

TOWNGAS TELECOMMUNICATIONS FIXED NETWORK LIMITED

DATA SERVICES - TERMS AND CONDITIONS

1. Definitions

In these terms and conditions, the following words and expressions have the following meanings:

“**Data Services**” means the data services (including but not limited to leased line services, frame relay services, Internet Protocol Virtual Private Network (“**IP VPN**”) services) provided by the Company, details of which are listed in the Quotation;

“**Normal Business Hours**” means Monday to Friday 9:00 a.m. to 5:00 p.m. and Saturday 9:00 a.m. to 1:00 p.m., excluding Public Holidays; and

“**Service Equipment**” means all equipment, cabling and systems provided and installed by the Company in order to provide the Services to the Customer, and excluding any equipment under a separate supply agreement.

Words and phrases (not otherwise defined in these terms and conditions) the definition of which are contained or referred to in the General Terms and Conditions shall be construed as having the same meanings attributed to them.

2. Third Party Network Connections

- a. The Customer must notify the Company of any existing external connections to their network at least seven (7) days prior to the effective delivery date of the Data Services.
- b. The Customer agrees to inform the Company if they intend to connect their network with other networks before they enter into any formal agreement with any third party

3. Services and Equipment

- a. The Company may provide the Service Equipment to the Customer for the provision of the Data Services.
- b. The Customer shall, at its own cost, make available the necessary location and/or other equipment or facilities for the installation of the Service Equipment, including but not limited to the electrical facilities and network connections.
- c. The Company reserves the right at all times to rearrange or alter the configuration of the Data Services in order to maintain the level and quality of the Data Service. The Company shall, where reasonably possible, give at least ten (10) days notice to the Customer before such changes or alterations take place.
- d. The Company shall give notification to the Customer for all service maintenance during Normal Business Hours for alteration or suspensions which shall affect the Customer, and such notice shall be given at least ten (10) days prior to the scheduled event.
- e. If the Customer becomes aware of a defect, fault or impairment in the provision of the Data Services other than in accordance with subclause (a) above, the Customer shall promptly notify the Company of such defect, fault or impairment. Upon such notification to the Company, the Company shall use its reasonable efforts to resolve the defect, fault or impairment as quickly as reasonably possible.
- f. If it is determined that any defect, fault or impairment is a result of:
 - i. the negligence, wilful acts, omissions, or faults of the Customer or its agents;
 - ii. the breach of any term of this Agreement by the Customer or its agent; or
 - iii. the failure or malfunction of the Customer Equipment, the Company is entitled to recover from the Customer all reasonable costs incurred in remedying such defect, fault or impairment.
- g. The Company may at any time substitute, alter, or reconfigure the Service Equipment used in providing the Data Services.
- h. Title to the Service Equipment shall at all times belong to and remain with the Company and the Customer shall not create

or allow any changes, liens or other encumbrances whatsoever to be created upon the Service Equipment.

- i. If the Customer transfers or otherwise changes the location of which the Data Services are delivered to, the Company may require the Customer to pay additional installation charges for the new location and any Data Services support costs resulting from the agreed relocation.
- j. The Company shall not be liable to the Customer or any other person for interruption of the Services or for any other loss, cost or damage caused by or related to the violation of the Agreement.
- k. The Customer agrees that the Service Equipment may not exclusively serve the Services and the Company may share the Service Equipment with third parties.

4. Customer Obligations

- a. The Customer agrees to provide the Company with continuous access and right of way to the Customer's premises when appropriate and necessary to allow the provision and maintenance of the Data Services and Service Equipment. The Customer shall make available to the Company, at no extra cost, the equipment, space and electrical power as reasonably required by the Company in providing the Data Services.
- b. The Customer shall be liable for any and all damages to the Service Equipment caused by:
 - i. the negligent or wilful acts or omissions of the Customer;
 - ii. the breach of any term of this Agreement by the Customer or its agent; or
 - iii. the malfunction or failure of any equipment or facility provided by the Customer or its agents, or suppliers, including but not limited to the Customer Equipment.
- c. The Customer undertakes:
 - i. to operate the Service Equipment in accordance with the Company's instructions and directions including but not limited to, the provision of electrical power to the Service Equipment;
 - ii. to permit the Company to inspect or test the Service Equipment at all reasonable times;
 - iii. to keep the Service Equipment at the Customer's premises and stationary at all times;
 - iv. not to add, modify, relocate, reconfigure or in any way interfere with the Service Equipment;
 - v. not to cause the Service Equipment to be removed, repaired, serviced or otherwise attended to except with the permission of the Company;
 - vi. not to remove, tamper with or obliterate any words or labels from the Service Equipment or any parts thereof;
 - vii. to return the Service Equipment in good state and condition to the Company on termination of this Agreement;
 - viii. to allow the Company to access to the Customer premises to remove the Service Equipment;
 - ix. to provide a safe place to work and comply with all laws and regulations regarding the working conditions on the Customer's premises; and
 - x. to identify, monitor, remove and dispose of any hazardous materials prior to any work being performed by the Company at the Customer's premises and shall indemnify, defend and hold the Company harmless from any liability incurred in the use of or in connection with hazardous materials at the Customer's premises. The Company shall have no liability III respect of any damage or loss arising out of or in connection with the Customer's failure to comply with this clause.