

PRIVATE & CONFIDENTIAL

Dated _ JULY 2015

BETWEEN

**CITYNET INFRASTRUCTURE MANAGEMENT PTE. LTD.
(AS TRUSTEE-MANAGER OF NETLINK TRUST)**

AND

SINGAPORE TELECOMMUNICATIONS LIMITED

**CUSTOMISED AGREEMENT
-
FIBRE CROSS CONNECT INSTALLATION SERVICE**

THIS CUSTOMISED AGREEMENT is made on _ July 2015

BETWEEN:

1. **CITYNET INFRASTRUCTURE MANAGEMENT PTE. LTD.** (as Trustee-Manager of NetLink Trust) (Company Registration Number: **201117019K**), a company incorporated in Singapore with its registered address at 750E Chai Chee Road, #07-03 Technopark@Chai Chee, Singapore 469005 ("**NLT**")

AND

2. **SINGAPORE TELECOMMUNICATIONS LIMITED** (Company Registration Number: **199201624D**), a company incorporated in Singapore with its registered address at 3 Exeter Road, Comcentre, Singapore 239732; ("**Singtel**" or "**the Requesting Licensee**")

NLT and the Requesting Licensee shall hereinafter be collectively referred to as the "**Parties**", and individually as "**Party**".

WHEREAS:

- A. NLT is a public telecommunication licensee under Section 6 of the Telecommunications Act (Cap. 323) and operates subject to the authority and regulation by the Info-Communications Development Authority of Singapore ("**IDA**").
- B. Under the terms of NLT's FBO Licensee, NLT must offer certain mandated services to Requesting Licensees pursuant to the terms of the Approved ICO (as defined below in Clause 1.2.1).
- C. The Requesting Licensee has signed the Approved ICO with NLT and NLT has provided to the Requesting Licensee, certain mandated services, including Co-Location Service as described in Schedule 12 of the Approved ICO.
- D. In particular, the Requesting Licensee desired an option whereby the Requesting Licensee may transport its aggregated traffic from the Requesting Licensee's equipment co-located within NLT's Co-Location Space to the Requesting Licensee's equipment located within the Central Office but outside the said Co-Location Space, for which the Parties' respective obligations and responsibilities are set out in a Customised Agreement (Fibre Cross Connect Installation Services) dated 4 July 2013 ("**Original CA**").
- E. The Original CA is for a term of 24 months from the date IDA approves the Original CA. Both Parties now wish to renew the Original CA which expires on 4 July 2015, upon the terms and conditions of this new Customised Agreement ("**Agreement**").

IN CONSIDERATION OF THE PARTIES' MUTUAL AGREEMENTS, UNDERTAKINGS AND COVENANTS HEREIN, IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires, capitalised terms shall have the following meanings:-

"**Approved ICO**" has the meaning ascribed to it in Clause 1.2.1 below;

"Code" means the NetCo Interconnection Code 2009 or successor code of practice and as may be amended from time to time;

"Law" means any domestic constitutional provision, statute or other law (including common law), act, rule, regulation, subsidiary legislation, ordinance, treaty, code, permit, certificate, license, or interpretation of any Governmental Agency and any decision, decree, resolution, injunction, judgment, order, ruling, interpretation, or assessment issued by any Governmental Agency, including any of the foregoing applicable to health, safety and environmental matters;

"Requesting Licensee" for the purpose of this Agreement means Singtel a Qualifying Persons who had executed the Approved ICO with OpenNet Pte. Ltd. ("OpenNet") prior to 1 October 2014 and had executed a Novation Agreement dated 1 October 2014 to novate the Approved ICO from OpenNet to NLT.

1.2 Interpretation

In this Agreement:-

- 1.2.1 unless otherwise defined in this Agreement, all terms and references defined in the NLT Approved ICO ("**Approved ICO**") (as set out on the IDA webpage <http://www.ida.gov.sg/Policies-and-Regulations/Industry-and-Licensees/Nationwide-Broadband-Network/OpenNets-Interconnection-Offer-2012> or any successor webpage and as may be amended from time to time), shall have the same meaning and construction when used in this Agreement;
- 1.2.2 the definition of terms herein shall apply equally to the singular and plural forms of the terms defined, and any pronoun shall include the corresponding masculine, feminine and neuter forms;
- 1.2.3 unless the context otherwise requires, any definition or reference to any instrument, statute or statutory provision shall be construed as referring to such instrument, statute or statutory provision as from time to time amended, supplemented, extended, consolidated or replaced and subject to any restrictions on such amendments, supplements, extensions, consolidations or replacements and any orders, regulations, instruments or other subordinate legislation made thereunder;
- 1.2.4 the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation";
- 1.2.5 unless otherwise provided herein or the context otherwise requires, all references to clauses, schedules, recitals and annexures are to the clauses schedules, recitals of and annexures to this Agreement;
- 1.2.6 the words "herein", "hereof" and hereunder" and words of similar import shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof;
- 1.2.7 an expression importing a natural person shall include an individual, corporation, company, partnership, firm, trustee, trust, executor, administrator or other legal personal representative, unincorporated association, joint venture, syndicate or other business enterprise (notwithstanding that "person" may be sometimes used herein in conjunction with some of such words), and their respective successors, legal personal representatives and assigns, as the case may be, and pronouns shall have a similarly extended meaning. References to a company shall be construed so as to include any company, corporation or other body corporate wherever and however incorporated or established;
- 1.2.8 dates and times are to Singapore time;

- 1.2.9 the Schedules form part of this Agreement and have the same force and effect as if expressly set out in the body of this Agreement;
- 1.2.10 the headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement; and
- 1.2.11 any thing or obligation to be done under this Agreement which is required or falls to be done on a stipulated day, shall be done on the next succeeding Business Day, if the day upon which that thing or obligation is required or falls to be done falls on a day which is not a Business Day.

2. FIBRE CROSS CONNECT INSTALLATION SERVICE (“FCCIS”)

- 2.1 Parties hereby agree that notwithstanding the terms and conditions in Schedules 12 and/or 12C of the Approved ICO with respect to the Installation and Maintenance of Co-Location Equipment in the Co-Location Space, the terms and conditions of this Agreement shall prevail in the circumstances specifically described in this Agreement in relation to requests by Requesting Licensees to connect their Fibre Cross Connect Cable to the Requesting Licensee’s Fibre Distribution Frame (“FDF”) located within NLT’s Co-Location Space either –
 - 2.1.1 from the lead-in manhole of the Central Office to the Co-Location Space within the same Central Office; or
 - 2.1.2 from a location identified by the Requesting Licensee in the Central Office to the Co-Location Space within the same Central Office.

hereinafter referred to as “Fibre Cross Connect Installation Service”.

- 2.2 The Requesting Licensee shall be responsible to provide to NLT the optical fibre (“Fibre Cross Connect Cable”) for the purposes of provisioning the FCCIS on the terms and conditions as set out in this Agreement.

3. REQUESTING LICENSEE’S OBLIGATIONS

- 3.1 A breach of any of the clauses in this Agreement shall be a material breach for which NLT is entitled to terminate this Agreement in accordance with the terms of this Agreement if the breach, which is capable of being remedied, is not remedied within 30 calendar days of written notice by NLT.
- 3.2 The Requesting Licensee must have co-located its active equipment in NLT’s Co-Location Space to aggregate the data traffic sent to or received by End-Users. The Fibre Cross Connect Cable is only to transport aggregated traffic.
- 3.3 Save for such approvals for which NLT is responsible as described in clause 3.4.10 below, the Requesting Licensee shall at all times be solely responsible to procure, apply for and obtain the requisite approvals, consents or certifications from relevant authorities or parties as may be necessary in order for the Requesting Licensee to accomplish its request as described in Clause 2.1 above. NLT shall not be responsible or liable in the event such approvals or consents are not given in time or at all and any assistance, guidance or information NLT may furnish in this respect shall be without liability or responsibility on the part of NLT.
- 3.4 Where applicable, the Requesting Licensee shall comply with the following procedure subject always to the applicable terms of the Approved ICO: –
 - 3.4.1 The Requesting Licensee must co-locate its active equipment in the Co-Location Space to aggregate the data traffic sent to or received by the End-Users. The Fibre Cross Connect Cable is only to transport aggregated traffic.

- 3.4.2 The Requesting Licensee shall submit the request for a Fibre Cross Connect Service to NLT manually using the form attached marked **Annex 1** (hereinafter referred to as "Request"). NLT may amend Annex 1 from time to time in agreement with Requesting Licensee, subject always to the prior approval of the Authority. NLT shall process a combined total of no more than three (3) Requests per week.
- 3.4.3 In submitting the Request, the Requesting Licensee must identify clearly which of the two options described in Clause 2.1 is preferred, the location of its equipment in the Co-Location Space (where applicable) to which the Fibre Cross Connect Cable is to be terminated and submit the relevant supporting documents as may be specified in the Request.
- 3.4.4 Upon receipt of the request for FCCIS, NLT will notify the Requesting Licensee within 5 Business Days whether the Request is accepted or rejected. Where NLT rejects the Request, NLT shall furnish the reasons for such rejection accordingly. Where NLT accepts the Request, NLT will carry out a Project Study which includes a joint site survey to determine the scope of work required ("Site Preparation Works"). The Requesting Licensee shall pay the Project Study Fee which will be on a cost-oriented basis and determined on a case-by-case basis.
- 3.4.5 Upon completion of the Project Study, NLT will provide the Requesting Licensee with a Project Study report which includes but is not limited to the related Site Preparation Works and estimated Site Preparation Charge which shall be on a cost-oriented basis including any payment terms. NLT shall furnish the Project Study report to the Requesting Licensee within 20 Business Days from the date NLT received the Requesting Licensee's Request. Where the delay is due solely to NLT's fault (ie. any fault of Singapore Telecommunications Limited ("SingTel") or CityNet Infrastructure Management Pte Ltd ("CityNet") under their RIO or RAO respectively shall be excluded), NLT shall compensate the Requesting Licensee according to Annex 2. Where the delay is due to Singtel or CityNet and NLT receives any compensation under Schedule 8B Annex 8B.4 of SingTel's RIO or Schedule 3 Annex 4 of CityNet's RAO, NLT will give such compensation it has received to the Requesting Licensee.
- 3.4.6 The Requesting Licensee must accept NLT's Project Study report and estimated Site Preparation Charge on a cost-oriented basis, within 3 Business Days of receipt of the Project Study report, before NLT commences the FCCIS.
- 3.4.7 If NLT's costs increase above NLT's estimate set out in the Project Study report under clause 3.5.4 above, NLT must as soon as possible provide the Requesting Licensee with a revised price estimate. NLT must obtain the prior approval of the Requesting Licensee to the revised price estimate and if the Requesting Licensee does not provide its approval within 3 Business Days, then, NLT may suspend the Site Preparation Work for the FCCIS until the Requesting Licensee agrees to the revised price estimate. In such a situation, NLT shall be entitled to render its invoice for cost already incurred and the Requesting Licensee shall make payment of the same pending resolution of the revised price estimate.
- 3.4.8 Upon the acceptance by the Requesting Licensee of NLT's Project Study report for FCCIS, NLT shall proceed with the works for FCCIS.
- 3.4.9 Where the Requesting Licensee rejects NLT's Project Study report, the Requesting Licensee shall be liable for the full Project Study cost, on a cost-oriented basis, as indicated in the Project Study report.
- 3.4.10 NLT shall be responsible for procuring the requisite approvals, consents or certifications from relevant authorities or parties as may be necessary for FCCIS. For avoidance of doubt, where a premise within NLT's Central Office (other than the Co-Location Space) is leased to or in use by the Requesting Licensee, NLT shall not be responsible for procuring any requisite approvals, consents or certifications as may be necessary for FCCIS.

- 3.4.11 NLT shall complete the Site Preparation Works within 30 Business Days of receipt of the Requesting Licensee's acceptance of NLT's Project Study report. Where the delay is due solely to NLT's fault (i.e. any fault of Singtel or CityNet under their RIO or RAO respectively shall be excluded), NLT shall compensate the Requesting Licensee according to Annex 2. Where the delay is due to Singtel or CityNet and NLT receives any compensation under Schedule 8 Annex 8B.4 of SingTel's RIO or Schedule 3 Annex 4 of CityNet's RAO, NLT will give such compensation it has received to the Requesting Licensee.
- 3.4.12 Within one (1) Business Day after NLT notify the Requesting Licensee of the completion of the Site Preparation Works, Requesting Licensee shall attend at the site for handover.
- 3.5 Upon the handover of the Fibre Cross Connect Cable as NLT may advise the Requesting Licensee in writing, the Requesting Licensee shall be liable for and make payment as follows:
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- 3.5.1 All applicable charges as agreed to by the Requesting Licensee, including pursuant to clauses 3.4.4, 3.4.6 and 3.4.7 above, if still unpaid.
- 3.5.2 Make payment for all sum payable according to NLT's payment terms as set out in Schedule 16 of the Approved ICO.
- 3.5.3 Any charge, fee or monthly recurring charge which may be imposed by NLT after handover of the Fibre Cross Connect Cable, subject to Requesting Licensee requesting and NLT agreeing to provide any other service in respect of the Fibre Cross Connect Cable on such prices, terms and conditions as agreed between the Parties.
- 3.6 Upon request for relocation of the Fibre Cross Connect Cable by Requesting Licensee, the Requesting Licensee must ensure that any such work will not cause any disruption to existing services, and shall agree to payment of the mutually agreed costs incurred by NLT for such works (not limited to reinstatement and cable recovery cost) on a cost-oriented basis, before NLT commences to fulfill this request. The Requesting Licensee will notify NLT within 3 Business Days of receipt of NLT's quotation as to whether it accepts the quotation. The Requesting Licensee must procure, apply for and obtain the requisite approvals, consents and/or certifications from relevant authorities and/or third parties as may be necessary in order for NLT to perform the request.
- 3.7 For avoidance of doubt, this Agreement covers only the installation of the Fibre Cross Connect Cable and NLT will not provide maintenance of the Fibre Cross Connect Cable.

4. Miscellaneous

- 4.1 This Agreement is a renewal of the Original CA for a period of 24 months from the date hereof, subject to the Authority's approval of the terms of this Agreement. Parties may agree in writing to renew this Agreement on such terms and conditions as agreed between the Parties subject at all times to the prior approval of the Authority. Upon request for renewal by the Requesting Licensee, which should be made at least 3 months prior to the expiry of the Agreement, Parties shall negotiate in good faith such terms and conditions to renew this Agreement and to conclude such negotiation prior to the expiry of the Agreement, failing which either Party may request the Authority to resolve the dispute pursuant to the Code.
- 4.2 Save as expressly amended and supplemented by this Agreement, the terms of the Approved ICO (including but not limited to the terms of Schedules 16 and 17 of the Approved ICO) shall be incorporated herein and shall form part of this Agreement. For the avoidance of doubt, this Agreement shall be deemed to be a "Customised Agreement" pursuant to Clause 1.4 of Part 2 of the Main Body of the Approved ICO. In the event of any inconsistencies between the provisions of this Agreement and the Approved ICO with regard to the service under this Agreement, the terms of this Agreement shall prevail to the extent of such inconsistencies.

4.3 Requesting Licensee shall indemnify NLT and keep it indemnified against all liabilities, claims, demands, damages, costs and/or expenses arising out of, in relation to or as a consequence of the Requesting Licensee's Fibre Cross Connect Cable which caused or results in NLT's failure to comply with or being in breach of the terms and conditions under SingTel's RIO or CityNet's RAO.

4.4 Notwithstanding clause 4.1, clause 4.3 shall survive the termination or expiration of this Agreement for as long as the Requesting Licensee's Fibre Cross Connect Cable installed pursuant to this Agreement is not removed.

4.5 Release, Waiver or Compromise

Any liability to either Party hereunder may in whole or in part be released, compounded or compromised, or time or indulgence may be given, by such Party in its absolute discretion without in any way prejudicing or affecting its rights against the other Party. Any release or waiver or compromise shall be in writing and shall not be deemed to be a release, waiver or compromise of similar conditions in the future.

4.6 Prohibition against Assignment and Sub-Licensing

This Agreement and/or the obligations thereunder shall not be assigned or sub-licensed by the Requesting Licensee without the prior express written approval of NLT.

4.7 Amendment

This Agreement may be amended only by an instrument in writing signed by all of the Parties subject at all times to the prior approval of the Authority. The Parties hereby acknowledge and agree that they shall, if required by the Authority, amend this Agreement to incorporate any additional or modified Duties Related to the Provision of Mandated Services (as defined in the Code) including any directed amendments as required by the Authority during the term of this Agreement.

Subject always to the approval of the Authority, NLT shall also be entitled to amend this Agreement in the event Singtel or CityNet amends their RIO or RAO respectively.

4.8 Liability of the Trustee-Manager

The Trustee-Manager has assumed all obligations under this Agreement in its capacity as trustee-manager of the NetLink Trust Entities and not in its personal capacity and any obligation or liability of the Trustee-Manager under this Agreement is limited to the assets of the NetLink Trust Entities over which the Trustee-Manager has recourse and shall not extend to any personal or other assets of the Trustee-Manager or its shareholders, directors, officers or employees. For the purpose of this clause, "NetLink Trust Entities" refers to the following entities collectively:

- (a) NetLink Trust Management Services Company Pte Ltd
- (b) NetLink Trust Operations Company Pte Ltd
- (c) OpenNet Pte Ltd.

4.8 Invalidity

Any provision of this Agreement that is invalid or unenforceable in any Law in Singapore will be read down or severed to the extent of that invalidity or unenforceability. The remaining provisions of this Agreement which are self-sustaining and capable of separate enforcement without regard to the read down or severed provision are and continue to be valid and enforceable in accordance with their terms.

4.9 Counterparts

This Agreement may be executed in any number of counterparts and all such counterparts taken together will be deemed to constitute one and the same instrument.

4.10 Governing Law and Submission to Jurisdiction

This Agreement shall be governed by and construed in all respects in accordance with the laws of Singapore and the Parties hereby irrevocably submit to the exclusive jurisdiction of the courts of Singapore.

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ANNEX 1
REQUEST FORM FOR FIBRE CROSS CONNECT INSTALLATION SERVICE

<u>Requesting Licensee</u>	Date of Application:	Application Reference Number:
	Name of Central Office:	
	Type of Installation Required (Please tick one):	
	<input type="checkbox"/> From the lead-in manhole of the Central Office to the Co-Location Space within the same Central Office <input type="checkbox"/> From a location identified by the Requesting Licensee in the Central Office to the Co-Location Space within the same Central Office	
	Location of Requesting Licensee's FDF rack within the Co-Location Space :	
Special requirement (if any):		

For and on Behalf of Requesting Licensee

<u>Requesting Licensee</u>	Sign:	Company Name:
	Name:	Company Stamp:
	Designation:	
	Contact Number:	
	Fax Number:	
	Email address:	

NLT's Response: Date:

<u>NLT</u>	<input type="checkbox"/> Application accepted Site Survey Date :	
	<input type="checkbox"/> Application rejected Reason for rejection:	
	On Behalf of NLT Name: Signature:	Queue Status:

ANNEX 2

SERVICE LEVEL GUARANTEES

1. REBATES FOR PROJECT STUDY TIMEFRAMES

Missed timeframe for completion of Project Study (Clause 3.4.4) by:	Rebate
1-30 Calendar Days	(Number of days of delay x 10% of Project Study Fee) / 30
More than 30 Calendar Days	10% of Project Study Fee

2. REBATES FOR SITE PREPARATION WORK

Missed timeframe for completion of Site Preparation Work (Clause 3.4.11) by:	Rebate
1-30 Calendar Days	(Number of days of delay x 10% of Site Preparation Charge) / 30
More than 30 Calendar Days	10% of Site Preparation Charge

IN WITNESS WHEREOF this Agreement has been entered into on the date stated at the beginning.

**CITYNET INFRASTRUCTURE MANAGEMENT PTE. LTD.
(AS TRUSTEE-MANAGER OF NETLINK TRUST)**

Signed by _____)
(Name of Signatory))
for and on behalf of)
CITYNET INFRASTRUCTURE MANAGEMENT PTE. LTD.
(AS TRUSTEE-MANAGER OF NETLINK TRUST)

in the presence of:

)
)
(signature) _____
Title:

(signature of witness) _____
Name of Witness:
Title:

SINGAPORE TELECOMMUNICATIONS LIMITED

Signed by _____)
(Name of Signatory))
for and on behalf of)
SINGAPORE TELECOMMUNICATIONS LIMITED
in the presence of:

)
)
(signature) _____
Title:

(signature of witness) _____
Name of Witness:
Title: