

Dated

2021

BETWEEN

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

AND

██████████

CUSTOMISED AGREEMENT

PROVISIONING OF NON-RESIDENTIAL END-USER CONNECTIONS AT EXEMPTED LOCATIONS

This **CUSTOMISED AGREEMENT** is made on **2021** 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 ESR Business Park Singapore 469005 ("**NLT**")

AND

(B) [REDACTED] (Company Registration Number: [REDACTED]), a company incorporated in Singapore with its registered address at [REDACTED] Singapore [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 license to provide facilities-based operations ("**FBO License**") 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. Under the prevailing Classification Guidelines (as defined below), Requesting Licensees are not permitted to request for Non-Residential End-User Connections to be provisioned at Exempted Locations (as defined below). The RL has now requested for, and NLT is agreeable to, the provisioning of Non-Residential End-User Connections at Exempted Locations subject to the terms and conditions set out herein.
- E. 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 provisioning of Non-Residential End-User Connections at Exempted Locations.

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

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

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

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

"**Classification Guidelines**" means the Classification Guidelines issued by NLT on 20 September

2013 to aid the interpretation of Schedules 1, 2 and 3 of the Approved ICO, and as may be amended from time to time;

“**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;

“**Effective Date**” means the date on which the Authority approves or is deemed to have approved this Agreement;

“**Exempted Location**” means any of the locations listed in **Annex 2** to this Agreement;

“**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; 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-and-licensing-listing/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 in accordance with the terms and conditions specified herein, NLT shall provision a Non-Residential End-User Connection to any location that qualifies as an Exempted Location.

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 the Annexes 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 two (2) years after the Effective Date.
- 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 total charges paid by the RL under this Agreement 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 2, 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. PROVISION OF NON-RESIDENTIAL END-USER CONNECTIONS TO EXEMPTED LOCATIONS

- 1.1. Subject to the terms and conditions under this Agreement, and notwithstanding the Classification Guidelines, the Exempted Locations set out in **Annex 2** of this Agreement shall qualify as Non-Residential Premises under the Approved ICO, and NLT shall provision Non-Residential End-User Connections to the Exempted Locations in accordance with Schedule 2 of the Approved ICO. For the avoidance of doubt, this Agreement shall not apply to any Non-Residential End-User Connection for which NLT provides the service up to the FTTB Node of the Non-Residential Premise, or for which the TP is installed in the building riser at the RL's request.
- 1.2. The RL shall submit requests for new Non-Residential End-User Connections in accordance with the procedure set out in Schedule 2 of the Approved ICO, save that RL shall indicate the Application Reference ID "**NBAPSch2**" in the order submission. Where relevant, the RL shall also provide NLT with any additional information set out in **Annex 2** no later than 24 hours after the submission of the order.
- 1.3. The RL hereby agrees that no SAP Rebate shall apply to the Non-Residential End-User Connections provisioned under this Agreement.
- 1.4. For the avoidance of doubt, nothing in this Agreement shall affect the application of the Classification Guidelines in the interpretation of Schedules 1 and 3 of the Approved ICO.

2. FEES AND CHARGES

- 2.1. In the event that the total one-time cost incurred in carrying out works covered by the Installation of Network Charge exceeds \$717, NLT reserves the right to recover the excess cost from the RL on Cost-Oriented Basis and determined on a case-by-case basis depending on the necessary work scope.
- 2.2. Subject to the terms expressly set out in this Agreement, the Charges that apply in relation to Non-Residential End-User Connections provisioned during the Term (including but not limited to the Monthly Recurring Charge and any pre-mature termination charges) shall follow those set out in Schedule 15 of the Approved ICO.

3. REPORTS AND RECORD-KEEPING

- 3.1. The RL shall maintain accurate records of all matters relating to the Non-Residential End-User Connections provided under this Agreement, and shall upon request:
 - 3.1.1. submit supporting evidence showing that the Non-Residential End-User Connections are used only for the provision of Enterprise Services; and
 - 3.1.2. provide NLT with all reasonable assistance (including but not limited to, obtaining the necessary approvals, permits and consents for NLT to access the Exempted Locations) that would allow NLT to determine whether the terms and conditions of this Agreement have been complied with.

4. MISCELLANEOUS

- 4.1. The terms and conditions of this Agreement are additional to the RL's ICO Agreement. Unless expressly stated otherwise, nothing in this Agreement shall affect the rights and obligations of both Parties under the RL's ICO Agreement in respect of the Non-Residential End-User Connections provisioned to the RL during the Term, and unless expressly stated herein, the additional terms and conditions of this Agreement shall cease to have any effect upon the expiry or earlier termination of this Agreement.
- 4.2. The RL shall obtain all necessary approvals, permits and consents (including approvals from the relevant building manager) at its own cost to facilitate NLT's access to all necessary areas within the relevant Non-Residential Building, and all works relating to the Non-Residential End-User Connections (including but not limited to any subsequent repair, replacement or upgrade to any equipment or facility forming part of the Non-Residential End-User Connections).
- 4.3. Upon termination of an existing Non-Residential End-User Connection at any time, including termination of a Non-Residential End-User Connection before the expiry of the Term, the RL shall arrange for the Removal of the 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. For the avoidance of doubt, this paragraph shall survive the expiration or earlier termination of this Agreement.
- 4.4. 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:
 - 4.4.1. The relevant ducts and/or manholes shall be assigned or transferred, without consideration, to NLT free and clear of any and all encumbrances;
 - 4.4.2. 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;
 - 4.4.3. 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
 - 4.4.4. The RL shall bear all costs related to the assignment or transfer of the relevant ducts and/or manholes to NLT.
- 4.5. 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).

ANNEX 2**List of Exempted Locations**

S/N	Description of Exempted Location	Additional information to be provided by RL (if any)
1.	A senior citizen/resident corner in the void deck of a HDB block.	
2.	Common area in a shopping mall housing the push cart stalls.	
3.	A permanent enclosed area with business activities.	
4.	A canteen/ shop/ stall /pushcart /control station /customer service counter within a bus interchange.	
5.	Common lobby area within a commercial property/industrial block.	
6.	A security guard room within a building and does not have an assigned unit number.	
7.	A fire control centre within a building and does not have an assigned unit number.	
8.	Facilities within condominiums (e.g. clubhouses, gyms, bomb shelters).	
9.	An administrative office or a doctor's private consultant room in hospital.	
10.	A management office or an enclosed booth within a car park.	
11.	An automated teller machine or e-service kiosk in a public area/common area within a building.	
12.	A permanent enclosed area within a Non-Residential Premise (e.g. meeting room, server room).	
13.	A switch / server / computer / IT room within a commercial building.	<p>RL must indicate the following information in the Schedule 2 request:</p> <p>(a) the location of the switch/server/computer/IT room</p> <p>(b) the intended use of the Non-Residential End-User Connection</p>
14.	Common corridor areas within a commercial building.	
15.	Reception area, lift lobby, lounge, gym, or restaurant that is used for commercial purposes and that is located within a service apartment development.	
16.	Guard house located within the compound of a commercial building, to which there is an available pipe connection for NLT to use for provisioning purposes.	