

THIS REFERENCE OFFER IS MADE BY:

NBNetCo (also referred to as the “SE” or “Access Provider”)

ON: [] May 2019

BACKGROUND:

A. Under Article 40(bis)(a) of the Telecommunications Law (the “Law”), it is stated that the Regulator “... shall make the Fixed Telecommunications Infrastructure Network License available. Unless the Authority [Regulator] [sic] determines otherwise, non-holders of this license shall not deploy or maintain a fixed telecommunications infrastructure in the Kingdom, including in relation to the deployment and ownership of ducts and fibre optics.” On [XX] 2019 the Regulator, pursuant to the requirements of Article 40(bis)(a) of the Law, granted the SE the Fixed Telecommunications Infrastructure Network License (the “SE License”).

- B. The SE License requires the SE to provide all Licensed Operators with wholesale services and products on the terms set out in this Reference Offer and/or as required by the Law and/or the SE License.
- C. Pursuant to section 4.9 of the SE License, the SE is required “At the request of the Regulator and/or every twenty-four (24) months (whichever is the shorter)... [to] submit a draft Reference Offer for the Regulator’s approval within a period of time determined by the Regulator”.
- D. Pursuant to section 4.10 of the SE License, following approval by the Regulator of the draft Reference Offer, the SE shall “within two weeks of the approval... publish the Reference Offer in the version approved on its website... Any proposed change (including updates) to the terms of the Reference Offer shall require the prior written approval of the Regulator”.
- E. Pursuant to section 4.1.2 of the SE License the SE is obligated to abide by the terms of this Reference Offer.
- F. Pursuant to section 27.1 of the SE License, the SE is obligated, from the Effective Date of the SE License, to provide the Licensed Services in accordance with the Reference Offer.

- G. All terms used but not otherwise defined shall have the meanings ascribed to them in the Law or the SE License (as appropriate).

1 UNDERSTANDING THE STRUCTURE OF THIS REFERENCE OFFER

1.1 This Reference Offer comprises:

- (a) Clauses 1 to 8, which are the Main Body Terms of this Reference Offer;
- (b) Reference Offer – Schedule 2 – Notification and Acceptance of Service Request;
- (c) Reference Offer – Schedule 3 – Pricing;
- (d) Reference Offer – Schedule 4 – Billing;
- (e) Reference Offer – Schedule 5 – Forecasting;
- (f) Reference Offer – Schedule 6.1 - Wholesale Bitstream Service (WBS) Service Description;
- (g) Reference Offer – Schedule 6.2 - Wholesale Data Connectivity (WDC) Service Description
- (h) Reference Offer – Schedule 6.3 - Mobile Backhaul Service (MBS) Service Description;
- (i) Reference Offer – Schedule 6.4 - Data Service (DS) Service Description;
- (j) Reference Offer – Schedule 6.5 - Optical Wavelength Service (OWS) Service Description;
- (k) Reference Offer – Schedule 6.6 - Fronthaul Access Service (FAS) Service Description;
- (l) Reference Offer – Schedule 7 – Service Levels Schedule;
- (m) Schedule 8 – Dictionary; and
- (n) Schedule 9 - Supply Terms.

2 MAKING AN AGREEMENT UNDER THIS REFERENCE OFFER

- 2.1 The Access Provider considers that it is valuable to establish one single integrated contracting framework between the Access Provider and each Access Seekers. As such the Access Provider has developed this Reference Offer as the fair and reasonable conditions on which wholesale services are to be supplied consistent with Article 3 and Article 40(bis) of the Law and section 4.9 of the SE License.
- 2.2 For the purposes of the Reference Offer approved by the Regulator the Supply Terms relate only to the supply of wholesale services set out in the Schedules of the Reference Offer.

3 SUPPLY OBLIGATION

- 3.1 If, in accordance with Schedule 2 – (Notification and Acceptance of Service Request) of the Reference Offer, a Service Request for a specified Service has been submitted by an Access Seeker authorised to make such a Service Request and has been accepted by the Access Provider, the Access Provider shall supply the requested Service:
- (a) at the Charges specified in Schedule 3 – (Pricing) of the Reference Offer or as otherwise approved by the Regulator;
 - (b) in accordance with the Supply Terms set out in Schedule 9 – (Supply Terms) of the Reference Offer.
- 3.2 The Access Provider shall not provide, nor shall it enter into an agreement to provide, services outside the scope of Schedule 6 - (Service Descriptions) of the Reference Offer, without the prior written approval of the Regulator.
- 3.3 The timetable for the Access Provider to comply with processing orders and provisioning of Services under a Supply Agreement shall be in accordance with Schedule 7 – (Service Levels Schedule) of the Reference Offer.

4 VARIATION OF THE REFERENCE OFFER

4.1 The Access Provider (on first obtaining any approval from the Regulator as required by the SE License), and subject to the terms of section 5.2 of the SE License, may amend or vary the Reference Offer, including:

- (a) offering any New Service and any amendment or variation to the Reference Offer arising from the New Service, in accordance with clause 6; or
- (b) cancelling any Service and any terms or conditions, and any amendment or variation to the Reference Offer arising from the cancellation of that Service.

4.2 If the Access Seeker seeks the supply of a new service offered by the Access Provider, in accordance with clause 3.1, then the Access Seeker shall submit a Service Request for each new service in accordance with Schedule 2 – (Notification and Acceptance of Service Request) of the Reference Offer. On successful processing of the Service Request, the new service will form part of the Supply Agreement in place between the Access Provider and the Access Seeker.

4.3 A change to Schedule 3 – (Pricing) of the Reference Offer will identify the extent to which a variation to the Charges is (or is not) to apply to existing Services supplied to Access Seekers.

5 STRUCTURE OF AGREEMENTS

5.1 The Access Provider agrees to provide and the Access Seeker agrees to procure the supply of Services in accordance with, and incorporating the following documents, whether physically assembled as a single document or not:

- (a) The Supply Terms;
- (b) The relevant Service Descriptions set out in Schedule 6 (Service

Descriptions) of the Reference Offer;

- (c) Schedule 2: Notification and Acceptance of Service Request;
- (d) Schedule 3: Pricing;
- (e) Schedule 4: Billing;
- (f) Schedule 5: Forecasting;
- (g) Schedule 6.1: Wholesale Bitstream Service (WBS) Service Description;
- (h) Schedule 6.2: Wholesale Data Connectivity (WDC) Service Description;
- (i) Schedule 6.3: Mobile Backhaul Service (MBS) Service Description;
- (j) Schedule 6.4: Data Service (DS) Service Description;
- (k) Schedule 6.5: Optical Wavelength Service (OWS) Service Description;
- (l) Schedule 6.6: Fronthaul Access Service (FAS) Service Description;
- (m) Schedule 7: Service Levels Schedule;
- (n) Schedule 8: Dictionary; and
- (o) Joint Working Manual (once developed by the Access Provider under the framework of the Industry Forum, in accordance with the terms and timelines in the Reference Offer Order).

6 ADDING NEW SERVICES TO THE REFERENCE OFFER

- 6.1 The following is the framework that the Access Provider shall use for the development of New Services, which a party may wish to add to the Reference Offer. If an Access Seeker wishes the Access Provider to supply to it a New Service, it may submit to the Access Provider a written request to that effect ("**New Service Request**").
- 6.2 When making a New Service Request the Access Seeker shall ensure it includes:

- (a) a reasonably detailed description of the proposed New Service;
 - (b) an outline of the technical and functional specifications which the Access Seeker considers should apply to the New Service;
 - (c) the Access Seeker's opinion of the likely scope of the New Service including a preliminary forecast of the Access Seeker's' expected use of the New Service.
- 6.3 On receipt by the Access Provider of a New Service Request from an Access Seeker, the Access Provider shall promptly notify other Licensed Operators of the New Service Request and shall provide updates to the other Licensed Operators at reasonable intervals throughout discussions and development of the New Service.
- 6.4 The Access Provider will consider in good faith any New Service Request provided to it. The Access Provider shall notify the Access Seeker within one (1) week of the receipt of the New Service Request, and propose a reasonable timeframe for the Access Provider and the Access Seeker to meet to discuss the New Service Request.
- 6.5 If, after preliminary discussions, the Access Provider and the Access Seeker agree to explore in detail any of the relevant conditions (technical, commercial, legal, etc) which might apply to the supply of the New Service, or if the Access Provider is obliged to provide the New Service within the regulatory framework applicable in Bahrain, the parties shall as soon as reasonably practicable refer the matter to the Industry Forum for discussion and/or development of the following:
- (a) an appropriate agreed technical and functional definition of the New Service and outline of its scope;
 - (b) appropriate commercial terms applicable to the scoping, development, testing, implementation and supply of the New Service, including:
 - (i) the charges and pricing regime to apply to any or all of those activities considering the likely time and resources required;
 - (ii) the framework, dependencies for, and scope of, any proposed testing and acceptance processes;

- (iii) a draft timetable for the scoping, development, testing, implementation and supply of the New Service; and
- (iv) any other matters relevant to the New Service Request.

6.6 When the Industry Forum has concluded those preliminary discussions the Access Seeker, taking into account the Industry Forum's conclusions, shall:

- (a) submit to the Access Provider a comprehensive Statement of Requirements, setting out in detail the proposed aspects of the New Service as identified in clause 6.5;
- (b) provide to the Access Provider any further information the Access Provider reasonably requires to enable it to properly scope, develop, implement or supply the New Service; and
- (c) revise and reissue the Statement of Requirements as required by the Access Provider where the Access Provider considers that the Statement of Requirements does not properly reflect the positions covered in the discussions in the Industry Forum.

6.7 Once a Statement of Requirements is finalised, the Access Provider will prepare a New Service Proposal applicable to the New Service which New Service Proposal shall

- (a) be submitted to the Regulator for approval; and
- (b) published by the Access Provider for general availability, as part of a Reference Offer.

6.8 The parties may consider this process to be at an end if:

- (a) matters negotiated between them including the terms of the Statement of Requirements or the New Service Proposal and relevant commercial terms cannot be agreed within ninety (90) days of the receipt of the New Service request, or any lesser period set out in the Law in respect of

specific services; or

- (b) there is no legal obligation on the Access Provider to provide the New Service; or
- (c) without prejudice to any duty of confidentiality, the other party has failed to treat any information arising out of or in connection with the discussions between them as confidential.

6.9 Negotiations in relation to the supply of a New Service shall continue while the parties are engaged in any dispute resolution, provided that:

- (a) the Access Seeker demonstrates financial stability (failing which the continuation of negotiations shall be at the Access Provider's discretion); and
- (b) the negotiations are strictly confidential and without prejudice.

6.10 The Access Provider considers that the following table gives a reasonable indication of the timescales for the development and implementation of New Services. An ability to comply with the timetable depends on the timely delivery of information and reply to correspondence; prompt attendance at meetings by the right personnel; a commercial approach to negotiation; the complexity of the New Service sought and the availability of access services necessary to support the New Service; timely availability and delivery of equipment and other factors. A particular case may vary between being Simple, Intermediate or Complex at different stages of the process.

	Simple Case	Intermediate Case	Complex Case
Initial Processing of New Service Request and arrangements for preliminary discussions	One week	Two weeks	Three weeks
Discussions between Operators	Two weeks	Four weeks	Six weeks
Planning for New Service	One week	Two weeks	Four weeks
Development and Testing of New Service	One week	Four months	Six months
Implementation of New Service	One month	Four months	Six months