

PRIVATE & CONFIDENTIAL

Dated []

BETWEEN

**NETLINK MANAGEMENT PTE. LTD.
(IN ITS CAPACITY AS TRUSTEE OF NETLINK TRUST)**

AND

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CUSTOMISED AGREEMENT

**PROVISION OF 1:16 NBAP CONNECTIONS UNDER TENDER NO. GVT (T) 17032 IN SUPPORT OF
CONTRACT WITH THE ■■■■■**



This CUSTOMISED AGREEMENT is made on

between:

(A) **NETLINK MANAGEMENT PTE. LTD.** (in its capacity as trustee of NetLink Trust) (Company Registration Number: 201704784C), a company incorporated in Singapore with its registered address at 750E Chai Chee Road, #07-03 Viva Business Park Singapore 469005 (“**NLT**”)

AND

(B) [REDACTED] (Company Registration Number: [REDACTED]), a company incorporated in Singapore with its registered address at [REDACTED] (the “**RL**”).

NLT and the RL shall hereinafter be collectively referred to as the “**Parties**”, and individually as “**Party**”.

WHEREAS:

- A. NLT has been granted a licence to provide facilities-based operations (“**FBO Licence**”) by the Info-communications Media Development Authority of Singapore (“**IMDA**”) under Section 5 of the Telecommunications Act (Cap. 323) (“**Act**”) and is a designated public telecommunication licensee under Section 6 of the Act. NLT operates subject to the authority of and regulation by IMDA.
- B. Under the terms of NLT’s FBO Licence, NLT is required to offer certain Mandated Services to Requesting Licensees pursuant to the terms of the Approved ICO.
- C. The RL has signed an agreement on terms of the Approved ICO with NLT (“**RL’s ICO Agreement**”).
- D. On 31 May 2018, the Parties entered into a Customised Agreement for Provision of Non-Building Address Point Connections in relation to Tender No. GVT (T) 17032 issued by the Government Technology Agency for the Provision of Network Bandwidth Connectivity Services for Government Ministries and Departments, Statutory Boards, Organs of State and Other Participating Entities (the “**Main GovTech CA**”). The Main GovTech CA was subsequently amended in accordance with the terms and conditions set out in the Addendum dated 16 October 2018.
- E. The RL has entered into a contract with the [REDACTED] based on the terms of Tender No. GVT (T) 17032 (the “[REDACTED]”).
- F. As of the date of this Agreement, the RL has submitted orders for one 1:16 NBAP Connection to be provided at each of the [REDACTED] (as defined below) under the Main GovTech CA. The 1:16 NBAP Connection provided to an [REDACTED] under the Main GovTech CA shall hereinafter be referred to as a “**first 1:16 NBAP Connection**” in respect of that [REDACTED].
- G. The Parties hereby agree to enter into this Customised Agreement, which is separate from and independent of the RL’s ICO Agreement, to regulate Parties’ respective obligations and responsibilities with regard to the provision by NLT of a second 1:16 NBAP Connection at each of the [REDACTED] in support of the [REDACTED]. The 1:16 NBAP Connection provided to an [REDACTED] under this Agreement shall hereinafter be referred to as the “**second 1:16 NBAP Connection**” in respect of that [REDACTED].

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

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

"1:16 NBAP Connection" means an NBAP Connection with 1:16 split ratio;

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

[REDACTED] means **[REDACTED]**;

"Business Day" means any day other than Saturdays, Sundays or the gazetted public holidays in Singapore;

"Code" means the NetCo Interconnection Code 2017 issued by the Authority pursuant to section 26(1) of the Act, which came into operation on 7 April 2017, or its successor code of practice, and as may be amended from time to time;

"Cost-Oriented Basis" means a thirty (30) percent mark-up on NLT's staff-related costs and a ten (10) percent mark-up on all other costs;

"Indoor NBAP Connection" means an NBAP Connection from NBAP remote sites located in doors (e.g. within residential or commercial buildings, or multi-storey carparks);

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

"NBAP Connection" means a passive optical fibre connection from a designated NLT Central Office to an NBAP Termination Point provisioned by NLT, and includes 1:16 NBAP Connections, Indoor NBAP Connections and Outdoor NBAP Connections;

"Outdoor NBAP Connection" means an NBAP Connection from NBAP remote sites located outside of residential and commercial buildings (e.g. lamp posts);

"Path Diversity" means the provision of the second 1:16 NBAP Connection on a different path from the first 1:16 NBAP Connection from the Building MDF Room to CO to the extent that is practical; and

"Requesting Licensees" means Qualifying Persons who had executed an ICO Agreement on terms of the Approved ICO with OpenNet Pte. Ltd. ("**OpenNet**") prior to 1 October 2014 and had executed a novation agreement dated 1 October 2014 to novate the ICO Agreement from OpenNet to NLT, or who had entered into an ICO Agreement with NLT.

1.2 Interpretation

In this Agreement:-

- 1.2.1 unless otherwise defined herein, all terms and references defined in NLT's Interconnection Offer as approved by the Authority ("**Approved ICO**") (as set out on the IMDA webpage <https://www.imda.gov.sg/regulations-licensing-and-consultations/frameworks-and-policies/nationwide-broadband-network/netlink-trusts-interconnection-offer-2017> or any successor webpage and as may be amended from time to time) shall have the same meaning and construction when used in this Agreement;
- 1.2.2 unless otherwise defined herein, the definition of terms shall apply equally to the singular and plural forms of the terms defined, and any pronoun shall include the corresponding masculine, feminine and neuter forms;
- 1.2.3 unless the context otherwise requires, any definition or reference to any instrument, statute or statutory provision shall be construed as referring to such instrument, statute or statutory provision as from time to time amended, supplemented, extended, consolidated or replaced, and subject to any restrictions on such amendments, supplements, extensions, consolidations or replacements, and any orders, regulations, instruments or other subordinate legislation made thereunder;
- 1.2.4 the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation";
- 1.2.5 unless otherwise provided herein or the context otherwise requires, all references to clauses, schedules, recitals and annexures are references to the clauses, schedules, recitals and annexures of this Agreement;
- 1.2.6 the words "herein", "hereinafter", "hereof" and "hereunder" and words of similar import shall be construed to refer to this Agreement in its entirety and not to any particular provision of this Agreement;
- 1.2.7 an expression importing a natural person shall include an individual, corporation, company, partnership, firm, trustee, trust, executor, administrator or other legal personal representative, unincorporated association, joint venture, syndicate or other business enterprise (notwithstanding that "person" may be sometimes used herein in conjunction with some of such words), and their respective successors, legal personal representatives and assigns (as the case may be), and pronouns shall have a similarly extended meaning. References to a company shall be construed so as to include any company, corporation or other body corporate wherever and however incorporated or established;
- 1.2.8 dates and times refer to Singapore time;
- 1.2.9 the schedules and/or annexures to this Agreement form part of this Agreement and have the same force and effect as if expressly set out in the body of this Agreement;
- 1.2.10 the headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement; and
- 1.2.11 any act or obligation to be done or performed under this Agreement which is required or falls to be done or performed on a stipulated day, shall be done or performed on the next succeeding Business Day, if the day upon which that act or obligation is required or falls to be done or performed falls on a day which is not a Business Day.

2. NLT'S OBLIGATIONS

- 2.1 Upon request made by the RL for a second 1:16 NBAP Connection to be provided to an [REDACTED] in support of the [REDACTED], NLT shall provide the second 1:16 NBAP Connection pursuant to the terms and conditions set out herein. For the avoidance of doubt, NLT shall only be obliged to provide a 1:16 NBAP Connection to an [REDACTED] under this Agreement if an order for the first 1:16 NBAP Connection to the same [REDACTED] under the Main GovTech CA has already been submitted by the RL and accepted by NLT.
- 2.2 Every 1:16 NBAP Connection provided to an [REDACTED] under this Agreement may also be referred to as a "second 1:16 NBAP Connection" in respect of that [REDACTED].
- 2.3 NLT has no obligation to provide any 1:1 NBAP Connections (as defined under the Main GovTech CA) under this Agreement.

3. RL'S OBLIGATIONS

- 3.1 In consideration of NLT's agreement to provide the services described in Clause 2 above, the RL shall comply with the terms and conditions specified in **Annex 1** hereto and as may be amended from time to time by the Parties' mutual agreement, subject to the Authority's approval.

4. CONFIDENTIALITY

- 4.1 Each Party shall protect from disclosure any confidential or proprietary information provided by the other in the course of negotiating or implementing this Agreement, use such information only for the provision of the specific Mandated Services requested by the RL and adopt appropriate procedures to ensure that the information of the other Party is not used for the development or marketing of other telecommunication services or equipment by either Party or third parties.

5. PROTECTION OF NETWORKS

- 5.1 NLT and the RL shall take reasonable measures to ensure that they will not cause physical or technical harm to each other's network.

6. BILLING INFORMATION

- 6.1 NLT and the RL shall provide each other with information within their possession that is necessary to allow them to provide accurate and timely billing to each other and to any other relevant third parties.

7. TERM AND TERMINATION

- 7.1 This Agreement shall be submitted to the Authority for approval and shall come into effect only upon such approval by the Authority.
- 7.2 This Agreement shall expire thirty-six (36) calendar months after the date on which the Authority approves or is deemed to have approved this Agreement.
- 7.3 The Parties may review the terms of this Agreement prior to the date of expiry of this Agreement and may renew this Agreement on such terms as Parties may agree, subject to the Authority's prior approval.

- 7.4 Unless otherwise specified in the Schedule hereto, either Party may terminate this Agreement pursuant to the provisions of Clause 12.1 of the main body of Part 2 of the Approved ICO (which are incorporated pursuant to Clause 9.1 below). In addition, either Party may terminate this Agreement by giving to the other Party 30 days' written notice or such shorter notice as may be directed or requested by the Authority.

8. LIMITATION OF LIABILITY

- 8.1 This Clause 8 shall regulate the liability (whether arising in contract, in tort, under statute or in any other way and whether due to negligence, willful or deliberate breach, breach of statutory duty or any other cause) of NLT to the RL under or in relation to this Agreement and in relation to any act, omission or event relating to or arising out of this Agreement.
- 8.2 Subject to Clause 8.4, NLT shall not be liable to the RL, whether in contract, in tort, under statute or otherwise, for the following:
- a. any direct or indirect loss of profits, revenue, business, anticipated savings, wasted expenditure or goodwill; or
 - b. any consequential or indirect liability, loss or damage,
- sustained by the RL and arising from or in connection with this Agreement.
- 8.3 Subject to Clause 8.4, NLT's aggregate liability to the RL for breach of any of NLT's obligations or otherwise arising under this Agreement (including liability for negligence or breach of statutory duty), shall be limited to the aggregate Monthly Recurring Charge paid by the RL (as set out in Annex 2 of the Main GovTech CA) during the twelve (12) months prior to the event giving rise to the liability.
- 8.4 Save as permitted by law, neither Party excludes or restricts its liability for death or personal injury.

9. MISCELLANEOUS

- 9.1 Incorporation of Terms of Approved ICO

Save as expressly amended and/or supplemented by this Agreement, or if the context requires otherwise, the terms of the Approved ICO (as may be amended from time to time, and including but not limited to Schedules 3, 15, 16 and 18) shall be incorporated herein and shall form part of this Agreement, with the necessary modifications for application to this Agreement instead of an ICO Agreement. For the avoidance of doubt, this Agreement shall be deemed to be a "Customised Agreement" referred to in Clause 1.4 of the main body of Part 2 of the Approved ICO and as defined under Clause 1.2.1 of the Code. In the event of any inconsistencies between the provisions of this Agreement and the Approved ICO, the terms of this Agreement shall prevail to the extent of such inconsistencies.

- 9.2 Release, Waiver or Compromise

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

9.3 Prohibition against Assignment and Sub-Licensing

This Agreement and/or the obligations hereunder shall not be assigned or sub-licensed by the RL.

9.4 Amendment

This Agreement may be amended only by an instrument in writing signed by both Parties, which shall be conditional upon and subject to the approval of the Authority. The Parties hereby acknowledge that the Authority may direct changes to be made to this Agreement and agree that they shall amend this Agreement to incorporate such changes (including any additional or modified Duties Related to the Provision of Mandated Services as defined in the Code) as and when required by the Authority.

9.5 Invalidity and Unenforceability

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

9.6 Counterparts

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

9.7 Governing Law and Submission to Jurisdiction

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

9.8 Liability of the Trustee

NETLINK MANAGEMENT PTE. LTD. has assumed all obligations under this Agreement in its capacity as trustee of NetLink Trust and not in its personal capacity and any liability of NetLink Management Pte. Ltd. (in its capacity as trustee of NetLink Trust) under this Agreement is limited to the assets of NetLink Trust over which NetLink Management Pte. Ltd. has recourse and shall not extend to any personal or other assets of NetLink Management Pte. Ltd. or its shareholders, directors, officers or employees, save where NetLink Management Pte Ltd is fraudulent, in wilful default or in breach of the trust or where the NetLink Management Pte Ltd fails to exercise such due care and skill as is reasonable in the circumstances in its capacity as trustee of NetLink Trust.

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

NETLINK MANAGEMENT PTE. LTD.
(IN ITS CAPACITY AS TRUSTEE OF NETLINK TRUST)

Signed by _____)
(Name of Signatory))

for and on behalf of **NETLINK MANAGEMENT**)
PTE. LTD. (IN ITS CAPACITY AS TRUSTEE OF)
NETLINK TRUST))

in the presence of:)

(signature)
Designation:

(signature of witness)

Name of Witness:
Designation:

Signed by _____)
(Name of Signatory))

for and on behalf of **NETLINK MANAGEMENT**)
PTE. LTD. (IN ITS CAPACITY AS TRUSTEE OF)
NETLINK TRUST))

in the presence of:)

(signature)
Designation:

(signature of witness)

Name of Witness:
Designation:



Signed by _____)
(Name of Signatory))

for and on behalf of _____)
_____)

in the presence of:)

(signature)
Designation:

(signature of witness)

Name of Witness:
Designation:

ANNEX 1

1. ADDITIONAL TERMS AND CONDITIONS FOR 1:16 NBAP CONNECTIONS

- 1.1. The RL may request for a total of two (2) 1:16 NBAP Connections for each [REDACTED] in support of the [REDACTED]. For the avoidance of doubt, NLT shall the provision the first 1:16 NBAP Connection under the Main GovTech CA, and the second 1:16 NBAP Connection shall be provisioned under this Agreement.
- 1.2. All 1:16 NBAP Connections provided by NLT under this Agreement shall be Indoor NBAP Connections.
- 1.3. Subject to paragraph 1.5 below, NLT shall ensure that the fibre routing plan for the second 1:16 NBAP Connection to be provided at each [REDACTED] will cater for Path Diversity from the Building MDF Room to CO. For the avoidance of doubt, NLT shall at its own discretion determine the fibre routing plan and the serving CO and Building MDF Room from which the second 1:16 NBAP Connection will be provided.
- 1.4. In the event that there are two (2) FTTB Nodes at an [REDACTED], NLT shall use a different FTTB Node when provisioning the second 1:16 NBAP Connection at that [REDACTED].
- 1.5. The RL hereby acknowledges and accepts that NLT will not be able to guarantee Path Diversity from the Building MDF Room to CO in the event of any planned or unplanned diversion works affecting the second 1:16 NBAP Connection to an [REDACTED].
- 1.6. As set out in paragraph 1.3 of Annex 1 of the Main GovTech CA, every 1:16 NBAP Connection activated by the RL under this Agreement shall be subject to a minimum contract term of twelve (12) months, commencing from the Ready For Service (RFS) date as advised by NLT (the "**Minimum Connection Term**").
- 1.7. As set out in paragraph 1.4 of Annex 1 of the Main GovTech CA, the termination of any active 1:16 NBAP Connection provisioned under this Agreement before the expiry of the Minimum Connection Term shall be subject to an Early Termination Charge that is equivalent to the total aggregate Monthly Recurring Charge which would have been payable during the remainder of the Minimum Connection Term for the terminated 1:16 NBAP Connection.
- 1.8. For the avoidance of doubt, the Service Level Guarantees prescribed in Clause 2.5 of Annex 1 of the Main GovTech CA shall apply to all 1:16 NBAP Connections provisioned at [REDACTED] under this Agreement.

2. PROCEDURE FOR REQUEST FOR SERVICES

- 2.1. Save for the following steps, the request procedure set out in paragraph 2.1 of Annex 1 of the Main GovTech CA shall continue to apply:
 - 2.1.1. The RL shall indicate the prefix "<[REDACTED]>" in the 'Application Reference' field when submitting the Request for each 1:16 NBAP Connection;
 - 2.1.2. When submitting requests in respect of each [REDACTED], the RL shall submit the request for the first 1:16 NBAP Connection using account no. "[REDACTED]" under the Main GovTech CA, and the RL shall submit the request for the second 1:16 NBAP Connection using account no. "[REDACTED]".
 - 2.1.3. The RL shall submit the address of the relevant [REDACTED] together with the Order Request

Identifiers (ORIs) of the first and second 1:16 NBAP Connections for that [REDACTED] via email no later than (one) 1 Business Day from the date of the requests.

3. FEES & CHARGES

- 3.1. The fees set out in Annex 2 shall apply for all 1:16 NBAP Connections provided by NLT pursuant to this Agreement.
- 3.2. For the avoidance of doubt, all applicable charges under the Main GovTech CA (including but not limited to the Monthly Recurring Charge, Service Activation Charge, Early Termination Charge, and Cancellation Charges specified thereunder) shall still apply in respect of the 1:16 NBAP Connections provided under this Agreement unless specifically provided for in Annex 2 of this Agreement.

4. REPORTS AND RECORD-KEEPING

- 4.1. The RL shall maintain accurate records of all matters relating to the 1:16 NBAP Connections provided under this Agreement, and shall:
 - 4.1.1. Upon request by NLT, submit supporting evidence showing that the 1:16 NBAP Connections are used only for each [REDACTED].

5. MISCELLANEOUS

- 5.1. The rights and remedies of NLT provided in this Agreement are cumulative and not exclusive of any other rights or remedies (whether provided by law or otherwise).
- 5.2. For the avoidance of doubt, the terms and conditions of this Agreement are additional to the Main GovTech CA. Unless expressly stated otherwise, nothing in this Agreement shall affect the rights and obligations of both Parties under the Main GovTech CA in respect of the 1:16 NBAP Connections provided to the RL during the term of the Main GovTech CA.
- 5.3. The fault reporting and clearing procedures as set out in Schedule 3 of the Approved ICO shall apply for second 1:16 NBAP Connections provisioned under this Agreement, subject to the procedures set out in this paragraph. The RL shall email NLT NOC to report the fault relating to the relevant second 1:16 NBAP Connection, and shall also indicate the corresponding Order Request Identifiers in the email.
- 5.4. Upon expiry or termination of this Agreement, all 1:16 NBAP Connections provisioned under this Agreement shall be terminated, and the RL shall arrange for the Removal of the NBAP TP or any part of the Network as currently installed, and shall bear the charges relating to any reinstatement work to be performed by NLT in relation to the Removal at the RL's request. Such reinstatement charges will be recovered by NLT from the RL on a Cost-Oriented Basis.
- 5.5. All ducts and manholes through which NLT's fibre cables are laid for the purposes of fulfilling the Request, shall belong to NLT. Where necessary, the Parties shall effect the assignment or transfer of the relevant ducts and/or manholes by entering into separate agreements which shall include the following terms:
 - (a) The relevant ducts and/or manholes shall be assigned or transferred, without consideration, to NLT free and clear of any and all encumbrances;
 - (b) The RL warrants that the relevant ducts and/or manholes are in good working condition, and are free from defect, deformity, damage, breakage and/or blockage;

- (c) The RL shall do and cause to do all such acts, deeds and things for the purpose of assigning or transferring the relevant ducts and/or manholes in the name and in favour of NLT; and
- (d) The RL shall bear all costs related to the assignment or transfer of the relevant ducts and/or manholes to NLT.

ANNEX 2**CHARGES**

The charges payable by the RL for the second 1:16 NBAP Connections are set out below and shall be valid during the term of the Agreement, subject to early termination under Clause 7 of this Agreement. For the avoidance of doubt, all applicable charges under the Main GovTech CA shall still apply in respect of the 1:16 NBAP Connections provided under this Agreement unless specifically provided for hereunder.

S/N	Description of Charges	Amount
1	One-Time Installation Charge (“OTC”)	\$1,600 for the second 1:16 NBAP Connection provisioned at each [REDACTED]. The OTC shall include the cost of the following items: <ul style="list-style-type: none"> • TP installation, • night works, • scaffolding (if required), • project management fees for manual rework into path routing into forward & reserve directions from Serving Cab back to CO.

ANNEX 3

