

## Schedule 8 – Ethernet Access Direct

### **Commencement date for provision of the Supplies**

The date on which the Supplies become available for use by the Customer (regardless of whether or not they are actually used on that date), as specified in the first monthly invoice relating to the Supplies.

### **Description of the Supplies**

The provision of Ethernet Access Direct services, as set out in the Order Form.

### **Prices payable for the Supplies**

As set out in the Order Form.

### **Service Level Agreement**

Subject always to section F:

#### **A. Service Levels**

##### *A1. Orders*

- (a) Connexus will use reasonable endeavours to acknowledge orders for the Service and allocate an order number to the order by 17.00 hours on the next Business Day after the placing of the order.
- (b) Connexus will use reasonable endeavours to confirm within 15 Business Days after the day the order is processed whether the Ethernet Access Direct Service will be provided, and the Excess Construction Charges payable by the Customer.

##### *A.2 Repair*

- (a) Connexus will use reasonable endeavours to make the repair service available 24 hours a day, 7 days a week including Bank and Public Holidays in the UK.
- (b) Connexus will use reasonable endeavours to acknowledge receipt of a fault report from the Customer within one hour.
- (c) Connexus will use reasonable endeavours to respond within 5 hours of receipt of a fault report, unless agreed otherwise in writing by the Parties.
- (d) If the relevant Service is not restored within the timescales set out in paragraph B2 below, Connexus will use reasonable endeavours to contact the Customer to report the progress being made to restore the Service.

##### *A.3 Provision*

Connexus will:

- (a) provide reasons to justify; and
- (b) obtain the Customer's prior written consent (not to be unreasonably withheld or delayed)

to extend the CDD beyond the 30th Business Day for the Ethernet Access Direct Service order provided always that Connexus will notify the Customer as soon as reasonably practicable where it intends to deem consent and any subsequent CDD is as soon as reasonably practicable.

For the purposes of this paragraph A.3, Connexus may deem consent where:

- (a) one of the circumstances detailed in paragraph F of this Schedule occurs, or
- (b) there is a need for infrastructure build including, for example, situations where duct, manholes, fibre spine cable, copper cable or backhaul and core network cable are required; or

- (c) there is a cable or exchange breakdown; or
- (d) there is a collapsed, blocked (e.g. cement), or damaged duct / manhole; or
- (e) notice is required under the Traffic Management Act or Transport (Scotland) Act; or
- (f) there is a manhole or footway box that is contaminated with, or by, a substance which requires special treatment, e.g. petrol; or
- (g) asbestos has been identified; or
- (h) security clearance is required but not yet agreed; or
- (i) main frame compression or extension is required.

**B. Service guarantees**

Subject to section F of this Schedule:

*B1. Provision*

Connexus will deliver the Service by midnight on the Contractual Delivery Date, with handover notices made available the following Working Day. If Connexus fails to do this, the Customer shall be entitled to the compensation set out in paragraph C.1 of this Schedule.

*B2. Repair*

Connexus will restore the Service within 6 hours of a fault being reported (Target Repair Time). If Connexus fails to do this, the Customer shall be entitled to the compensation set out in paragraph C.2 of this Schedule.

**C. Compensation**

Subject to any limitations set out in the Conditions and this Schedule:

*C.1 Late Provision*

If Connexus fails to meet the commitment set out in paragraph B.1 of this Schedule, then Connexus will credit the Customer with a compensation entitlement in accordance with the following table:

<b>Number of working days activation is beyond the CDD</b>	<b>Compensation Entitlement - reduction in the connection charge for the circuit</b>
1-10	5%
11-15	10%
16-20	15%
More than 20	20%

*C.2 Late Repair*

A delayed repair will become eligible for compensation if the reported fault causes total loss of Service (i.e. no transmission of signals in one or both directions between the product demarcation points) for more than 6 clock hours after it has been reported to Connexus (**Qualifying Fault**).

The Customer shall be entitled to compensation as below for each Qualifying Fault:

<b>Measurement</b>	<b>Compensation Entitlement - reduction in monthly circuit rental</b>
Each hour or part hour beyond the target fault clearance time	7% of the monthly rental

For the avoidance of doubt and by way of example, in the event that a Qualifying Fault is rectified once 8 clock hours (but less than 9 clock hours) have elapsed, the compensation payable would be 7% of one month's rental for the Qualifying Fault multiplied by 2 (7% for failing to achieve the 6 clock hours and 7% multiplied by 2 for the 2 elapsed clock hours over the 5 clock hours).

Credits will be applied on a per fault basis and will be capped at 100% of the monthly circuit rental.

**D. Limit on Compensation**

The maximum compensation that a Customer can receive for late provision is an amount equal to 20% of the connection charge, and the maximum compensation that a Customer can receive for late repair

is an amount equal to 100% of the relevant individual circuit's monthly rental.

## **E. Compensation**

- E.1 Any compensation payable is applied only upon the Customer's written request, which must be submitted within 15 Business Days of a valid support call reporting the incident, and backed up by a reference number to support that claim. This can be submitted to the relevant Connexus staff by 1st class recorded mail, or by email.
- E.2 Any compensation payable under this Schedule shall be without prejudice to any right or remedy including any right to claim for additional loss.

## **F. What is not covered**

The service levels, service guarantees and any compensation payments will not apply if:

- (a) the failure by Connexus is due to the Customer's own network or equipment or any other network or equipment outside of the Service; or
- (b) the Customer is in breach of any part of this Contract which relates to the provision of the Service; or
- (c) through no fault of its own or because of circumstances beyond its reasonable control, Connexus is unable to carry out any necessary work at, or gain access to the Site or the Customer fails to agree an appointment date or work is aborted due to the Customer; or
- (d) the Customer and Connexus agree a different timescale in writing (which shall include e-mail) for performance of the relevant Service; or
- (e) reasonable assistance is required or information is reasonably requested by Connexus within a reasonable timescale from the Customer or a third party and such assistance or information is not provided; or
- (f) through no fault of its own, Connexus is unable to obtain any necessary permissions or consents required in connection with the performance of a particular service level; or
- (g) the failure is due to a Force Majeure Event.

## **Software licences**

None.

## **Special Conditions**

### **1. Definitions**

The following definitions apply in this Schedule:

**Activation Date:** the date by which the Services become live and are first made available for use by the Customer or the end user of the Services as specified in the Contract.

**Committed Delivery Date (CDD):** the date by which Connexus anticipates the Activation Date will begin. This is also the date by which Connexus is measured against service credits for failing to deliver on or before the CDD.

**Customer Premises Equipment (CPE):** CPE such as modems, routers and microfilters necessary to use any access connection, supplied by Connexus or their third parties where their provision is for the express use of provisioning the Services for the Customer or end user as described in the Order Form.

**Customer Equipment:** apparatus belonging to the Customer not forming part of the Connexus Equipment but which may be connected to the Connexus Equipment.

**Ethernet Access Direct:** means a service that provides point-to-point data connectivity between sites.

**Excess Construction Charges / Fee (ECCs):** When Connexus or their third party decree that the installation costs originally quoted (or which were included over the term if these costs are amortised) are not enough to cover the actual cost of the installation works. Such costs are known as excess construction fees or charges (**ECCs**), and these fees (where applicable) will be notified to the Customer post site survey. Failure to accept or reject ECCs within 5 days will result in a cancelled order.

**Connexus Equipment:** any apparatus or equipment provided by Connexus or any third party to the Customer to enable provision of the Service under the Contract.

**Initial Term:** the term of the Contract as specified in the Order Form. The minimum Initial Term is always 12 months unless otherwise stated in the Order Form.

**Monthly Recurring Charge:** the monthly recurring charge for the Service.

**Network Termination Equipment (NTE):** Typically third party equipment supplied by Connexus or their third parties where their provision is for the express use of provisioning the Services for the Customer or end user as described in the Order Form. This equipment may reside within the Customer's premises, the end user's premises, or Connexus and or their third parties' premises.

**Service:** the Services described in the details within the Order Form, and forming part of the Contract.

**Service Levels:** the service levels relating to the Services, which are contained in the SLA.

**Service Level Agreement (SLA):** the service level agreement set out in this Schedule or such other service level agreement which is agreed in writing between the parties from time to time.

**Target Ready for Service:** the initial date which is supplied by the Connexus provisioning team as the estimation for an Activation Date. This is not a binding date, nor is it a CDD, and should be used as a guide only as to the likely Activation Date.

**Third Party Services:** any part of the Services which Connexus procures from a third party, and any third party telecommunications services and / or equipment which Connexus uses in order to provide the Services.

**Third Party Service Provider:** the provider of any Third Party Services.

## 2. Provision of the Service

- 2.1 The Customer agrees to receive the Service and pay the fees for the Service for the minimum period of service as detailed in the Order Form and thereafter until termination of the Service in accordance with the Contract. For the purposes of clause 2.3 of the Conditions, the Initial Term specified in the Order Form shall be deemed to commence on the Activation Date
- 2.2 The Customer may not make any unauthorised commercial use of the Service. The Customer agrees to keep full and accurate records of any and all operating units on or in connection with which the Service is enabled and shall permit Connexus and/or the Relevant Subcontractor to review and evaluate such records from time to time to ensure the Customer's compliance with this Condition
- 2.3 Connexus will endeavour to issue a TRFS at the same time that it accepts the Order Form. The TRFS is an initial estimate of the day on which Connexus expects (under normal circumstances) that the Service will be activated, until such time as a CDD is issued.
- 2.4 Throughout the provisioning process, Connexus will need to communicate with named member(s) of the Customer's staff (or their nominated representatives) to arrange access to the Customer's or the end user's premises by Connexus and/or the Relevant Subcontractor. Any delays to these requests will delay Connexus from meeting the TRFS and from issuing a CDD. The CDD is the date by which Connexus expects (under normal circumstances) that the Service will be ready for use (the activation date).
- 2.5 Typically within ten Business Days of its acceptance of the Order Form, Connexus or the Relevant Subcontractor (of Connexus's other third party representative) will undertake a premises survey at the termination location, also known as a "site survey". Usually, Connexus will be able to issue a CDD within a further ten Business Days of the site survey.
- 2.6 During this time, Connexus will notify the Customer of any ECCs raised by the Relevant Subcontractor.
- 2.7 The issue of a CDD by Connexus will be delayed where a decision from the Customer regarding acceptance of ECCs is outstanding.
- 2.8 Where Connexus or the Relevant Subcontractor determine that the installation costs originally quoted (or which were included over the term if these costs are amortised) are not enough to cover the actual cost of the installation works, the excess sum (known as Excess Construction

Charges or ECCs), will be notified to the Customer following the site survey. Where ECCs apply, the Customer's order will be placed on hold automatically until the Customer agrees (or not) to pay the ECCs, which the Customer shall confirm to Connexus in writing within five Business Days. Each elapsed day of this five-day period shall automatically delay the CDD by one day. If the Customer agrees to pay the ECCs, the provisioning service will resume and a CDD will be issued in due course. If it chooses not to pay the ECCs, the Customer shall be entitled to cancel their order, subject to payment of the charges set out in paragraph 2.14 below. Should the Customer fail to notify Connexus of its decision whether or not to pay the ECCs within five Business Days, Connexus shall be entitled to consider the Customer's order as being cancelled and the Customer shall pay the charges set out in paragraph 2.14 below.

- 2.9 Where an installation fee applies (as set out in the Order Form), Connexus reserves the right to issue a separate invoice for this fee, which must then be paid before the Service is made available to the Customer or end user.
- 2.10 It is the Customer's responsibility to ensure the following at all times:
- 2.11 A standard UK 3-pin plug socket must be available for each piece of required electronic equipment supporting the Services provided. Typically, this will be one socket for each item of Network Termination Equipment, and one for each router (or other Customer Premises Equipment) supplied by Connexus to support the Services. In addition, additional power sockets may be required as directed following the initial site survey depending upon the Services ordered.
- 2.12 The Customer must ensure that there is sufficient rack space where the customer expects the Network Termination Equipment and the Connexus Customer Premises Equipment to be positioned within a data rack (standard UK 19-inch width), and that there is at least 3U of available space per single Ethernet Access Direct circuit. As much as 10U may be required in exceptional circumstances (where this is the case, it should be identified at site survey).
- 2.13 Where the Customer logs a fault and Connexus are incurs charges or costs as a result of false errors, abortive site visits, or site visits proving the circuit is not at fault, the Customer agrees to reimburse Connexus in respect of any resulting charges or costs, which Connexus shall invoice to the Customer.

#### *Cancellation*

- 2.14 If the Customer cancels an order, and/or requests that an order already placed is significantly modified (including, but not limited to: changes of address; service type; Point of Presence or presentation), prior to the Service Commencement Date, then without prejudice to Connexus' other rights pursuant to the Contract, the Customer shall pay all costs incurred by Connexus as a result of such cancellation or modification. In addition to any third party costs incurred by Connexus in respect of the delivery or cancellation of the order, the Customer agrees to pay Connexus an administration charge of £350.00.