

PART I - GENERALService Agreement

1. This Services Description and Terms and Conditions for Network Access and Internet Services (the "**Service Provisions**") constitute part of any agreement (the "**Agreement**") between BH Telecom Corp., doing business as FlexNetworks (the "**Supplier**") and the Customer identified in the Agreement (the "**Customer**") which expressly incorporates by reference these Service Provisions. These Service Provisions and any other any Terms and Conditions, Policies, Service Descriptions and other provisions expressly incorporated by the Agreement collectively constitute the "**Terms and Conditions**". The Agreement and all Terms and Conditions collectively constitute the "**Service Agreement**".

Application of Terms and Conditions

2. These Service Provisions provide a description of, and the terms and conditions that relate specifically to, the particular "Services" (as defined herein) being provided by the Supplier to the Customer. These Service Provisions together with the other parts of the Service Agreement comprise the entire basis and agreement upon which the Services are provided by the Supplier to the Customer.

Definitions

3. "**Supplier's Network**" means the telecommunications network operated by the Supplier exclusive of all Local Loops.
4. "**Local Loop**" means a connection between the Supplier's Network and a user of the Supplier's Network.
5. "**Customer's Local Loop**" means an optical fibre connection between the Supplier's Network and the Demarcation Point of a Location, including all fibre, conduit and facilities installed to make the connection.
6. "**UNI**" means the User Network Interface physical medium installed by the Supplier to provide the Customer access to Supplier's Network.
7. "**Location**" means a Location identified in the Agreement to which the Services are to be provided.
8. "**Network Access Services**" comprise access to and use of the Supplier's Network using the Customer's Local Loop(s) and an Ethernet or Optical Carrier ("OC_n") interface as identified in the Agreement.
9. "**Internet Services**" means a telecommunications data service which provides the Customer with interconnection to the Internet through the Supplier's Network to the global Internet backbone. The Services are provided between the Customer location and the Supplier's Network using the rate-limited VLAN identified in the Agreement.

10. "**Services**" means the Network Access Services and the Internet Services collectively, and "**Service**" means either of the Services separately.

11. "**VLAN**" or "**Virtual Local Area Network**" means a connection of two locations within the Supplier's Network so as to create therein an Ethernet virtual local area network that enables data transfer between the locations connected by the same virtual network and prevents data transfer between locations that are not part of the same virtual network.

12. "**Bandwidth Profile**" means the enforcement of the transmission capacity of the Services provided to the Customer by the Supplier's Network to any transmission capacity attributes and parameters identified in the Agreement.

Definitions in Service Agreement

13. Terms used and not defined herein shall have the meanings given thereto elsewhere in the Service Agreement.

PART II NETWORK ACCESS SERVICESNetwork Access Services Attributes

14. Unless otherwise indicated in the Service Agreement, the Network Access Services are "symmetrical" (that is, the rate of reception is not less than the rate of transmission) and "full duplex mode" (that is, transmission and reception may occur at the same time). The Customer does not by virtue of the Service Agreement or otherwise howsoever acquire any ownership or other interest whatsoever in the Supplier's Network or Customer's Local Loop except the right to access and use same in accordance with, and subject to, the terms of the Service Agreement.

Demarcation Point

15. The Supplier will provide access to the Supplier's Network: (i) in the case of a premises of the Customer, through the Customer's Local Loop and terminating at a UNI installed at a termination panel located in proximity to the electrical metering equipment in, and/or the electrical service entrance to, the Customer's premises; (ii) in the case of a Location of the Customer located in co-location space or a co-location cabinet provided by the Supplier to the Customer, via a UNI installed at a termination panel located in the co-location space or cabinet, as the case may be, unless a different place is specified elsewhere in the Service Agreement. The UNI port facing the Customer shall be the "**Demarcation Point**". The connection from the Demarcation Point to, and the installation and maintenance of, the Customer's communication network and equipment is the responsibility and cost of the Customer.



PART III – INTERNET SERVICES

Provision of Services

16. The Supplier will use commercially reasonable efforts to provide the Internet Services to the Customer in accordance with the Services Agreement. Notwithstanding this, inasmuch as the Internet Services are provided to the Customer, in whole or in part, through services provided to the Supplier by a third party, the Internet Services are provided “as is” and “as available” and without warranty or representations of any nature whatsoever, express or implied. Specifically, the Supplier does not warrant or guarantee: **(i)** error-free or uninterrupted use or operation of the Internet Services; **(ii)** that data will be transmitted or received in uncorrupted form or within a reasonable period of time or will not be intercepted; **(iii)** that other users will not gain access to your computer; or **(iv)** that any content accessible through the Internet Services will be free of viruses, spam or other harmful components or will not be subject to caching at intermediate locations on the Internet. The Supplier is not responsible for degradation or interruption of the Internet Services due to any reason whatsoever, including mechanical or technical failure or excessive use. The Customer will not be entitled to any refund or other compensation whatsoever for any degradation or interruption of the Internet Services except as expressly provided for herein. The Supplier assumes no responsibility for the Customer’s use of the Internet in connection with the Services.

Privacy and Security

17. The Supplier cannot and does not guarantee privacy for Internet users. Messages on the Internet may be subject to third party interception and review. The Customer shall be responsible for establishing and maintaining appropriate security measures to control access to the transmissions of the Customer. Interference caused to the Supplier’s Network as result of the Customer’s failure to properly secure its computer system shall entitle the Supplier to terminate the provision of the Services to the Customer immediately and without notice to the Customer, and upon any termination on such account all payments under the Services Agreement not yet paid to the Supplier by the Customer for the balance of what would have been the Term shall become immediately due and payable by the Customer to the Supplier as liquidated damages, and not as a penalty.

Firewall Recommended

18. In the event that the Customer runs both Internet and Ethernet Relay (Transparent LAN) Services over the same access to the Supplier’s Network then the Customer should install a firewall to separate its private LAN and Internet traffic. The Supplier shall not have any liability whatsoever to the Customer, howsoever caused, if an Internet connection is used to gain access to the Customer’s local area network.

IP Addresses Provided by Supplier

19. Upon request by the Customer, the Supplier will, as part of the Internet Services, provide IP addresses for use by the Customer. The number of IP addresses provided by the Supplier to the Customer shall be the minimum “/30” CIDR

allocation unless the Customer can initially and continually justify a need for a greater number supported by sufficient information provided to the Supplier in the form stipulated by the Supplier and payment is made therefor in accordance with the Service Agreement. If, at any time and from time to time, the IP addresses allocations requested by the Customer from the Supplier would, in the aggregate, exceed a “/20” CIDR allocation, then the Customer will be required to make its own application to a Regional Internet Registry (“RIR”) for an Internet address allocation. If the Supplier provides the Customer with an Internet address allocation, then the Customer agrees that the Supplier may provide its RIR with the information with respect to the Customer sufficient to satisfy the RIR’s “Shared Whois Project” (SWIP) requirements, and the Customer agrees to provide the Supplier with all information required by the Supplier for such purposes. All IP addresses provided by the Supplier to the Customer must be routed through the Supplier’s Network. The Customer will have no property or other interest in the IP addresses provided to the Customer by the Supplier except for the right to use the IP addresses during the term of the Service Agreement. Upon expiry or other termination of the term of the Service Agreement all IP addresses provided by the Supplier to the Customer shall revert, and be returned by the Customer, to the Supplier.

IP Addresses Provided by Customer

20. In the event that the Customer intends to use its own IP address allocation, then the Customer must: **(i)** provide a LOA (Letter of Authorization) or other sufficient justification satisfactory to the Supplier that the owners (as defined by the particular Regional Internet Registry) of all such IP address allocations consent to the announcement thereof by the Supplier; and **(ii)** demonstrate efficient use of such allocation prior to requesting any IP address allocation from the Supplier.

Excess Usage

21. The Internet Services are subject to a data transfer limit only if so indicated in the Agreement. If the Internet Services are subject to a data transfer limit and the Customer exceeds the applicable limit, then: **(i)** the Customer shall pay the Supplier for the excess usage of the Internet Services at the rate therefor identified in the Agreement; and **(ii)** the Customer may choose to switch to a plan for payment for the Internet Services that is not usage based by contacting the Supplier and contracting for the switch in payment plans.

PART IV –SERVICE INTERRUPTION & RESTORATION

Requests for Assistance

22. All requests by a Customer for assistance in respect of the Services shall be made in accordance with Part VII of the General Commercial Terms and Conditions comprising part of the Service Agreement.

Service Level Objectives

23. The Supplier’s **“Service Level Objectives”** with respect to the Services are:

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- (i) **Latency:** a maximum one-way trip transmission delay of ten milliseconds between intra-regional points-of-presence (PoPs) of the Supplier;
- (ii) **Packet Loss:** 0.1% or less, generally, and is 0.001% or less for Customers that subscribe for Quality of Service; and
- (iii) **Throughput:** the Customer's Bandwidth Profile identified in the Agreement.

and, while the Supplier will use commercially reasonable efforts to achieve the Supplier's Service Level Objectives, the Supplier shall not have any liability to the Customer should the Supplier fail to achieve any of the Service Level Objectives.

Additional Definitions

- 24. "**Latency**" is the one-way delay measured between when the first bit of a service frame enters the ingress UNI to when the last bit of the same service frame leaves the egress UNI.
- 25. "**Packet Loss**" is the percentage of "in-profile" Service Frames not reliably delivered between UNIs over a calendar month.
- 26. "**Throughput**" is the amount of 256 byte Service Frames in both ingress and egress directions that Supplier's Network will deliver under normal operating conditions.

Mean Time to Restore Services

- 27. The objectives of the Supplier is to have a mean time to restore ("**MTTR**") an interruption of the Services of six hours. While the Supplier will use commercially reasonable efforts to achieve such objectives, the Supplier shall not have any liability for failing to achieve such objectives except for the provision of SLA Credits in applicable circumstances in accordance with other provisions of these Service Provisions.

Service Level Agreement & SLA Credits

- 28. In the event, and in each event, that Interruption Time in relation to a particular Service to a particular Location exceeds forty-five (45) minutes then, if and only if requested in writing by the Customer within ten days of the end of the calendar month in which the Interruption occurred, on the next invoice by the Supplier to the Customer, the Customer shall be credited with an "**SLA Credit**" equal to one thirtieth (1/30th) of the Monthly Recurring Charge for the particular Service: (i) for the initial forty-five (45) minutes of Interruption Time; and (ii) for each full one hour of Interruption Time following the initial forty-five (45) minutes of Interruption Time.

Chronic Trouble

- 29. In the event a Service experiences three (3) or more outages resulting in the granting of Outage Credits in any contiguous ninety (90) day period or more than twenty-four (24) hours of continuous outage on a Service, Customer may, upon notice, terminate the affected Service without incurring Termination Liability for that Service.

Interruption Time

- 30. "**Interruption Time**" is the time that the particular Service is not available for use by the Customer. Interruption Time begins when the Supplier opens a "Service Ticket" in response to an interruption in the provision of the Services reported to the Supplier by the Customer and the Customer releases the affected circuit(s) to the Supplier for testing and repair and ends upon the earlier of: (i) when the Service Ticket indicates the Services are no longer interrupted; and (ii) the return of the affected circuit(s) for use by the Customer.

Exclusions from Interruption Time

- 31. Interruption Time does not include time when the particular Service is not available to the Customer due to: (i) interruptions for the purposes of allowing the Supplier to maintain, repair, implement a request from the Customer in relation to, upgrade or change Supplier's Network, a Local Loop or the Customer's Services; (ii) interruptions not reported to the Supplier; (iii) interruptions due to Force Majeure; (iv) interruptions and delays caused by the Customer (including delays in the Customer providing the Supplier access to facilities to investigate or correct interruption of service or resulting from breaches or non-compliance by the Customer of its obligations under the Service Agreement); (v) interruptions and delays caused by third parties (including denial of service attacks); (vi) the failure of equipment, systems or services not controlled by the Supplier; (vii) public Internet interruptions or loss of performance; and (viii) transient service degradation of short duration which clears before any repair action is taken.

Limit on SLA Credits

- 32. In no event shall the total of all SLA Credits relative to the provision of a particular Service provided to a Location during a calendar month credited to the invoice to the Customer relative to the particular Service, Location and calendar month exceed the amount of the Monthly Recurring Charge for the particular Service provided to the particular Location for the particular calendar month to which the invoice relates. There shall be no carryforward or carryback of any SLA Credits to a calendar month other than the calendar month in which occurred the Interruption Time to which the SLA Credits relate. There shall be no carryover of any SLA Credits relative to a particular Service to apply against the charges by the Supplier to the Customer for the other Service or for any other service provided by the Supplier to the Customer. The Customer shall not be entitled to any credits or other compensation from the Supplier with respect to the provision of a Service except those expressly provided therefor herein.

SLA Credits Apply Only With Respect to the Supplier's Network

- 33. Supplier will provide SLA Credits only in relation to traffic over the Supplier's Network. In the event that a Location of the Customer is provisioned through a network not owned or operated by the Supplier then no SLA Credits will be provided in relation to traffic between such Location and another location of the Customer and, instead, the Supplier shall pass along to the

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Customer the credits, if any, that the Supplier may become entitled to from the third party provider.

Limit on All Credits

34. In no event shall the total of all credits to any invoice to the Customer pursuant to a Service Agreement exceed the amount of the charges to the Customer for the calendar month to which the invoice relates.

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