal, invalid or unenforceable or if this is not possible, the affected clause or part will be severed from this Agreement, the remaining provisions of this Agreement will continue to have full force and effect and the parties will attempt to replace the severed part with a legally acceptable alternative clause that meets the parties' original intention in relation to the subject matter severed.

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- 23.8 This Agreement constitutes the entire agreement between the parties as to its subject matter and supersedes any prior understanding or agreement between the parties and any prior condition, warranty, indemnity or representation imposed, given or made by the Supplier.
- 23.9 This Agreement is governed by the laws applicable in the State of New South Wales in the Commonwealth of Australia and each party irrevocably submits to the non-exclusive jurisdiction of the courts of that State.

DEFINITIONS

ACMA means the Australian Communications & Media Authority.

Acceptable Use Policy means the acceptable use policy set out in Annexure A to this Agreement which may be modified by the Supplier from time to time provided that such modifications are reasonable.

Access Circuit means a virtual circuit supplied by the Supplier using the Regulated Network for an End User.

Agreement means this agreement for the provision of the Services between the Supplier and the Customer.

B2B System means an online system established and maintained by the Supplier through which the Customer will be able to order and cancel Access Circuits subject to the terms of this Agreement.

Building means a multi-dwelling unit building or other premises in which the Supplier has installed a Regulated Network.

Business Day means a day on which banks (as defined in the *Banking Act 1959* (Cth)) are open for general banking business in the location in which the Services are being provided, excluding Saturdays and Sundays.

Business Hours means the hours between 9.00am and 7.00pm in Sydney on any Business Day.

Charges means the charges for the Service which are payable by the Customer in accordance with clause 10.

Confidential Information of a party means information (including this Agreement), know-how, ideas, concepts, and industrial knowledge, in whatever format, of that party, other than information which:

- (a) is generally available in the public domain without a breach of confidence or unauthorised disclosure by either party.
- (b) is lawfully disclosed by a third party without restriction on disclosure; or
- (c) is required by law or the Australian Stock Exchange to be disclosed.

Customer Service Guarantee means the current minimum performance standard set by the ACMA under sections 115, 117 and 120 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

Customer means the customer identified in the Order Form.

Customer Equipment means all equipment and facilities located on the Customer side of the End User Demarcation Point other than the Supplier Equipment used in connection with the Service and may include equipment of the Customer's End User or part of the common property of a Building.

End User means any person who acquires or will acquire an Access Circuit from the Customer.

End User Demarcation Point means the demarcation point for the Service as described in the Service Description.

Execution Date means the date this Agreement is signed by the last party to sign this Agreement.

Force Majeure Event means:

- (a) fire, flood, earthquake, elements of nature or act of God;
- (b) riot, civil disorder, rebellion or revolution; or
- (c) other matter outside of the reasonable control of the non-performing party,

but in each case only if, and to the extent that, the non-performing party is without fault in respect of the default or delay and the default or delay could not have been prevented by taking steps specifically required under this Agreement.

GST Law has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended from time to time.

Hardware means hardware owned and/or operated by the Customer.

HAC Circuit means a virtual circuit over which traffic from the Access Circuits supplied by the Supplier to the Customer may be carried.

IP Address means an internet protocol address.

Layer 3 Realm means a layer 3 realm as described in the Service Description.

Local Access Line has the meaning given to that term in the Telecommunications Act.

NNI means a point of interconnect between the Supplier Network and the network of the Customer.

Order means the submission of a physical or online application for Services by the Customer to the Supplier (whether described as an Order or an Order Form and whether or not submitted through the B2B System).

Planned Outage means a period of time that the Supplier may interrupt the supply of Services to the Customer other than an interruption which is less than 100 milliseconds in duration (a **Nominal Outage**) for routine maintenance or upgrading or other similar processes, after giving the Customer 5 Business Days prior notice, which outage does not exceed the period of time specified in that notice.

Price Book means the schedule of Service Components and Charges available on the Supplier's website as varied from time to time in accordance with this Agreement.

Qualifying Fixed Line Carriage Service Criteria means qualifying fixed line carriage services as defined in section 360A of the Telecommunications Act.

Regulatory Event means:

- (a) any change in a law or regulation, or any judicial, regulatory or administrative action, that relates in whole or part to any aspect of the subject matter of this Agreement, including:
 - (i) amendments to or repeals of any part of any statute, ordinance, code or Law including the Telecommunications Act, the *Competition and Consumer Act 2010* (Cth) or the introduction of a new statute, ordinance, code, standard or law;
 - (ii) a directive of, or determination by, a Regulator; registration or determination of a new industry code or industry standard under the Telecommunications Act, or amendments to or repeals of any existing code or industry standard;
 - (iii) the issue by the ACCC of a Competition Notice (as defined in section 151AB of the *Competition and Consumer Act 2010* (Cth) which affects any Services or the subject matter of this Agreement, (or where the Supplier reasonably considers that the ACCC is likely to issue a Competition Notice);
 - (iv) the determination, addition, variation or removal of a Service Provider Rule (as defined by section 98 of the Telecommunications Act) applicable to the Supplier or any third party provider;
 - (v) the grant of an injunction against the Supplier in relation to a breach or alleged contravention of any Law; and
 - (vi) an amendment, declaration, addition, variation or removal of a condition to the Supplier's carrier licence; or
- (b) any order or direction from any law enforcement agency or Regulator.

Regulator includes the ACMA, ACCC, Communications Alliance Ltd, Communications Compliance Ltd, the Telecommunications Industry Ombudsman or any other government or statutory body or authority.

Regulated Network means that part of the Supplier Network made up of local access lines or parts of local access lines which are subject to local, State and Commonwealth laws and regulations that restrict how the Supplier can use those parts of the Supplier Network to offer and/or supply Superfast Carriage Services or Specified Broadband Services to residential customers.

Related Body Corporate has the meaning given to it by sections 9 and 50 of the *Corporations Act 2001*.

Service means a service identified in, and to be delivered pursuant to, an Order and as described in clause 2 of this Agreement and the Service Description.

Service Commencement Date of the Service means the date on which the Service (or a relevantly Ordered component) is available for use by the Customer (or the Customer's End User as relevant).

Service Description means the service description for the Service as provided by the Supplier to the Customer from time to time.

Site means the location at which the Service is to be supplied by the Supplier and may include the premises of the Customer's End Users.

Specified Broadband Services means a carriage service which has the following characteristics:

- (a) it enables end-users to download communications; and
- (b) its download transmission speed is normally 6 megabits per second or more; and
- (c) it is supplied using a line to premises occupied or used by an end-user.

Superfast Carriage Services has the same meaning as in subsection 141(10) of the Telecommunications Act.

Supplier means Vision Network Pty Limited (ABN 18 087 533 328) of Suite 1920, Level 19, 1 O'Connell Street Sydney NSW 2000.

Supplier Equipment means equipment (if any) of the Supplier or a supplier to the Supplier located on the Site

or other Customer premises (including premises leased by the Customer or co-location spaces licensed by the Customer) for the provision of the Service.

Supplier Network means a telecommunications network of the Supplier.

Telecommunications Act means the *Telecommunications Act 1997* (Cth).

Term means the Initial Term and any Additional Period, as applicable.

EXECUTION PAGE

Executed as an **agreement**

For and on behalf of the Customer

Date: _____

Executed by [_____])
ACN [_____] in accordance with)
Section 127 of the *Corporations Act 2001*
(Cth)

.....
Director

.....
Director/Company Secretary

.....
Name (print)

.....
Name (print)

For and on behalf of the Supplier

Date: _____

Executed by Vision Network Pty Limited)
(ACN 087 533 328) by its authorised)
signatories:

.....
Signature

.....
Signature

.....
Name (print)

.....
Name (print)

ANNEXURE A - ACCEPTABLE USE POLICY

Vision Network Pty Limited considers the following are unacceptable uses of the Internet and the Supplier Network:

1. SPAM: including sending or causing the sending of any unsolicited or unauthorised advertising, promotional materials, junk mail, bulk unsolicited email, mail bombing, chain letters, multiple newsgroup cross-posting, or other form of solicitation;
2. BENEFITING FROM SPAM: including hosting any website which, on a regular basis, is advertised by any person sending unsolicited commercial email or unsolicited bulk email or spam;
3. EMPLOYING IDENTITY-DISGUIISING TECHNIQUES IN CONNECTION WITH SPAM: including relaying email via a third party's mail server without permission, hosting an open mail relay server, or employing similar techniques to hide or obscure the source of an email;
4. BREACHING INTELLECTUAL PROPERTY RIGHTS: including hosting any content which infringes any copyright, trademark, trade secret, patent or other property or other intellectual property rights of any third party unless you are the owner of, or have the permission of the owner to post or transmit the content;
5. SPREADING VIRUSES: including knowingly hosting or transmitting any content that contains any software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
6. HOSTING CONTENT WHICH IS UNLAWFUL/CRIMINAL: including hosting or transmitting any content the hosting or transmitting of which would be a contravention of any law of the Commonwealth of, or a State in, Australia, such as, for example, material of a pornographic nature depicting children; and
7. MALICIOUS ACTIVITY AGAINST OTHER HOSTS ON THE INTERNET: including (i) defacing of web- sites without the permission of the website owner; (ii) obtaining (or attempting to obtain) un-authorized access to data by circumventing (or attempting to circumvent) security controls designed to prevent un- authorised access; (iii) the use of "probing" of devices on the internet with the intent of searching for and/or identifying security weaknesses on those devices (iv) interference with service to any user, host or network including, without limitation, mailbombing, flooding, deliberate attempts to overload a system and broadcast attacks and denial of service attacks.

This Acceptable Use Policy may be revised by Vision Network Pty Limited from time to time.
Published September 2022.