



AGREEMENT FOR PROVISION OF IPVPN SERVICES

BETWEEN

AMALGAMATED TELECOM HOLDINGS (KIRIBATI) LTD

AND

XXXXXXXXXXXXXXXXXX

[Confidential]

Agreement Details refers to the details in Schedule 1.

Conditions Precedent means the conditions specified in the Agreement Details within which ATHKL must notify the Customer of its inability to provide all or any part of the services due to non-completion or non-fulfillment of any one or more of the Conditions Precedent.

Confidential Information means information that:

- (a) is by its nature confidential; or
- (b) is privy to only certain people who have been authorized to have access; or
- (c) is treated by each party as confidential; or
- (d) is notified by one party to the other as being confidential except information that:
- (e) is or becomes public knowledge otherwise than by breach of this Agreement; or
- (f) has been independently acquired or developed by a party to this Agreement.

Customer Premises Equipment means all cabling, apparatus, facilities and other equipment which is provided and installed by ATHKL on the Customer's premises or site to enable the Customer to access the Service, including but not limited to a third party radio or router or switch or any other equipment used to deliver the Service. This shall include all equipment that ATHKL shall install during the term of the Agreement in order to enable ATHKL to fulfill its obligations under this Agreement. The ownership of the equipment always remains with ATHKL. It is leased to the Customer for the term of the Agreement.

Customer Equipment means all cabling, apparatus, facilities and other equipment which is provided and installed by the Customer on the Customer's premises or site to enable the Customer to access the Service, including but not limited to a third party router or switch or any other equipment used to deliver the Service.

Emergency means any crisis which, in ATHKL's sole discretion, necessitates prompt action by ATHKL.

Helpdesk means the helpdesk or Network Operations Centre as identified by the telephone number set out in the Agreement Details hereto, responsible for receiving calls from the Customer when reporting faults and for responding to queries about the Service, for logging such calls and pursuing them to resolution, and reporting back to the Customer.

Early Termination Charges means the charge(s) specified in the Agreement Details which is payable by the Customer for termination without cause or otherwise unauthorized termination of this Agreement within the Minimum Contract Period.

Effective Date is defined in the Agreement Details.

Insolvency Event means conduct by any party whereby that party:

- (a) stops or suspends, or threatens to stop or suspend payment of all or a class of its debts;
- (b) is insolvent within the meaning of the relevant legislation on corporations;
- (c) is presumed by a Court to be insolvent;
- (d) fails to comply with a statutory demand;
- (e) has an administrator appointed over it or any step preliminary to the appointment of an administrator is taken; other than for the purpose of reconstruction;
- (f) passes a resolution for reduction of capital; or
- (g) gives notice of intention to propose such a resolution; or
- (h) has an application or order made, proceedings commenced, a resolution passed or proposed in a notice of meeting, an application to a Court made or other steps taken against or in respect of it (other than frivolous or vexatious applications, proceedings, notices or steps) for its winding up, deregistration or dissolution or for it to enter an arrangement, compromise or composition with or assignment for the benefit of its creditors, a class of them or any of them.

Intellectual Property means all intellectual property rights, including without limitation:

- a) patents, copyright, rights in circuit layouts, registered designs, trademarks, know-how, trade secrets, domain names, website contents, and any right to have confidential information kept confidential; and
- b) any application or right to apply for registration of any of the rights referred to in paragraph a above.

Material includes property, information and the subject matter of any category of the intellectual property.

Minimum Contract Period means the minimum term of this Agreement (subject to clause 3.1) set out in the Agreement Details.

Network means the telecommunications systems owned and operated by ATHKL.

Other Network means any telecommunications systems other than the Network.

Default Interest Rate means the default interest rate set out in the Agreement Details.

Point of Demarcation is defined in the Agreement Details.

Premises means all that premises which ATHKL will need to access for the purpose of establishing line of sight, site surveys, line testing, installation, operation and maintenance of Customer Premises Equipment and for avoidance of doubt, includes premises under the Customer's control and the premises adjacent to or in the vicinity of such premises including, but not limited to, rooftops, common access areas, common use areas and building services areas and site in this context means any one of such premises.

PSTN means public switched telephone network and refers to the fixed line public network.

Reselling means selling the Services or allowing the Services to be used by anyone else or any entity other than the Customer either for at a cost or for free (at no cost).

Service Charges mean the charges paid or payable to ATHKL by the Customer in accordance with clause 14 of this Agreement.

Services mean the services to be provided by ATHKL to the Customer pursuant to the terms of this agreement as detailed in Schedule 2.

Service Penalty means the charge(s) specified in the Agreement Details which is payable ATHKL for not meeting the service level agreements as specified in Schedule 1.

Site Regulations mean such health and safety and security rules and procedures applicable to a Customer's premises as may be notified in writing by the Customer to ATHKL from time to time during the term of this Agreement.

Contractor means an ATHKL contractor or sub-contractor appointed in accordance with clause 12 of this Agreement.

Term means the term of this Agreement as defined in clause 3.2.

Third Party Material means Material owned by a third party that is included, embodied in or attached to the Contract Material.

1.2 Interpretation

In this Agreement:

- (a) The singular includes plural and vice versa;
- (b) A reference to one gender includes a reference to all other genders;
- (c) Headings to clauses are included for the sake of convenience only and shall not affect the interpretation of the clauses to which they relate;
- (d) References to any statute or statutory provision include that statute or statutory provision as amended, extended, consolidated or replaced by subsequent

legislation and any orders, regulations, instruments or other subordinate legislation made under the relevant statute;

- (e) when a party compromises two or more persons, the rights and obligations of such persons pursuant to this Agreement shall ensure for the benefit of and bind them jointly and each of them severally;
- (f) the word “person” means and includes a natural person, a company, a firm, or any other legal entity whether acting as a trustee or not; and
- (g) this Agreement shall bind each party’s legal personal representatives successors and assigns.

2.0 SERVICES

2.1 Scope of Services

From the commencement of this Agreement, ATHKL shall provide the Services to the Customer in accordance with the terms and conditions of this Agreement.

2.2 Performance of Services

Without limiting specific provisions of this Agreement, ATHKL will:

- (a) Comply with all legal, regulatory or contractual requirements applicable to the Services including licensing obligations;
- (b) Exercise skill, care and diligence in providing the Services; and
- (c) Keep accurate written and auditable records relating to the performance of the Services during the term of this Agreement.

2.3 Warranty - ATHKL

ATHKL warrants that it has the sufficient knowledge and expertise to deliver the Services.

2.4 Acknowledgement

The Customer acknowledges and agrees that except as expressly set out in this Agreement, neither ATHKL nor any person acting on behalf of or associated with ATHKL has made any representation, given any advice or given any warranty or undertaking, promise or forecast of any kind in relation to the Services, ATHKL or this Agreement except as set out in this Agreement.

2.5 Warranty - Customer

That Customer warrants that it:

- (a) Is duly incorporated and/or validly exists under the laws of Kiribati;
- (b) has full (and if a company, corporate) power and lawful authority to execute and deliver this Agreement and to consummate and perform or cause to be performed its obligations under this Agreement and each transaction contemplated by this Agreement to be performed by the Customer;
- (c) is not insolvent and no receiver has been appointed over any part of its assets and no such appointment has been threatened; and
- (d) If a company, is not in liquidation and no proceedings have been brought or threatened for the purpose of winding up the Customer.

2.6 Conduct at the Premises

The Customer must, when permitting ATHKL to use the Premises or any of the Customer's facilities for the purposes of ATHKL providing the Services, make all ATHKL personnel present aware of, and promulgate all procedures relating to occupational health and safety and security in operation at those premises or facilities.

2.7 ATHKL relieved of its obligations

ATHKL will be deemed relieved of its obligations under this Agreement because of any adverse involvement by the Customer in the performance or material alteration of the Services without ATHKL's consent during the Term.

2.8 Additional Services

- (a) The Customer may request ATHKL to supply Additional services from time to time, in which case ATHKL may, after specifying the terms and conditions (including applicable charges) for supplying such Additional Services, supply them to the Customer from the date specified by ATHKL.
- (b) Service Charges for Additional Services will be determined in accordance with ATHKL's rates applicable at that time, and unless specifically agreed otherwise, the Additional Services will become part of the Services.

3.0 TERM

3.1 Commencement

This Agreement shall, subject to clause 3.4, come into effect on the Effective Date and shall, subject to clause 3.3, continue until:

- (a) Expiry of the Minimum Contract Period; or
- (b) Terminated earlier pursuant to clause 20.

3.2 Term

The Term of this Agreement shall be **3 years** from the Effective Date (Minimum Contract Period).

3.3 Renewal

If the Customer makes a written request to ATHKL no less than 30 days before the expiry of the Term to extend the Term, ATHKL may upon mutual agreement, extend the Term for such further period as is reasonably necessary.

3.4 Conditions Precedent to ATHKL's provision of Services

- (a) Notwithstanding any other clause to the contrary, ATHKL shall not be obliged to provide any Services under this Agreement until completion to ATHKL's satisfaction at its sole discretion of the Conditions Precedent. ATHKL may in its discretion, waive any of the Conditions Precedent.
- (b) If the Services or any part thereof cannot be provided by ATHKL because any one or more of the Conditions Precedent cannot be or has not been successfully completed to ATHKL's satisfaction, ATHKL will notify the Customer of such inability to provide the Services or any part thereof within the Conditions Precedent Notification Period.
- (c) Upon receipt by the Customer of Notice from ATHKL pursuant to clause 3.4 (b) Above, either party may by written notice to the other party shall have any claim or recourse against the other for such termination.

4.0 PREMISES PREPARATION & ACCESS

- 4.1 The Customer shall at its own expense, prepare the Premises according to any reasonable instructions provided by ATHKL (including, but not limited to obtaining all such consents and authorizations as may be necessary to provide ATHKL with access to the Premises and installing all Customer Premises Equipment) and shall provide ATHKL with reasonable access to selected parts of the Premises for the purpose of establishing line of sight, site surveys, line testing, installation, operation and maintenance of Customer Premises Equipment as and when required by ATHKL.
- 4.2 On completion of any modifications or alterations to the Premises reasonably required by ATHKL to prepare the Premises for the provision of the Service, the Customer will also be responsible for making good any damages reasonably arising from ATHKL's modifications and/or alterations unless such damages are caused directly as a result of negligence of ATHKL's servants or agents.
- 4.3 Where it is necessary to lay cables, lines, equipment or to otherwise acquire access, or permission to traverse premises not owned or in the possession and control of or

accessible under consent granted to the Customer, the Customer shall secure all necessary approvals from the relevant persons/entities, including owner, landlord, or their agents to enable ATHKL to carry out its installation, maintenance and provision of the Services to the Customer.

- 4.4 The Customer will, at its own expense, obtain all necessary building or planning consents, permissions and approvals for any modifications required to any premises including the Premises.
- 4.5 The Customer shall comply with all of ATHKL's safety and security requirements in relation to the use of Customer Premises Equipment and the Service as may be notified to it by ATHKL from time to time.
- 4.6 The Customer agrees to provide, at its expense, a suitable place, conditions and support for Customer Premises Equipment and Service including all necessary trunking, conduits and cable trays in accordance with relevant installation and use standards and a continuous uninterrupted mains electricity supply, air conditioned space for indoor equipment and connection points.
- 4.7 ATHKL will not be liable for any delays in meeting its obligations under this Agreement where the delay is due to acts beyond its reasonable control or any act or default of the Customer.

5.0 CUSTOMER PREMISES EQUIPMENT

- 5.1 To enable the installation and use of Customer Premises Equipment on Site, the Customer will, at its own expense, where necessary, provide ATHKL with a detailed site map marking the location of Customer Premises Equipment on the Premises and by provision of this detailed site map shall be deemed to have confirmed that Customer Premises Equipment does not damage or interfere with either the equipment or services of the Customer or of any third party.
- 5.2 All legal title, right to and interest in the Customer Premises Equipment shall remain with ATHKL and nothing in this Agreement shall be construed or interpreted as passing any such right or interest to the Customer.
- 5.3 The Customer must not add to, modify or in any way interfere with the Customer Premises Equipment and will be liable to ATHKL for any loss of or damage to the Customer Premises Equipment, except where such loss or damage is due to fair wear and tear, acts of God, or is caused by the negligent or willful act or omission of ATHKL.
- 5.4 The Customer shall not carry out, and nothing in this Agreement shall be construed or interpreted as authorizing the Customer to carry out, any maintenance and/or repair of the Customer Premises Equipment.

- 5.5 ATHKL shall not be responsible nor liable for any fitting, cable, ducting, equipment (including Customer Premises Equipment) on the Customer's side of the Point of Demarcation and all risk, responsibility and liability for such or arising from or related to such shall remain at all times with the Customer.
- 5.6 The parties acknowledge and agree that the Customer Premises Equipment as outlined in Schedule 4 of this Agreement is not provided under this Agreement for the sole and/or exclusive purpose of providing the Services to the Customer and ATHKL may, at its sole discretion, use the Customer Premises Equipment to provide such other services to such other persons in such manner as it deems appropriate.

6.0 ATHKL'S RIGHTS

- 6.1 ATHKL reserves the right, from time to time, to:
- a) Change the technical specification or any other aspect of the Services provided that the change does not materially and adversely affect the Services;
 - b) In the case of an Emergency, change the technical specification or other aspect of the Service which may materially or adversely affect the Services; or
 - c) Give the Customer such instructions as may, in ATHKL's sole opinion, be necessary to maintain the safety and/or quality of the Service.

7.0 ACCESS AND SITE REGULATIONS

- 7.1 The Customer will, where necessary, and at all reasonable times, permit access or secure access to the Premises to ATHKL and anyone acting on ATHKL's behalf, on production of a valid identity card, to enable ATHKL to carry out its obligations under this Agreement. ATHKL will normally only require such access during the Customer's usual working hours, however, ATHKL may, on reasonable notice, require the Customer to provide it with access at other times. Such request shall not be unreasonably denied.
- 7.2 ATHKL will observe all reasonable Site Regulations of the Customer, which have been advised in writing to ATHKL prior to the date of access to the Premises by ATHKL. In the event of any conflict between the Site Regulations and the terms of this Agreement, ATHKL shall proceed with the installation only upon receipt of the Customer's written authorization to do the installation in accordance with the terms of this Agreement and may waive adherence to the Site Regulations.
- 7.3 The Customer will provide a suitable and safe working environment for ATHKL at the Premises throughout the Term of this Agreement.

8.0 ATHKL'S OBLIGATIONS

- 8.1 Prior to commencement of the Service, ATHKL shall perform a survey of the Premises and shall, if it considers it necessary, inspect the Equipment at the customer site.
- 8.2 The Service via wireless channel provided by ATHKL shall be at a capacity agreed between ATHKL and the Customer.
- 8.3 Unless ATHKL notifies the Customer otherwise, ATHKL will be responsible for obtaining and providing any direct access line needed to provide the Service between any additional Customer offices specified in the Agreement Details. For the avoidance of doubt, although ATHKL may be responsible for obtaining and providing any direct access line, the rental charge for such line or lines shall be payable by the Customer.
- 8.4 Unless ATHKL notifies the Customer otherwise, ATHKL will also provide any equipment necessary for ATHKL to remotely monitor and maintain each access line.
- 8.5 ATHKL will respond to faults reported to it by the Customer without undue delay by taking such network management measures as it deems appropriate. ATHKL will notify the Customer if the fault does not relate to either the Network or Customer Premises Equipment or other means beyond the control of ATHKL.
- 8.6 For the purposes of providing new connections, changing routing tables, updating facilities and general inspection, repair and maintenance, scheduled downtime may be required from time to time. ATHKL will use all reasonable endeavors to schedule planned maintenance with minimum possible impact on the Customer's business. Except in the case of an Emergency, ATHKL shall give at least forty eight (48) hours prior notice to the Customer of any planned maintenance.
- 8.7 ATHKL will provide a Helpdesk facility, for the reporting of faults within the Network by the Customer and to advise on the day to day use of the Service.
- 8.8 ATHKL shall be responsible for the maintenance and repair of Customer Premises Equipment on the Premises and will repair each fault for which it is responsible on the priority levels set out in the Agreement Details.
- 8.10 ATHKL shall not be responsible for calls, data, information, or otherwise routed over the PSTN or Other Networks once such calls, data, information or otherwise have been handed over to the PSTN or Other Networks.
- 8.11 ATHKL shall not be responsible for any component of the Services provided to or by third parties.
- 8.12 ATHKL shall only be responsible to ensure connectivity to the defined Points of Demarcation

- 8.13 ATHKL will use its best efforts to provide the Service by the Effective Date set out in the Agreement Details, which is the scheduled lead time assigned for the installation and commissioning of the Service. However, and the parties agree, the Effective Date is only an estimate and ATHKL shall not be liable for any failure or delay in meeting those dates.

9.0 CUSTOMER'S OBLIGATIONS

9.1 *The Customer Shall*

- (a) comply with all instructions or directions given to it by ATHKL which are, in ATHKL's sole opinion, necessary to maintain the safety or the quality of the Service;
- (b) not resell any or part of the Services, without first obtaining written approval of ATHKL;
- (c) inform ATHKL of existing facilities which run or may run the risk of being damaged during the installation and connection of Customer Premises Equipment on the Premises and provision of the Service;
- (d) make available to ATHKL, at no charge, access to the Customer's Equipment as well as space and other resources as are reasonably required by ATHKL to enable ATHKL to provide the Service;
- (e) use the Service strictly in accordance with instructions provided by ATHKL;
- (f) not use the Service in a manner that would jeopardize the operation of the Network, the network of any ATHKL customer, or other third party
- (g) take all precautions and security measures to ensure the security of all its equipment (including the Customer Premises Equipment) and to ensure compliance by the Customer of all its obligations under this Agreement;
- (h) not interfere with any labels or warnings affixed to the Customer Premises Equipment;
- (i) permit ATHKL to examine, test or repair the Customer Premises Equipment on the Premises at all reasonable times;
- (j) not create or permit any charges, pledges, liens or encumbrances of any kind to be created in respect of Customer Premises Equipment on the Premises;
- (k) be responsible for the maintenance of all Customer Premises Equipment,
- (l) not alter, modify or all or any Customer Premises Equipment without first obtaining the approval of ATHKL;

- (m) promptly report faults in the Service to the Helpdesk facility provided by ATHKL;
- (n) inform ATHKL of any change of name, civic or electronic mail addresses; and/or telephone number of the Customer;
- (o) bear all costs relating to the provision of commercial uninterrupted power to the Customer's premises, Customer Premises Equipment and Customer's Equipment and the provision of additional infrastructure such as pole mounts, bases, grounding equipment required to facilitate the installation of the Equipment; and
- (p) Not, nor permit any other person to:
 - (i) Attach anything directly or indirectly to any Customer Premises Equipment;
 - (ii) Place anything in electrical connection with any Customer Premises Equipment; or
 - (iii) Use anything in such a way that it is capable of transmitting or receiving any message, signal or communication to or from a wireless broadband channel; or
 - (iv) Connect or attach any equipment to the Customer Premises Equipment and/or the Customer's own equipment which may adversely affect the operation of such equipment and/or the provision of the Services by ATHKL.

9.2 The Customer acknowledges that:

- (a) It is ultimately responsible and liable for any and all activity that originates from or is directed to its internet circuit regardless of its knowledge of and consent to such activity. This includes but is not limited to activity by employees whether specifically authorized or unauthorized by the Customer;
- (b) It is liable and accountable for any activity originating from any of its account services that are deemed to be in violation of clause 9.2(c); and
- (c) In the event of activity which is considered by ATHKL to be deliberately or otherwise abusive or in violation of this clause 9, ATHKL may, upon giving seventy two (72) hours prior notice to the Customer of ATHKL's intention to suspend and/or terminate the Customer's account and where the Customer remains in breach after expiration of such period, suspend and/or terminate the Customer's account and all Services. ATHKL reserves the right, acting reasonably, at its sole discretion, to make a determination of what constitutes abuse or violation and the Customer agrees that ATHKL's determination is final and binding on it.

10.0 USE OF THE SERVICE

10.1 The Customer agrees not to use the Service for any purpose or in any manner that:

- (a) Does not comply with the terms of any legislation, regulation, policy or any license or authorization applicable to the Customer or ATHKL;
- (b) Does not comply with any instructions given to it by ATHKL;
- (c) Does not comply with any instructions given to ATHKL by any other telecommunications operator or any competent regulatory authority and which has been notified in writing by ATHKL to the Customer;
- (d) Would or could result in ATHKL being in breach of any agreement between ATHKL and any public telecommunications operator which has been notified in writing by ATHKL to the Customer; or
- (e) In the reasonable opinion of ATHKL is or could be improper.

10.2 The Customer shall not and hereby undertakes not to violate any system or network security including but not limited to:

- (a) gaining or seeking to gain unauthorized access to or use of data, systems or networks, including any attempt to probe, scan or test the vulnerability of a system and/or network or to breach security or authentication measures nor without express authorization of the owner of that system or that network;
- (b) using or seeking to use or distribute tools designed for compromising security including, but not limited to, password guessing programs, cracking tools, packet sniffers or network probing tools;
- (c) Interfering with service to any internet user, host or network including, but not limited to:
 - (i) Mail-bombing;
 - (ii) Packet flooding;
 - (iii) Deliberate attempts to overload a system; or
 - (iv) Broadcast attacks;
- (d) Forging of any TCP-IP packet header or any part of the header information in an email or a newsgroup posting;
- (e) Monitoring of data and/or traffic on any network or system without the express authorization of the owner of the system or network.
- (f) Transmitting, distributing or storing any material in violation of any applicable law, regulation, policy, license or authorization;
- (g) Sending unsolicited mail messages (SPAM), including, without limitation, commercial advertising, charity requests, petitions for signatures, chain letters, informational announcements and political or religious messages, unless requested by the specific recipient; and

- (h) collecting or redirecting responses from SPAM sent from other internet hosts which would violate this Agreement or being directed by SPAM sent from other internet hosts or messaging services to any web site or resource that uses the ATHKL Network;
- (i) Knowingly transmitting or disseminating any information or software, which contains a virus or other harmful feature;

10.3 The Customer shall be solely responsible for the security of any device the Customer chooses to connect to the service, including any data stored on that device.

10.4 The Customer shall notify ATHKL immediately of any unauthorized or attempted unauthorized use the Service and any other breach or attempted breach of security, including but without limitation to this clause 10.

10.5 The Customer shall not make or allow unreasonable or excessive demands on the Network nor make or allow improper or abusive use of the Network.

10.6 Without limiting this clause 10, the Customer must not:

- (a) use (or attempt to use) the Service in a manner that may interfere with the technical operation of the Service, including (but not limited to) denial of Service attacks, flooding of a Network, overloading a Service, improper seizing and abuse of operator privileges and attempts to 'crash' a host; or
- (c) Interfere (or attempt to interfere) with the regular workings of ATHKL's systems or Network.

10.7 Where Services provide access to the internet, certain activities that the Customer can perform may be harmful or cause loss to the Customer, other people that may access the Service, or the Customer's equipment. Typical activities include, but are not limited to:

- a) Downloading content (including receiving emails) from the internet which may introduce viruses or other harmful features to the Customer's computer;
- b) Purchasing goods or services using the internet;
- c) Transmitting confidential information over the internet (such as credit card details or other personal information);or
- d) accessing and viewing content on the internet or otherwise available through the Service that may be offensive to some individuals, or inappropriate for children (for example, it is possible to obtain access to content that is copyright protected, pornographic, offensive and/or unsuitable for children).

10.8 The Customer will bear all risk associated with the activities referred to in clause 10.7 and ATHKL shall not have any liability for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to such activities.

- 10.9 The Customer shall minimize the risk of accessing illegal or offensive content as well as managing use of the internet by using a filtering solution (in the form of software or otherwise determined by ATHKL). ATHKL may provide access to or information on one or more of these filtering solutions at a reasonable cost to the Customer as part of the Service.
- 10.10 The Customer has the right to make complaints to the appropriate local authority responsible for monitoring internet and media content, about internet content which is or would be classified by such authority as X rated, RC rated, or R rated, or such similar rating presented by that authority.
- 10.11 The Customer is solely responsible for any content published using any publishing mediums accessed via the Service.
- 10.12 The Customer will not publish material that is or would be classified by the appropriate local authority responsible for monitoring internet and media content as X-rated, RC rated, R rated or such similar rating presented by that authority, via any publishing mediums accessible via the Service.
- 10.13 ATHKL reserves the right to block access to, to remove, or to refuse to post any content, in whole or in part, that in ATHKL's sole discretion is deemed to be unlawful under the Laws of Kiribati or other laws and regulations or when instructed by the Government of Kiribati, which includes the Ministry of Communications and AG's office.
- 10.14 Where legislation allows, the appropriate authority responsible for monitoring internet and media content may direct ATHKL to remove certain prohibited or potentially prohibited content from its servers or to prevent users from accessing certain internet content. ATHKL shall take any steps necessary to ensure compliance with any relevant industry code of practice, or notification or direction from such authority, including removing any content (including part or all of a website) from its servers, blocking access to newsgroups, closing or suspending the Service, filtering the internet content made available to the Customer or restricting access to a particular website. ATHKL may take these steps at any time and without notice to the Customer.
- 10.15 Where legislation allows, copyright owners or their agents may direct ATHKL to remove copyright materials from its servers or to prevent users from accessing copyright materials. ATHKL may take any steps necessary in order to ensure compliance with a notification from a copyright owner or their agent, including removing any content (including part or all of a website) from its servers, closing or suspending the Customer's account, filtering the internet content made available to the Customer or restricting access to a particular website. ATHKL may take these steps at any time and without notice to the Customer.
- 10.16 ATHKL is under no obligation, but has the right to monitor transmissions or published content on the Service from time to time to ensure that the Customer is complying with the terms of this policy, and to disclose that content as required.
- 10.17 By using the Service to reproduce, publish, display, transmit or distribute content, the Customer authorizes ATHKL to reproduce, publish, display, transmit and distribute such content as necessary for ATHKL to deliver the content in a timely manner.

- 10.18 ATHKL may take any other legal or technical action deemed appropriate, including taking action against offenders to recover the costs and expenses of identifying them. If the Customer's use of the Service causes a loss to third parties and ATHKL are required to pay compensation, ATHKL will require the Customer to reimburse them.
- 10.19 ATHKL is not obligated but reserves the right to regularly monitor Customer usage of the Service (including content posted, disseminated or accessed by the Customer) to identify violations and to protect the ATHKL network, the other users of this Service, and other internet users.
- 10.20 ATHKL reserve the right to investigate any use of the Service that ATHKL reasonably suspect violates the Customer's usage, including the gathering of information from the user(s) involved and the complaining party, if any, and examination of transmissions and material on its servers and network. During an investigation, we may suspend the Services involved, interrupt transmissions and/or remove material that we reasonably believe potentially violates this policy.
- 10.21 The Customer authorizes ATHKL to cooperate with:
- a) Law enforcement authorities in the investigation of suspected criminal violations; and
 - b) System administrators at other internet service providers or other network or computing facilities.

Such cooperation may include providing, for example, the username, IP address or other identifying information about a Customer.

- 10.22 Upon cancellation of the Service, ATHKL is authorized to delete any files, programs, data and email messages associated with the Service.
- 10.23 In the event of activity which is considered by ATHKL to be unreasonable, excessive, improper or abusive or in violation of this clause 10, ATHKL may, upon giving seventy two (72) hours prior notice to the Customer of ATHKL's intention to suspend and/or terminate the Customer's account and where the Customer remains in breach after expiration of such period suspend and/or terminate the Customer's account and all Services. ATHKL reserves the right, acting reasonably, at its sole discretion, to make a determination of what constitutes unreasonable, excessive, improper or abusive and the Customer agrees that ATHKL's determination is final and binding on it.

11.0 CONNECTION TO OTHER NETWORKS

- 11.1 Connection of equipment or Other Networks to the Network shall only be made with the prior written approval of ATHKL. The Customer shall not either itself or knowingly allow a third party to connect any equipment or Other Networks to the Network without the prior written approval of ATHKL.

12.0 SUBCONTRACTORS

12.1 General

ATHKL:

- a) May subcontract any part of the Services and may notify the Customer of any subcontracting arrangement;
- b) Will use reasonable endeavors to ensure that each Subcontractor complies with the terms of this Agreement;
- c) Will, despite any Subcontractor appointment, be the Customer's sole point of contact regarding the Services including with respect to payment; and
- d) may at its election change any Subcontractor, in which case, the new Subcontractor will perform the Services.

12.2 For avoidance of doubt, the subcontract of service referred to in clause 12.1 relates to specific expert technical service that may be required by ATHKL at its sole discretion from time to time as the need may arise.

13.0 PERFORMANCE STANDARDS

13.1 General

ATHKL will use reasonable endeavors to perform the Services, at least, consistent with levels of performance achieved by well managed operations performing services similar to the Services.

13.2 Internet

For provision of internet, ATHKL will use reasonable endeavors to perform the Services, at least, consistent with levels of performance achieved by well managed operations performing services similar to the Services, but does not assume any responsibility for performance standards, as content delivery is managed by upstream providers. Outages or Service disruptions by the upstream provider shall not be covered by the Service Level Agreement, as this is beyond ATHKL's control.

13.2 Actions which adversely affect Services

The Customer must not take or allow any action or make or allow to be made a decision that may adversely affect the function or performance of, or decrease the efficiency of, ATHKL's ability to perform the Services without ATHKL's prior written approval.

14.0 SERVICE CHARGES

14.1. General

- a) The Customer agrees to pay all Service Charges set out in Schedule 3 of this Agreement.
- b) Unless otherwise specified, all Service Charges set out in Schedule 3 of this Agreement are exclusive of any connection charges.
- c) Where the Services under this Agreement include voice services, the Customer is liable for all calls made via the Service, for which separate charges apply. This provision shall apply irrespective of whether the Customer knows or consents to such use.
- d) All Service Charges shall, unless revised, shall be effective and payable as and from the Effective Date.
- e) ATHKL shall invoice the Customer and the Service Charges shall be payable on a monthly basis unless otherwise revised by ATHKL and notified to the Customer.
- f) Service Charges are payable on a monthly basis unless revised by ATHKL and notified to the Customer.
- g) Charges for installation of access lines, if applicable are payable on the Effective Date.
- h) Where ATHKL carries out an investigation of faults on its Equipment which are reported by the Customer, and no faults are identified, or if identified, are attributed to the Customer's acts or omission, ATHKL reserves the right to invoice the Customer reasonable costs of carrying out the investigations and repairs and the Customer shall pay the costs within thirty (30) days of the date of such invoice.
- i) Where ATHKL carries out an investigation of faults on its Equipment which are reported by the Customer and such faults which are attributed to ATHKL's acts or omissions, ATHKL shall be responsible for costs of investigations and repairs.
- j) Unless otherwise specifically provided for in this Agreement, all charges shall be payable to ATHKL within thirty (30) days from the date of ATHKL's invoice to the Customer for payment of such charges.

- k) ATHKL reserves the right to charge default interest on any overdue amount at the Default Interest Rate. Default interest will be calculated from the time the amount is outstanding to ATHKL to the time of payment.
- l) ATHKL commits to offer and maintain competitive pricing throughout the term of the Agreement, meaning that if there are any reductions in the retail prices of this Service, ATHKL will pass on the reduced prices to the customer. ATHKL will review the pricing after any reduction in retail or regulated pricing and ensure that the customer receives and continues to receive the Services at competitive pricing.

14.2 *Incidental Expenses*

ATHKL may charge the Customer any fees, chargers or expenses in addition to the Service Charges which ATHKL has notified the Customer of and the Customer has in turn agreed to payment of prior to the issuing of an invoice.

14.3 *Government taxes, duties and chargers*

Each party must pay and indemnify the other in respect of, any taxes, duties, chargers imposed or levied on that party in connection with its performance of this agreement.

14.4 *Suspension of payment of the Service Charges*

The Customer shall not defer or suspend payment of the Service Charges once that part of the service to which the payment relates has been completed. The parties understand and agree that any Service Charge shall become due and immediately payable upon issuance of an invoice by ATHKL addressed to the Customer for payment of such charges.

15.0 INTELLECTUAL PROPERTY

15.1 *Vests in ATHKL*

Intellectual Property in all Material produced by either or both parties in relation to or as a result of this Agreement shall vest in ATHKL immediately upon its creation.

15.2 *Ownership of pre-existing Material*

- a) Clause 15.1 does not affect the ownership of intellectual Property in any of the Customer's or ATHKL pre-existing Material.
- b) If ATHKL requires any of the Customer's pre-existing Material to provide the Services then the Customer may at its discretion, provide ATHKL an irrevocable, royalty free, worldwide, non-exclusive (including the rights to sublicense) license to use ,reproduce, adapt, communicate and exploit the Customer's pre-existing Material to provide the services for the Term of this Agreement.

15.3 Third Party Material

If the Customer requires ATHKL to use a third party's Material for the services then the Customer must procure:

- a) From that third party all necessary copyright and intellectual property rights permission in ATHKL's favour; and
- b) Licenses in the manner contemplated under clause 15.2 (b) of this Agreement in relation to any third party Intellectual Property which the customer requires ATHKL to include or use for the Services.

15.4 Intellectual Property Indemnity

ATHKL hereby agrees to indemnify the Customer against all fees, losses, liabilities and damages incurred by the Customer arising from all and any claims against the Customer on the basis that the use of the Customer of the service has infringed the intellectual property rights of a third party provided that the Customer:

- a) Notifies ATHKL promptly in writing of any allegation of the infringement;
- b) Makes no admission relation to the alleged infringement;
- c) Permits ATHKL to conduct and settle, if appropriate, all negotiations and proceedings in respect of any such claims; and
- d) Provides ATHKL with all reasonable assistance in investigating, defending and settling the claim (ATHKL will reimburse the Customer's reasonable expenses in respect of any assistance specifically requested by ATHKL)

The indemnity in this clause does not apply to alleged infringement occasioned by the use of the Service in conjunction with apparatus or software not supplied by ATHKL in which case the Customer hereby indemnifies and agrees to keep ATHKL indemnified against all fees, losses, damages and liabilities incurred by ATHKL howsoever arising from all such alleged infringements.

16.0 ALLOCATIONS AND USE OF THE TELEPHONE NUMBERS AND CODES

- 16.1 The Customer shall, at no time, acquire any rights or title in the numbers and/or codes allocated to it by ATHKL. ATHKL reserves the right to withdraw or replace any numbers or codes allocated to the Customer for operational or technical reasons or where any such withdrawal is required by the telecommunications regulatory authority. Where numbers or codes are to be withdrawn or replaced, ATHKL will endeavor to provide the Customer with the maximum notice practicable having regard to the circumstances of the withdrawal or replacement and in these circumstances ATHKL shall not be liable to the Customer for any losses, claims, damages, costs and attorneys costs arising from the withdrawals or replacements and the Customer shall be deemed to indemnify ATHKL completely in respect thereof.

17.0 NEGOTIATION OF EMPLOYMENT, PARTNERSHIP OR AGENCY

- 17.1 This agreement does not create and shall not be construed as creating a relationship of employment, agency or partnership between the parties.

18.0 CONFIDENTIAL INFORMATION

18.1 Prohibition on Disclosure Subject to clause 18.5, the Customer must not, without prior written consent to be at the sole discretion of ATHKL, disclose any Confidential Information of ATHKL to a third party.

18.2 Conditions to Approval

In giving written consent to the disclosure in accordance with clause 9.1, ATHKL may impose such conditions as it thinks fit, and Customer must comply with these conditions.

18.3 Advisers

ATHKL may at any time require the Customer for:

- a) Its Advisers; or
- b) Any third party to whom ATHKL Material may be disclosed to pursuant to clause 18.1 or 18.5 to give a written undertaking in relation to the use and non-disclosure of ATHKL's Confidential information.

18.4 Customer's Confidentiality

- a) Subject to clause 18.5, ATHKL will not without the prior written consent of the Customer disclose or permit disclosure of any information obtained as a result of this Agreement or the implementation thereof in regards to the business of the Customer to any person or body not otherwise authorized to receive such information.
- b) ATHKL shall take all reasonable precautions in dealing with all the documents and information provided to ATHKL so as to prevent any unauthorized person from having access to such documents or information.
- c) ATHKL shall return all documents and information to the Customer upon termination of this Agreement.

18.5 Exceptions to Obligations

The Obligations under this clause 18 will not have been taken to have breached this Agreement to the extent that Confidential Information of the other party:

- a) Is disclosed to a party's advisers solely in order to comply with obligations, or to exercise rights under this Agreement; or
- b) Is authorized or required by law, to be disclosed.

18.6 Period of confidentiality

The obligations under this clause 18 shall continue indefinitely.

19.0 SUSPENSIONS

19.1 Without prejudice to its rights to terminate this Agreement, ATHKL reserves the right to suspend or interrupt the provision of the Services under this Agreement:

- a) In the event of an emergency;
- b) Due to technical expediency;
- c) In the event that the Customer fails to comply with any provisions of this Agreement;
- d) In order to prevent damage to or degradation of the Network which may be caused by the Customer or anyone using the Customer's access;
- e) In order to comply with any law, regulation, court order or other governmental request or order;
- f) In order to comply with any request of an emergency service organization; or
- g) In order to prevent use of the Service which is in the reasonable opinion of ATHKL is fraudulent, illegal or improper.

19.2 In the event that the Service is suspended under clause 19.1 due to a breach by the Customer of this Agreement, the Customer shall continue to pay ATHKL the Service Charges until this Agreement is terminated in accordance with clause 20.

20.0 TERMINATION

20.1 *The Customer's right to terminate:*

- a) Without prejudice to any other accrued rights or remedies, the Customer has the right to terminate this Agreement by written notice at any time with effect from the date of that notice if ATHKL:
 - (i) Commits a material breach of this Agreement and fails to remedy that breach within three months of receipt of written notice of the breach;
 - (ii) Commits a material breach of this Agreement which is incapable of being remedied;

- (iii) persistently fails to perform or comply with any one or more of its obligations under this Agreement in any three (3) month period and ATHKL has been given notice of such failure in that period by the Customer ; and
 - (iv) Is subject to an Insolvency Event
- b) If the Customer terminates or purports to terminate this Agreement within the Minimum Contract Period without cause or for any reason not specified in the clause 20.1, then the customer shall pay ATHKL the Early Termination Charge.
 - c) The Customer may not terminate this Agreement if ATHKL is subject to any material change in its ownership or control

20.2 ATHKL's right to terminate

ATHKL may at any time terminate this Agreement:

- a) For convenience by giving the Customer thirty (30) business days' notice; or
- b) If the Customer commits a material breach of this Agreement and fails to remedy that breach within two (2) months of receipt of written notice of the breach.

20.3 Rights and Obligations after Termination

(a) Following termination of this Agreement:

- (i) The Customer shall make appropriate arrangements with ATHKL for ATHKL to remove from the Premises, Customer Premises Equipment;
- (ii) Any information which has been furnished to one party by the other party shall be returned to that party, deleted, destroyed or expunged, as appropriate; and
- (iii) In the event that this Agreement is terminated and any alteration of the premises has taken place in order to facilitate the provision of the Service, the Customer shall be solely responsible and liable for the restoration of the Premises.

20.4 Early Termination Charges

The Customer acknowledges and agrees that the Early Termination Charge which will be payable by it under clause 20.1 (iv) (b) is reasonable in consideration of the investment by ATHKL to facilitate the operation of this Agreement on the assurance of the Customer, that the Customer shall obtain the Service for at least the Minimum Contract Period. The formula used for calculation of early termination is \$500 per site multiplied by the number of months remaining in the Minimum Contract Period.

21.0 GUARANTEE, INDEMNITY AND INSURANCE

21.1 Guarantee

The Customer guarantees to ATHKL the due and faithful performance by the Customer of each and every obligation on its part contained in this Agreement.

21.2 Indemnity

The Customer indemnifies and agrees to keep ATHKL indemnified against all claims, losses, expenses, damages and costs (on a solicitor and own- client basis and whether incurred by or awarded against ATHKL) that ATHKL may sustain or incur as a result whether directly or indirectly of:

- a) Any breach of this Agreement including, but not limited to, a breach in respect of which the Customer exercises an express right to terminate this Agreement;
- b) Any act or omission or misconduct by the Customer of the Intellectual Property rights of a third party;
- c) Any infringement by the Customer of the Intellectual Property Rights of a third party.

21.3 Limitation of Liability

- (a) ATHKL shall not be liable to the Customer in contract, tort (including negligence) or otherwise for direct or indirect loss of profits, business or anticipated savings or for any indirect or consequential loss or damage whatsoever or any failure of interruption of service for whatever reason save for any loss damage or liability that arises as a consequence of ATHKL's negligence or willful or deliberate action of its employees, agents or contractors.
- (b) ATHKL does not accept liability and will not be liable to the Customer for the acts or omissions of the other telecommunication operators.
- (c) ATHKL shall implement reasonable measures to prevent any unauthorized access by the third parties to any part of the Network under its control; however ATHKL shall not be liable for any such unauthorized access.

21.4 Insurance

- (a) The Customer will have and maintain during the Term valid and enforceable insurance policies of sufficient cover to enable the Customer to meet all its obligations under this Agreement including but not limited to:
 - (i) public liability insurance; and
 - (ii) any other relevant insurance cover ATHKL reasonably requires from time to time.
- (b) In connection with the performance of the services, ATHKL will have and maintain during the Term valid and enforceable insurance policies sufficient to cover the Services.

22.0 NOTICES

22.1 Any notice demand, consent or other communication (for the purposes of this clause 22 “NOTICE”) given or made under this Agreement:

- (a) Must be in writing and signed by a person duly authorized by the sender :
- (b) Must be delivered to the intended recipient by email and prepaid post (if posted to the address or fax number below or the address or fax number last notified by the intended receipt to the sender:

| | |
|------------------|--|
| To the Customer | |
| Addressee | XXXXXXXXXXXXX |
| Location Address | XXXXXXXXXXXXX |
| Telephone Number | XXXXXXXXX |
| To ATHKL | |
| Addressee | Kamleshwar Sharma, Chief Executive Officer |
| Location Address | Bairiki, Tarawa. |
| Postal Address | P O Box 72, Bairiki, Tarawa. |
| Phone Number | 20030 |

- (c) Will be taken to be duly given or made in the case of:
 - (i) Delivery in person, when delivered: and
 - (ii) Receipt by the sender of the transmission control report from the dispatching machine showing the relevant number or name of pages and correct destination fax number or name of recipient and indicating that the transmission has been made without error,
- (d) If the result is that the notice would be taken to be given or to be made on a day that is not a Business Day in the place to which the notice is sent or is later than 4pm (local time) it will be taken to have been dually given or made at the start of the business on the next Business Day in that place.

23.0 DISPUTE RESOLUTION

- 23.1** Where a disagreement arises between the Parties from or in relation to the performance or interpretation of this Agreement (for the purposes of this clause 23 a "Dispute") and a party wishes to invoke the dispute procedure specified in this clause 23, it shall send written notice of the Dispute to the other party (for the purposes of this clause the "receiving party"). The notice shall contain all relevant details including the nature and extent of the Dispute. Upon receipt of the notice, the parties must appoint at least one senior representative, who must, within five (5) working days from the date the receiving party received the notice of the dispute, meet with each other, and genuinely attempt to resolve the Dispute.
- 23.2** Following notice under clause 23.1, the parties shall consult in good faith to try to resolve the Dispute. If agreement is not reached within ten (10) working days from the date of the meeting, either party may escalate the Dispute for attempted resolution by each of the party's Chief Executive Officers or the Chief Executive Officer's nominee by giving written notice to the other of such escalation.
- 23.3** Each of the parties' respective Chief Executive Officers or the Chief Executive Officer's nominee, must meet within five (5) working days or at such other time as may be agreed between the parties and attempt to resolve the Dispute within five (5) working days from the date of such meeting.
- 23.4** If the Dispute is not resolved under clause 23.3, the parties agree to go to arbitration and either party (for the purposes of this clause the "disputing party") may invoke arbitration by giving written notice to the other (for the purposes of this clause the "receiving party") of such. The parties must, within three (3) working days of date of receipt by the receiving party of the notice, appoint an Arbitrator to determine the Dispute. If the parties are unable to agree on an Arbitrator within three (3) working days, either party may request the President of The Law Society of the Republic of the Kiribati Islands or equivalent body to nominate an Arbitrator to determine the Dispute.
- 23.5** In determining the Dispute, the parties must instruct the Arbitrator
- a) To decide within the shortest practicable time and as informally and as inexpensively as possible ;
 - b) To consult with each of the parties and give each a reasonable opportunity to make submissions and to put any material before the Arbitrator which the party considers relevant; and
 - c) To deliver an award stating its opinion with respect to the matters in the dispute and the reasons for its decision.
- 23.6** The decision of the Arbitrator, in the absence of manifest error, will be conclusive and binding. Such reference shall be deemed to be arbitration pursuant to the relevant arbitration legislation or any statutory modification of that Act.
- 23.7** The costs of the Arbitrator will be borne equally by both parties.

23.8 Any information or documents disclosed by a party under this clause 23:

- a) Must be kept confidential
- b) May only be used to attempt to resolve the dispute ; and
- c) Must not be used as evidence in court proceedings arising out of this Agreement

23.9 During any dispute, both parties must;

- a) Save as otherwise provided herein, continue to perform their respective obligations under this Agreement; and
- b) not, whether by act or omission impede or otherwise interfere with a party's endeavors to remedy any event which gave rise to the Dispute.

24.0 FORCE MAJEURE

24.1 No party to this Agreement, their agents, contractors, employees or assigns shall be deemed to be in breach of this Agreement or otherwise liable to the other as a result of any delay or failure in the performance of its obligations under this Agreement if and to the extent that such delay or failure is caused by force majeure (as defined in clause 24.2) and the time for performance of the relevant obligation(s) shall be extended accordingly.

24.2 For the purpose of this clause "force majeure" means any circumstances not foreseeable at the date of this Agreement and not within the reasonable control of the party in question including without limitation;

- a) any strike lockout or other industrial action or any shortage of or difficulty in obtaining labor or raw materials;
- b) Any destruction temporary or permanent, breakdown malfunction or damage of or to any premises, plant, equipment (including computer systems or the Network) or materials which is not attributed to the gross negligence or fraudulent acts or omissions of either party, their agents, employees or assigns;
- c) Any action taken by the government or public authority of any kind including not granting a consent, exemption, approval or clearance;
- d) Any civil commotion or disorder, riot, military coup, invasion, war, threat of or preparation for war; and
- e) Any fire or explosion which is not attributed to the gross negligence or fraudulent acts or omissions of either party, their agents, employees or assigns;
- f) Any storm, flood, earthquake, epidemic or other natural physical disaster.

24.3 A party whose performance of its obligations under this Agreement is delayed or prevented by force majeure:

- a) Shall forthwith notify the other party of the nature, extent, effect and likely duration of the circumstances constituting the force majeure;
- b) Shall use all reasonable endeavors to minimize the effect of the force majeure on its performance of its obligations under this Agreement; and
- c) Shall subject to clause 24.4 forthwith after the cessation of the force majeure notify the other party thereof and resume full performance of its obligations under this Agreement.

24.4 If any force majeure delays or prevents the performance of the obligations of either party for a continuous period in excess of thirty (30) days, the party not so affected may give notice to terminate this Agreement to the affected party specifying the date (which shall not be less than seven (7) days after the date on which the notice is given) on which termination will take effect.

25.0 MISCELLANEOUS

25.1 *Entire Agreement*

This Agreement constitutes the entire Agreement between the parties as to its subject matter.

25.2 *Alteration*

This Agreement may only be altered in writing through a Variation signed by the authorized signatories of each party.

25.3 *Severability*

Part or all of any provisions of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining provisions of this Agreement shall remain in force.

25.4 *Waiver*

Waiver of any provision of or right under this Agreement must be in writing signed by the party entitled to the benefit of that provision or the right and is effective only to the extent set out in any written waiver.

25.5 *Governing law*

This Agreement is governed by the law applicable in the Republic of the Kiribati Islands and the parties submit to the exclusive jurisdiction of the Courts of the Republic of the Kiribati Islands.

EXECUTED AS AN AGREEMENT THIS

DAY OF

, 2016

Signed for and on behalf of ATHKL (KIRIBATI) LIMITED by its duly Authorized Officer:



Signature of Authorized Officer

Signed for and on behalf of XXXXXXXXXXXXXX

by it's duly Authorized Officer:



Signature of Authorized Officer

Print name of the Authorized Officer

Office Held

SCHEDULE 1 - AGREEMENT DETAILS

| | |
|-------------------------|------------|
| Effective Date | XX XX XXXX |
| Minimum Contract Period | XX XX XXXX |

The success criteria will be measured on ATHKL's ability to adhere to the committed performance variables as outlined within Schedule 1 (SLA's)

Point of Demarcation: The point of demarcation for ATHKL is the Indoor Unit (IDU) and router (where router is provided). The customer is responsible for connectivity from the Indoor Unit to their local network.

Service Level Agreements

Priority Levels

The time frames provided below assume

- Access to company premises is provided without delay where required;
- Support and cooperation is provided by the company in troubleshooting any problems;
- No unexpected physical disruption to the transmission line of sight from the company premises;
- Faults being reported in a timely manner;

Priority Level 1 Fault - This is a major fault with total loss of service and no packet delivery, which is business critical.

| | |
|-------------------------|----------------------------------|
| Target Response Time | 1 hour from receipt of complaint |
| Target Restoration Time | Within 4 hours |
| Notifications & Updates | Every hour |

Priority Level 2 Fault - This is a fault with partial loss of service, which is not business critical. Related to loss of primary service at one or more sites

| | |
|-------------------------|----------------------------------|
| Target Response Time | 4 hour from receipt of complaint |
| Target Restoration Time | Within 12 hours |
| Notifications & Updates | Every 4 hours |

Priority Level 3 Fault - This is a minor fault with intermittent loss of service, and is related to connectivity issues.

| | |
|-------------------------|-----------------------------------|
| Target Response Time | 12 hour from receipt of complaint |
| Target Restoration Time | Within 24 hours |
| Notifications & Updates | Every 12 hours |

Priority Level 4 Fault - This is related to reporting, configurations issues, and degrading quality of service.

| | |
|-------------------------|-----------------------------------|
| Target Response Time | 24 hour from receipt of complaint |
| Target Restoration Time | Within 48 hours |
| Notifications & Updates | Every 24 hours |

SERVICE AVAILABILITY RATE

The established Target Service Level (TSL) and Minimum Service Levels (MSL) that ATHKL will commit to for the IP Data Service measures are as follows:

| Network Mode | Target Service Level | Minimum Service Level |
|---|----------------------|-----------------------|
| High Capacity Network (Backhaul Network) | 99.998% | 99.950% |
| Access Transmission Network (Short Haul Spur Network) | 99.998% | 99.950% |
| Edge Links (Licensed) | 99.998% | 99.940% |
| Edge Links (Unlicensed) | 99.998% | 98.940% |

ESCALATION MATIRX

| | |
|---|--|
| Level One - First Level Data Support | |
| Kirata lotam Technical Supervisor Radio Transmission Phone: 73140006 Email:Kirata.lotam@athkl.com.ki | |
| Level Two - Second Level Data Support Executives | |
| Orobabera Oma Support IT Support Phone: 73140074 Email:Orobabera.Oma@athkl.com.ki> | Abiete Burangke Team Leader 73140073 Email:Abiete.Burangke@athkl.com.ki |
| Level Three - Third Level of Escalation | |
| Arobati Chief Technical Officer 73140002, Arobati.Teanako@athkl.com.ki | |
| Final Level - Executive Management | |
| Kamleshwar Sharma Chief Executive Officer 73140000 or Kamlesh.Sharma@athkl.com.ki | |

PROCESS FOR FAULT REPORTING OF ISP ISSUES

1. Customer identifies issue and sends an email to **network.support@athkl.com.ki**
Logging the following details:
 - Name of company
 - Name and position of person logging the fault, mobile contact and email address of person logging the fault
 - Site(s) affected
 - Nature of fault

Customer to follow through with a phone call to 100 (Customer Care) and log the same fault to the Customer Service Representative quoting IPVPN fault and providing the same details.
2. Fault will be escalated to Network support team
3. Engineer on duty at NST will call customer and discuss the nature of fault, assign a priority level and provide timeframes within which this will be attended to (target restoration time). Updates will be either emailed or communicated through mobile call.
4. Upon rectification and confirmation from the Customer will be informed.

Effective Date: XX XX XXXX

Helpdesk Number: 73140006 or 100

Default Interest Rate: Means the interest rate of 2% per annum over the prevailing overdraft lending rate charged by a commercial bank in the place where the services are being provided at the time of calculation of such penalty interest rate, as notified by ATHKL from time to time.

Service Penalty: If ATHKL is unable to rectify a Priority Level 1 fault within the stipulated or mutually agreed timeframe, then it will credit the customer one day's charge for every 4 hours over and beyond the agreed restoration time. ATHKL will only consider such a payment upon written complaint from the customer, which will be investigated and verified before any such payments are made. The calculation of the penalty will be worked using this formula:

Service Penalty = Number of 4 hour blocks over and beyond the agreed restoration time frame multiplied by the daily Service Charge associated with the link in question.

Daily Service Charge = total monthly Service Charge divided by the number of days in the respective month.

4 hours block or part thereof = 1 day for the purposes of calculation of penalty.

Early Termination Charge: The Customer is liable to pay for the balance of all Service Charges for unauthorized termination or termination without reason within the minimum Contract period. The formula used for calculation of early termination is \$500 per site multiplied by the number of months remaining in the Minimum Contract Period.

SCHEDULE 2 - SERVICE & CHARGES

INTERNET PROTOCOL VIRTUAL PRIVATE NETWORK SERVICES & CHARGES

Schedule 3 – Equipment Details

1 RAD 400 LC point to point Link

1 POE AC

1 Ethernet CAT 6 Cable x 20 metres