
Supply Terms

Between

Telecom Vanuatu Limited

and

[OLO Name]

THIS AGREEMENT is made on.....2011

BETWEEN:

Telecom Vanuatu Limited (“TVL”), a company incorporated under the laws of The Republic of Vanuatu and whose registered office is located [] Port Vila, Efate, Republic of Vanuatu

AND

[OLO Name] (“*known as the OLO*”), a company incorporated under the laws of The Republic of Vanuatu and whose registered office is located at []

Draft

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1. Definitions And Interpretation

1.1 In this Agreement, the terms used shall have the same meanings as is assigned to them in the Telecommunications Act or where they have not been defined in the Telecommunications Act have the meanings and except if the context requires otherwise, words and expressions are as defined in this Clause 1.1.

Advanced Switched Capacity Order	that part of the Capacity Profile which sets out the Switch Capacity ordering intentions for the first six (6) months of the Switch Capacity Profile in accordance with the JWM – Forecasting, Capacity Planning and Ordering;
Answer Message	a signal required by the originating Network to confirm that an end to end transmission path has been successfully established with the number called by the originating Customer and means an ISUP answer message as defined in ITU-T.Rec.Q.762 and ITU-T.Rec.Q.763;
Bi-directional	a Traffic Route carrying Calls in both directions from TVL to the OLO and from the OLO to TVL in the same 2.048 Mbit/s circuit;
Billing Dispute	means a dispute arising from the invoices and billing processes for the service provided;
Billing Dispute Notification Period	a period within Thirty (30) Calendar Days of the issue of the Invoice being disputed ;
Billing Period	means a monthly period commencing on the first day of each month, unless determined otherwise by TVL and the OLO;
Billing Units	means each second of a Call measured from the receipt of an Answer Message to the receipt of a Release Message for each and every Call of the same type and by rounding the sum of such seconds to the nearest whole minute for each Billing Period;

Breach	A failure to comply with one or more Clauses of the Supply Terms;
Calendar	means the Gregorian Calendar;
Calendar Days	any period of twenty four (24) hours ending at midnight including weekends and public holidays;
Call	the message which passes across a path established through the TVL and OLO Networks via a Point of Interconnection by which information can be passed from an originating Customer and delivered through conveyance to a called number so that messages can be exchanged between the originator and the called number;
Call Detail Record	<p>means data regarding a Call, including but not limited to the following information:</p> <ul style="list-style-type: none"> (a) Interconnect Link identifier (if the Call Detail Record is generated in connection with an Interconnection Link or other Capacity circuit); (b) the dialled digits; (c) CLI of the Called Party and the Calling Party (if available); and (d) the date and time when the Answer Message is received by the Party providing the Call Detail Record; and (e) Effective Call Duration; and (f) any other information agreed between the Parties.

Calling Line Identification Presentation (CLIP)	Line	Calling Line Identification Presentation as defined by the ITU-T;
Calling Line Identification Restriction (CLIR)		Calling Line Identification Restriction as defined by the ITU-T;
Capacity		2.048 Mbit/s port capacity at an Interconnected Switch;
Capacity Order		An order for Capacity at an Interconnected Switch;
Capacity Profile		A profile of Switch Capacity ordering intentions for a twelve (12) Month period;
Commercial Account Manager		means a person appointed by TVL to manage the commercial relationship between TVL and the OLO as described in the JWM – Testing, Operations and Maintenance;
Confidential Information		any information, in whatever form, which in the case of written or electronic information is clearly designated as confidential and which, in the case of information disclosed orally, is identified at the time of disclosure as being confidential or is by its nature confidential;
Considered Response		Means the response to an Interconnect Change Request made within forty (40) Working Days of the receipt of the Interconnection Change Request or of the date on which a reply is received to a request for additional information, whichever is the later ;
Conversation Time		the time in whole seconds between the receipt of the Answer Message and the receipt of the Release Message as recorded in the Call Detail Records;

Customer	a person having a contract with either or both TVL and the OLO or any other Licensee for the provision of telecommunication services by means of that Party's Network;
Customer Number Ranges	means a range of Numbers allocated to either TVL or the OLO or any other Licensee as the context requires by the TRR for the purposes of providing telecommunications services to Customers;
Customer Sited Interconnection	means interconnection to a Point of Interconnection located on the OLO's premises and the end of a leased line provided by TVL;
Data Management Amendments	such data reconfiguration of the TVL Network or the OLO's Network as is necessary for the access, routing and charging of calls;
Detailed Billing Verification Process	the information required for the process for Billing verification as described in Annex B – Billing and Payments;
Digital Distribution Frame	means a cross connection point located between the end of the transmission network and the Switch at the end of each route. In the case of Customer Sited Interconnection it will form the Point of Interconnection on the OLO's premises;
Disclosing Licensed Operator	means TVL or the OLO as the context requires who provides confidential information under the Supply Terms;
Dispute	means a disagreement between TVL and the OLO pursuant to the Interconnection Agreement and excludes Breaches to that Agreement;
Dispute Resolution Procedures	means the processes for resolving disputes under the Interconnect Agreement details of which are contained in Annex F – Dispute Resolution Procedures;
Effective Call Duration	the duration of a Call from the receipt of an Answer Message to the

	receipt of a Release Message;
Effective Date	Means the 1 st January each year;
Equipment	means Telecommunications apparatus forming part of the Network of TVL or the OLO as the context requires;
Erlang Table B	means a table issued by ITU-T to enable Erlangs to be translated into voice channels in 2.048 Mbit/s Capacity circuits;
Erlangs	a measure of call attempts as defined by ITU – T;
Exchange	a Switch or similar platform in either the TVL Network or OLO Network where Calls can be switched and routed to other Exchanges or to directly connected Customers;
Fault	means a condition that causes a Network to operate other than intended or to cease operating altogether;
Fault Reporting System	means the system of reporting Faults as defined in the JWM;
Fixed Geographic Numbers	means Numbers having a geographic significance on platforms where the connected Customer is accessed using a suitable platform;
Forecasting and Capacity Dispute	means a dispute about the forecast of traffic and capacity;
Geographic Number Ranges	means ranges of Numbers issued to TVL or the OLO as the context requires for the provision of fixed services to Customers;
Incoming International Call Services	Means an Incoming International Voice Call delivered to a TVL International Gateway (IGW) , thereafter being handed over to the OLO's Network at a PoI for delivery within the Republic of

Vanuatu;

Commencement Date	means a mutually agreed date when the Interconnect Agreement shall come into force;
Initial Interconnection	the establishment of the first Point of Interconnection and detailed in the JWM;
In-Span Interconnection	means a service where Interconnection is provided by using In-Span Interconnect and is achieved through the provision jointly by each party of a Point of Interconnection (PoI) on the public highway or, subject to the parties' agreement, on Private Property, with each portion of the 2Mbit/s Joining Circuit being provided by each party on its side of the Point Of Connection;
Intellectual Property Rights	means any patent, registered design, registered trade mark, copyright, design right, know-how or any similar right exercisable in any part of the world including any application therefore;
Interconnect Link	circuits leased at prevailing commercial rates in accordance with Schedules 8 and 9;
Interconnected Switch	a Switch in the TVL or OLO Network directly connected to a Switch in the other Party's Network as the context requires via a Point of Interconnection;
Interconnection Agreement or Agreement	means the signed Supply Terms together with the JWM and appropriate Service Schedules;
Interconnection Path	individual 2.048 Mbit/s circuits linking Interconnected Switches via a Point of Interconnection;
Interconnection Price List	means the document that sets out the prices and charges for Interconnection Services as required by the legislation and as provided in the Agreement and contained in Annex G – Price List;

Interconnection Services	Services provided by one Party to the other through the Interconnection of their Networks;
International Telecommunications Union (ITU-T)	means the Telecommunications Standards Bureau (formerly the International Telegraph and Telephone Consultative Committee) of the International Telecommunications Union;
Invoice	means a bill or request for payment issued in accordance with Annex B – Billing and Payments;
Invoiced Party	means the Party which receives an Invoice from the other Party;
Invoicing Party	means the Party which issues an Invoice to the other Party;
ISI Links	the circuits provided by the ISI Service defined in Schedule 9;
Joint Technical Committee	A committee composed of representatives of each Party constituted and with the agenda detailed in the JWM;
Joint Working Manual (JWM)	means the document dealing with the operations and maintenance activities between the Parties and together with these Supply Terms and Service Schedules forms the Interconnection Agreement;
Licensed Operator	has the meaning assigned to “licensee” under the Act;
Mobile Networks	means a Network where switching device to which an originating Customer is connected is a handset which has the facility to roam between different locations using the same Mobile Number;
Mobile Numbers	means a service number as defined by ITU-T E.164, and is a number for use in connection with a mobile service;
Mobile Switching Centre (MSC)	means a TVL or OLO platform used to switch Calls either from and/or to a Mobile Customer as the context requires;

Network	a telecommunications system containing Switches and other equipment to enable Telecommunications services to be offered to Customers;
Network Alteration	means a change to one Party's Network, which affects the other Party's Network or the provision or receipt of an Interconnection Service by the other Party;
Network Fault	a Fault affecting the Network of either TVL or the OLO causing loss of or interference with Interconnection Services in the Network of both Parties;
Network Fault Reporting	means the process for reporting Faults as describe in the JWM;
Network Operations Centre	means the TVL or OLO facility as the context requires for monitoring its Network, measuring performance and controlling the handling of Network Faults;
Network Plan	A detailed plan agreed by TVL and the OLO describing the Interconnection topology and prepared as described in the JWM;
Network Terminating Point	Means the point where the Licensee's Network ends and where Customers may connection appropriate terminal apparatus;
Non-Usage Based Services	means the Interconnection Services specified as such in Annex B - Billing and Payments;
Number Ranges	a range of telephone numbers including both geographic and non-geographic numbers allocated by the TRR to either TVL, the OLO or another Operator;
Party	means a party to the Interconnection Agreement;
Point of Interconnection (PoI)	means the demarcation point between two interconnected Networks where traffic is transmitted from one Network to another;
Preliminary Response	means an initial response to a request for an Interconnect Change containing the information described in Annex E – New Services;

Quarter	Three (3) consecutive Calendar months;
Ready for Service Date	the date following the successful completion of testing when TVL and the OLO are ready to commence the service;
Ready for Test Date	the date by which TVL and the OLO have completed that part of the provisioning under their control;
Receiving Licensed Operator	the Licensee receiving the communications;
Release Message	an ISUP release message as defined in ITU-T.Rec.Q.766 and is a signal sent by the originating Network indicating that the calling Customer has cleared the Call;
Retail Prices	The prices published from time to time by TVL for the use of telecommunications services by its Customers;
Service Affecting	refers to a Fault which has a significant impact on the provision of Interconnection Services by TVL and the OLO and is likely to impinge upon the Services that either or both supply to Customers;
Service Schedules	means a Schedule of the Agreement which sets out the specific terms and conditions that apply to an Interconnection Service which if agreed by the Parties form part of the Interconnection Agreement;
Service Plan Services	means a detailed description of the contact details of the OLO and TVL personnel involved in Interconnection together with other information as described in the JWM;
Signalling	means the information required to establish a Call delivered according to a protocol conforming with ITU- T Signalling System Number 7;

Specifications	means the documents issued by ITU-T specifying the standards and parameters for the performance of telecommunications systems and equipment;
Suspension	means the temporary removal of an obligation or set of obligations contained in the Interconnection Agreement;
Switch	telecommunications platform within a Network which performs the function of switching and routing Calls;
Switch Capacity	means the a service where one Party provides a link from its Digital Distribution Frame sited in the building in which their Switch is located to a 2.048 Mbit/s trunk interface card in that Switch. It includes the provision of the relevant data identification loaded into the Party's Switch to ensure the correct operation of the Traffic Route using that trunk interface card;
Technical Account Manager	means a person appointed by TVL or the OLO to manage the technical relationship between TVL and the OLO as described in the JWM;
Telecommunications Service	means any service provided by a telecommunications Network;
Terminating Operator	means TVL or the OLO as the context requires which connects the Call to the receiving Customer;
Termination	means the termination of the Interconnection Agreement;
Test Calls	means Calls originated by TVL or the OLO as the context requires for the purpose of testing the Network or the performance of Interconnection Services provided by one Party to the other;
Third Party Networks	means Networks of other Licensees not a party to this Interconnection Agreement and may include Networks operated by other operators outside of the Republic of Vanuatu;

Traffic Forecast	means an estimate of busy hour Erlangs and other measures referred to in the JWM on a particular route between Interconnected Switches;
Traffic Route	means one or more 2.048 bit/s circuits linking a TVL Switch with an OLO Switch via a Point of Connection for the conveyance of Calls;
Traffic Stream	means a particular type of traffic such as OLO any to any traffic on a single Traffic Route;
Transmission Capacity	means Capacity necessary for the transmission of Calls via an Interconnection path;
Transmission Equipment	means equipment necessary for the provision of Transmission capacity;
Uni-directional	means a Traffic Route carrying Calls in one direction only;
Usage Based Services	means the Interconnection Services specified as such in Annex B - Billing and Payments;
Verification Service	means the process for the reconciliation of Bills contained in Annex B – Billing and Payments;
Voice Call Termination	means Fixed or Mobile Calls as defined in Schedules 1 to 5;
Voice Call	means the commercial provision to the public of the direct transport and switching of speech in real-time between public switched Network Termination Points or similar locations enabling any Customer to use Customer equipment connected to such a Network Termination Point or similar location to communicate with equipment connected to another Network Termination Point or similar location,
Working Days	means any period of twenty four (24) hours ending at midnight other than Saturdays, Sundays and public or bank holidays in the Republic of Vanuatu;

1.2 The general rules for contracts interpretation included in the Act shall apply for the purpose of interpreting this Agreement.

2. Whereas

- A. The Telecommunications and Radiocommunications Regulation Act No 30 2009 (the Act) sets out the legislative basis for interconnection and also sets out the role and powers of the Telecommunications and Radiocommunications Regulator (“TRR”) in regulating telecommunications;
- B. A Licence dated 11th March 2008 was issued to TVL to provide Telecommunications systems of all types, established maintained and operated by the Licensee, at the date of
- C. A Licence reference [] dated [] was issued to the OLO under the Act to provide a public telephone system and to provide electronic communications services to the public;
- D. issue of this Licence, including all telecommunications services offered to and provided by the licensee to the public at the date of the Licence;
- E. TVL has published a Reference Interconnect Offer (RIO) giving the reference for interconnection to its Network;
- F. Section 27 (8) of the Act enables the Parties to enter into an Interconnect Agreement within ten (10) Working Days by accepting the TVL’s RIO;
- G. TVL and the OLO have agreed to connect the OLO Network to the TVL Network and to the supply of products, services and facilities, on the terms and conditions of these Supply Terms;
- H. Nothing in these Supply Terms shall add to or enlarge the legal obligations of the TVL or OLO in respect to the scope of services and products that are classified as interconnection as set out in the Act.

IT IS AGREED as follows:

3. Preface

- 3.1** These Supply Terms are a legally binding bilateral agreement between TVL and the OLO.

3.2 Reciprocity

3.2.1. All Services and products described in this Agreement will assume the principle of reciprocity such that the Services Descriptions, quality, responsibilities, terms and conditions and tariffs will be fully symmetric between TVL and OLO. Variations to this principle will only occur under exceptional circumstances that are agreed between the Parties and explicitly incorporated within this Agreement.

4. Representations and Warranties

4.1 By submitting to TVL a Notification of Acceptance the OLO warrants that it has:

- The necessary authorizations to enter into such an agreement
- The appropriate regulatory approvals
- The power to both enter into and implement all its obligations under the Agreement
- The information provided to TVL in notification of acceptance of the Supply Terms is complete, true and correct and not in any way misleading.

4.2 Each Party agrees to indemnify the other Party on request for any liability, loss, damage, cost or cost or expense (including any such legal fees) incurred or suffered by any other Party which arises out of or in connection with any breach of any representations given in this Clause

5. Effect Or Variation Of The TVL RIO

5.1 Either Party may seek a change to the RIO at any time. Any such changes will be considered by TRR and processes in accordance with Section 27 (6) of the Act.

5.2 TVL may amend or withdraw its RIO as required from time to time. All and any amendments, made by TVL to this RIO will be sent to the TRR and when approved automatically offered to the OLO under this Agreement.

6. Order Of Precedence

6.1 Without prejudice to the rights of TVL, in the event of conflict or ambiguity between the terms defined in the governing laws and regulations in respect of these Supply Terms, the following order of precedence shall apply:

- 6.1.1 The Act;
- 6.1.2 Any applicable Regulations
- 6.1.3 Appropriate Telecommunications Licences

6.1.4 Interconnection Agreement based on the RIO

6.2 In the event of conflict or ambiguity between the provisions of the Interconnection Agreement (including any attachments) and the published RIO, and subject to Clause 6.1 the following order of precedence shall apply:

6.2.1 The Act

6.2.2 Any applicable Regulations

6.2.3 Appropriate Telecommunications Licences

6.2.4 Relevant Orders or Determinations of the Regulator

6.2.5 The published RIO.

6.3 The following documents form part of the Interconnection Agreement and, in the event of any inconsistencies between them, the order of precedence shall (unless expressly stated to the contrary) be as follows:

6.3.1 The Supply Terms

6.3.2 Clause 1 (*Definitions and Interpretations*)

6.3.3 Annex B (*Billing and Payments*)

6.3.4 Annex C (*Network Protection and System Safety*)

6.3.5 The JWM (*Forecasting, Capacity Planning and Ordering*)

6.3.6 Annex A (*The Technical Interface Specification*)

6.3.7 All remaining Annexes

6.3.8 The Service Schedules

7. Commencement and Duration

7.1 The Interconnection Agreement will take effect on a mutually agreed date, herein referred to as the “Commencement Date”. The Supply Terms, JWM and appropriate Service Schedules shall be signed on, or prior to, the Commencement Date and shall continue until Termination pursuant to these Supply Terms or until either TVL or the OLO ceases to hold a licence issued in accordance with the Act to establish, operate and maintain such telecoms systems as incorporated within this Agreement.

7.2 Within ten (10) Working Days of the date the Interconnect Agreement is signed the Parties shall lodge this agreement with TRR.

7.3 Notwithstanding either Party’s legal rights or the rights within the Act, the Parties shall enter into discussions to amend the Interconnection Agreement in accordance with a legal and undisputed order, direction or determination of the TRR.

7.4 Notwithstanding the provisions of clause 7.2 and clause 7.3, the Parties agree that the Agreement shall come into force on the Commencement Date.

7.5 This Agreement may be terminated by either party in accordance with clause 26 of this Agreement.

8. Interconnection and Standards

8.1 The Parties shall connect and keep connected the TVL System and the OLO System through Traffic Routes and Switch Capacity Services by establishing Points of Interconnection using where appropriate Interconnect Links by one or more of the following Interconnection Services in accordance with this Agreement:

8.1.1 Customer Sited Interconnection

i) Customer Sited Interconnection can be provided where the OLO chooses to rent a leased line at prevailing wholesale tariff rates. For the avoidance of doubt the leased line that supports Customer Sited Interconnection does not fall under the definition of Interconnection. It is a link provided for the purpose of enabling Interconnection.

8.1.2 In-Span Interconnection

- 8.2** Each Party shall comply with Annex A (*Technical Interface Specification*) and the Forecasting and Testing arrangements in the JWM in so far as they apply to the provision of Services pursuant to the Interconnection Agreement.
- 8.3** For the avoidance of doubt neither Party is responsible for the conveyance of any call or text message in the Network of the other Party.
- 8.4** Neither Party is responsible for the conveyance of any call or text message where a charge for the conveyance of the call or text message by that Party is not specified in, or has not been agreed pursuant to this Agreement.
- 8.5** In the practical implementation of the JWM relating to the Interconnection of the TVL Network and the OLO Network, the Parties shall apply standards and operating guidelines which have due regard to;
- 8.5.1** any legal requirements imposed upon each of them;
 - 8.5.2** recommendations by ITU-T (where applicable); and
 - 8.5.3** the GSM memorandum of understanding (where applicable).
- 8.6** For the avoidance of doubt Interconnection covered under the terms of this Agreement is only available using signalling known as ITU-T Signalling System No 7 and using 2.048 Mbit/s capacity for each Switch Capacity Service subject to the terms and conditions in these Supply Terms.
- 8.7** On requesting Interconnection from TVL, the OLO shall follow the procedures in the JWM.
- 8.8** If an OLO, appropriately licensed by TRR, wishes to interconnect with TVL for the specific purpose set out in the Act and on the prices, terms and conditions contained within this Agreement then they must submit a written acceptance (Notification of Acceptance of RIO) to TVL. The OLO requesting interconnection shall make an application for acceptance of the RIO in accordance with the requirements of the JWM for Initial Interconnection and in accordance with the RIO acceptance procedures.
- 8.9** If the OLO is requesting Interconnection and once request for Interconnection has been accepted under this Agreement then the following payment arrangements will

apply for the first two (2) years from the date of placing the first order for Interconnection Links;

i) With the first order for Interconnection the OLO will include payment for the any connection charge for the Interconnection Link and associated Capacity; and

ii) the first four (4) quarters rental in advance for these Services; and

iii) one (1) year from the date of the first order the OLO shall pay the following four (4) quarters rental in advance for these Services.

- 8.9.1** If TVL finds the initial application to be non-conforming then the OLO shall be informed and requested to re-submit or to negotiate in good faith a change to the RIO. If the initial application is accepted by TVL then within twenty (20) Working Days discussions will commence on the process and implementation of the accepted terms and conditions of this RIO. Such an Agreement when entered into on the same terms and conditions set out herein will be referred to as an Interconnection Agreement. If the initial application is rejected by TVL then the requesting OLO will be informed within ten (10) Working Days and provided with reasons for the rejection.
- 8.9.2** The OLO shall provide a detailed statement of its technical requirements for Interconnection Services in respect of the Agreement. This statement of requirements as detailed in the JWM shall be sufficiently detailed for TVL to design a solution for the OLO's interconnection requirements.
- 8.9.3** If the statement of requirements is considered by TVL to be insufficient to set out a comprehensive technical solution, TVL shall notify the OLO within twenty (20) Working Days of receipt of the statement of requirements. This notification shall include a list of detailed questions and requests for data that are not supplied within the OLO's statement of requirements.
- 8.9.4** If the statement of requirements is sufficient to enable TVL to design and document a comprehensive technical solution for the OLO's interconnection requirements, TVL shall dispatch a documented solution to the Other Licensed Operator within twenty (20) Working Days of receipt of the satisfactory statement of requirements.
- 8.9.5** TVL and the OLO shall negotiate in good faith with a view to reaching agreement on a comprehensive Network Plan within twenty (20) Working Days of TVL's

notification of the TVL proposed technical solution being received by the OLO, unless otherwise agreed between TVL and the OLO in writing.

8.9.6 Once the technical solution is agreed between TVL and the OLO, the solution shall become known as the Network Plan and shall be included in the Interconnection Agreement.

8.10 Interconnection Paths shall be provided using either:

8.10.1 Customer Sited Interconnection Links (leased lines purchased from TVL) as defined in Service Schedule 8; or

8.10.2 Interconnect Links using In Span Interconnection as defined in Service Schedule 9.

8.11 The actual Point of Interconnection (PoI) shall be where the TVL Network connects with the OLO's Network and shall be a physical point. Except in the case of In Span Interconnection, the Point of Interconnection shall be at a physical point where the connection can be disconnected in order to conduct testing.

8.12 TVL and the OLO shall be equally responsible for providing sufficient capacity at the PoI to meet the agreed forecast traffic contained in the Network Plan, as described in the JWM. TVL and the OLO shall own and shall be responsible for the operation and maintenance of the transmission equipment on their respective sides of the PoI up to the Digital Distribution Frame (DDF).

8.13 Separate Interconnection Paths may be provided to carry the traffic of each Party. The cost of both installation and on-going maintenance of each Interconnection Path shall be borne in full by the Party owning (sending) the traffic on that Interconnection Path. Initially Uni-directional paths will be utilised for the first two (2) years, unless both parties agreed otherwise Bi-directional paths may then be utilised when this represents the optimal method of handling the traffic consistent with sound engineering practices. In the latter instance of Bi-directional paths, costs for installation and on-going maintenance shall be equally shared. The terms and conditions for sharing costs for TVL Customer Sited Interconnection Interconnect Links are attached in Schedule 8 and Annex G (*Price List*).

8.14 The arrangements for ordering new Interconnection Paths shall be as defined in the JWM and Service Schedules 8 to 11.

8.15 The JWM provides the arrangement under which network performance will be monitored.

8.16 Details of the delivery time scales for Switch Capacity and the Ordering of In-Span Interconnection is contained in Service Schedules 9 to 11 and the JWM.

8.17 Arrangements for ordering and providing Customer Sited Interconnection Links shall be the same as those for ordering and providing retail leased lines. Each individual order shall be supplied in accordance with the terms and conditions that apply to such retail leased lines.

9. Interconnection Services

- 9.1** The Service Schedules attached hereto provide details of the Interconnection Services offered by TVL. These schedules include:
- 9.2** A definition and description of each Interconnection Service offered by TVL.
- 9.3** A description of the terms and conditions under which each Interconnection Service is offered.
- 9.4** The Parties shall agree on the Service Schedules that form part of the Interconnection Agreement. Services defined in Service Schedules forming part of TVL's published Reference Interconnection Offer may be added to this list by agreement at later dates.
- 9.5** Both Parties shall connect their respective networks and use their reasonable endeavours to keep connected their networks in accordance with the terms of the Interconnection Agreement. Although both Parties will use their reasonable endeavours to maintain connections neither Party makes any representation or gives any warranty in relation to this.

10. Charging for Interconnection Services

- 10.1 The charging structure for each Interconnection Service is described in Annex G (*Price List*).
- 10.2 The Parties agree to pay to each other all relevant charges in accordance with Annex G and within the time specified in this Agreement
- 10.3 Unless otherwise agreed all charges payable to TVL from the OLO and all charges payable to the OLO from TVL , for the same service, will be the same. In the situation where one party changes its charges for a service then the other party will vary its charges to ensure that they remain the same.
- 10.4 The charges shall be reviewed every year with an Effective Date of 1 January of that year, but that does not necessarily means that they will be changed. In the event of price changes, the revised prices shall be agreed with the TRR and automatically replace those in Annex G (*the Price List*) to the Interconnection Agreement in force at the Effective Date.
- 10.5 The chargeable time for each Call in seconds, unless specifically stated as otherwise, shall commence upon the receipt of an Answer Message and cease upon the receipt of a Release Message at the point of recording by the Party recording the relevant Call Detail Record (CDR). “**Answer Message**” means an ISUP answer message as defined in ITU-T.Rec.Q.762 and ITU-T.Rec.Q.763. “**Release Message**” means an ISUP release message as defined in ITU-T.Rec.Q.766.
- 10.6 Charges shall not be payable under the Interconnection Agreement by either Party for unsuccessful calls. Successful calls shall be defined as those Calls that have passed across a PoI and received an Answer Message returned by the other Interconnected operator’s network.
- 10.7 Payments will be made in Vanuatu and will be considered paid on the day that the money is deposited into, and the funds cleared, in the receiving Party’s bank account.
- 10.8 Subject to a separate written agreement between the Parties, each Party may set off amounts owed to it by the other Party against amounts invoiced to it.

11. Technical Aspects

- 11.1 Annex A (*Technical Interface*) and the JWM contains information including the following:
 - 11.2 Service configuration
 - 11.3 Technical characteristics
 - 11.4 Network Interconnection paths and routing
 - 11.5 Switching Network Interconnection

- 11.6 Signalling Network Interconnection
 - 11.7 Interface standards
 - 11.8 Synchronisation
 - 11.9 Safety standards
- 12. Numbering**
- 12.1 Each Licensed Operator shall use Number Ranges allocated to them in accordance with the National Numbering Plan as administered by TRR.
 - 12.2 TVL and the OLO's Number Ranges shall be detailed in the Network Plan.
 - 12.3 The presentation of Calling Line Identification Presentation (CLIP) shall comply with all the requirements detailed in Annex D (*Numbering*).
 - 12.4 Neither Party shall delete or change or permit or procure that other person to delete or change any numbering information in respect of any call or text message provided to it (or otherwise received by) the other Party with the objective effect that:
 - 12.4.1 The definition of any call or text message or applicable charges that would not otherwise apply but for the deletion or change, does apply (based on the Numbering information provided to (or otherwise received by) the other Party): and / or
 - 12.4.2 The definition of any call or text or applicable charges that would otherwise apply but for the deletion or change, does not apply (based on the Numbering information provided to (or otherwise received by) the other Party): and / or
 - 12.4.3 It is no longer possible for the other Party to accurately determine whether a call or text message is or is not of a particular type of call or text message
 - 12.4.4 Causes the effect of any type of call hijack or redirection to gain any type of commercial advantage.
 - 12.5 A Party shall only use Numbering information for the following purposes:
 - 12.5.1 Routing calls or messages
 - 12.5.2 Compilation of inter Party invoices
 - 12.5.3 Compilation of Customer bills (provided that Numbering information is disclosed on the Customer bill);
 - 12.5.4 Call trace, malicious, call identification and fraud prevention and detection; and
 - 12.5.5 Display to end users.

- 13. Operational Aspects**
- 13.1** The operational aspects of Interconnection are contained within the JWM. This includes information on the following:
- 13.2** Fault Management
- 13.3** Interconnection operation and maintenance processes
- 14. Network Design and Planning**
- 14.1** Forecasting, Capacity Planning and Ordering processes including time scales for testing are detailed in the JWM.
- 15. Quality of Service Measures**
- 15.1** Each Party shall use its reasonable endeavours to provide Interconnection Services to the other Party at the same quality of service level as for similar services provided wholly within its own Network, subject to accurate committed forecast information.
- 15.2** The target grade of service for all Interconnect Links and Switch Capacity is 0.01 in Erlang Table B.
- 15.3** Both TVL and the OLO shall use reasonable endeavours to meet the targets set out in Clause 15.3 for all elements of the calls carried on their Networks.
- 15.4** The forecasts provided by TVL and the OLO represent the good faith expectations of each party for the Capacity requirements and Interconnect Links.
- 16. Network Alteration and Data Management**
- 16.1** Details Of Network Alterations and Data Management Amendments, including time scales are contained in the JWM.
- 17. New Services**
- 17.1** TVL or the OLO may, at any time, request from the other an agreement to interconnect their respective Networks for the provision of any service or facility which the other provides either to itself or under an Interconnection Agreement with another Licensed Operator. Such requests shall be clearly marked as a request for a new service pursuant to this Clause 17.1.
- 17.2** Following a request pursuant to Clause 17.1, TVL or the OLO shall offer the other the service or facility on its current standard tariff terms and conditions.
- 17.3** Requests for new Interconnection Services or for changes to existing Interconnection Services are detailed in Annex E (*New Services*).
- 18. Measurements of Traffic Volume**
- 18.1** The responsibility for traffic volume measurements shall reside with the Billing Party responsible for that particular Interconnection Service.

18.2 Both TVL and the OLO shall ensure that it records measurements of traffic volumes in sufficient detail to meet its obligations as outlined in the JWM and Annex B (*Billing and Payments*).

19. Retail Customer Management

19.1 Each Party shall be responsible for billing their own customers.

19.2 The Party that has the billing responsibility in relation to a Customer is responsible for handling and addressing all complaints from that Customer, including complaints and enquiries that arise as a result of the operation of the Interconnection Agreement.

19.3 Information about a Customer is the confidential information of the Billing Party that has the billing responsibility in relation to that Customer.

19.4 The Party responsible for handling and addressing Customer complaints and enquiries shall not refer Customers to the OLO for satisfaction of the matters they are raising.

19.5 Each Party shall instruct its staff, contractors, agents and employees to refrain from any public criticism of the other Party that has arisen as a result of the operation of the Interconnection Agreement provided that in no circumstances is either Party required to refuse to answer a Customer enquiry, provide false information to a Customer, or answer any question of a Customer falsely.

19.6 Neither Party may represent expressly or by omission or implication that:

19.6.1 it is approved by or an agent of or affiliated with the other Party; or

19.6.2 it has a special relationship with the other Party; or

19.6.3 is charged preferential prices by the other Party for the provision of Interconnection Services; or

19.6.4 the services provided by it to Customers are the other Party's services provided that in no circumstances is either Party required to refuse to answer a Customer enquiry, provide false information to a Customer, or answer any question of a Customer falsely.

19.7 Each Party is required in the Interconnection Agreement to indemnify and hold the other Party harmless from and against any Customer claims for any consequential loss suffered by the Customer as a result of the performance or non-performance of the Interconnection Agreement or any Telecommunication Service provided pursuant to the Interconnection Agreement or for any other cause howsoever arising.

20. Billing and Payment

20.1 Neither Party has any right to withhold any payment due to the OLO on account of any non-payment of debts owed to that Party by its Customers.

- 20.2** TVL and the OLO shall bill and reimburse the other in accordance with the procedures outlined in Annex B (*Billing and Payments*).
- 20.3** All Invoices shall have the status of Notices as defined in Clause 30.
- 20.4** Invoices are due and payable in Vatu. Invoices shall be dated as of the date of issue of the invoice (the “**Issue Date**”) and are payable on or before (the “**Due Date**”) which is thirty (30) Calendar Days from the Issue Date.
- 20.5** All payments must be:
- 20.6** paid by cheque, banker’s draft, cashier’s order or electronic transfer directly to the
- 20.7** nominated account(s) of the Party to receive the payment;
- 20.8** subject to Annex B (*Billing and Payments*), paid without counterclaim and free and clear of any withholding or deduction; and
- 20.9** accompanied by such information as is reasonably required by the Party receiving the payment to properly allocate payments received.
- 20.10** TVL shall provide to the OLO invoices of all amounts due to TVL calculated in accordance with the provisions of Annex B (*Billing and Payments*) and Annex G (*Price List*).
- 20.11** The OLO shall provide to the TVL invoices of all amounts due to the OLO calculated in accordance with the provisions of Annex B (*Billing and Payments*) and Annex G (*Price List*).
- 21. Forecasting, Ordering and Provisioning of Interconnection Capacity**
- 21.1** The Parties will exchange forecasts for each service type as required in the JWM and shall comply with all the provisions relating to forecasting, ordering and provisioning contained in this Agreement.
- 21.2** The Parties will order interconnect capacity in line with that forecasted and the process and procedures set out in the RIO. The Parties will provide interconnect capacity in line with orders placed and in accordance with this Agreement. For the avoidance of doubt, ordering and provisioning of interconnect capacity will include all relevant procedures for service implementation and acceptance testing as set out in the JWM.
- 22. Staff Safety and Network Protection**
- 22.1** Each Party is responsible for the safe operation of its Network and shall take all reasonable and necessary steps in its operation and implementation of this Agreement to ensure that its Network does not:
- 22.1.1** Endanger the safety or health of employees, contractors, agents, Customers of the other Party or the general public, or

- 22.1.2** Damage, interfere with or cause any deterioration or impairment in the operation of the other Party's Network.
- 22.2** Neither TVL nor the OLO shall connect or knowingly permit the connection to its Network of any equipment or apparatus, including, but not limited to, any terminal equipment, that is likely to cause harm to the other Party's Network.
- 22.3** Detailed conditions are contained in Annex C (*Network Protection and Safety*).
- 23. Confidentiality And Disclosure**
- 23.1** Subject to the following provisions of this Clause 23 either TVL or the OLO when receiving Confidential Information from the other shall keep in confidence such Confidential Information and will not disclose such information to any third party and shall use its reasonable endeavours to ensure that its directors, employees, and professional advisers shall not disclose such Confidential Information.
- 23.2** TVL or the OLO when receiving Confidential Information from the other shall exercise no lesser degree of care of Confidential Information than would a reasonable person with the knowledge of confidential nature of the information. Both TVL and the OLO shall exercise no lesser security or degree of care than that Party applies to its own Confidential Information of an equivalent nature.
- 23.3** Information provided by one Party to the other for the purposes of Interconnection shall only be used by relevant staff within the receiving Party's company for the purposes of Interconnection and shall not be made generally available within either TVL or the OLO. Information shall be made available on a need to know basis.
- 23.4** Either TVL or the OLO may disclose Confidential Information to a contractor or agent, subject to the contractor or agent undertaking to comply with obligations equivalent to those contained in this Clause 23.
- 23.5** The following shall not constitute a breach of this Clause 23:
- 23.5.1** a disclosure authorised in writing by the disclosing Party to the extent of that authority; or
- 23.5.2** a disclosure to an emergency organisation, including but not limited to the Vanuatu Police authorities; or
- 23.5.3** a disclosure to TRR in carrying out its statutory duties; or
- 23.5.4** a disclosure which is properly made pursuant to the OLO's Licence, or the TVL Licence, or a relevant statutory obligation, or a decision from a court of competent jurisdiction, or other regulatory obligation; or

- 23.5.5** a disclosure to obtain or maintain any listing on any recognised stock exchange; and
- 23.5.6** subject to, for the disclosure set out in this Clause 23.5, the receiving Party informing the other Party as soon as reasonably practical, after such disclosure.
- 23.6** Unless otherwise agreed in writing, neither TVL nor the OLO shall use the other Party's Confidential Information to provide commercial advantage to its retail business.
- 23.7** Notwithstanding any provision of the Interconnection Agreement, TVL or the OLO shall not be obliged to provide information which is subject to a confidentiality obligation to a third party unless such third party consents to such disclosure and TVL or the OLO as appropriate have taken all reasonable steps to secure the consent of such third party.
- 23.8** The disclosing Party shall use its best endeavours to ensure that information disclosed is correct to the best of its knowledge at the time of provision of such information.
- 23.9** Subject to Clause 31 (Limitation of Liability), the receiving Party shall indemnify the disclosing Party and keep it indemnified against all liabilities, claims, demands, damages, costs and expenses, including any claims by third parties, arising as a consequence of any failure by the receiving Party to comply with any reasonable conditions imposed and expressly identified and notified to that Party, including those relating to confidentiality in accordance with this Clause 23, by the disclosing Party at the time when the information was provided.
- 23.10** Nothing in this Agreement shall require either TVL or the OLO to do anything in breach of any statutory or regulatory obligation of confidentiality, including without prejudice to the generality of the foregoing, any obligation pursuant to the Republic of Vanuatu legislation or regulation.
- 23.11** A Party must not, without the prior written consent of the other Party, make media or other public statements relating specifically to the performance of or disputes under the Interconnection Agreement.
- 23.12** For the purposes of this Clause 23 the following shall cease to be considered as Confidential Information if and to the extent that it:
- 23.12.1** is in or comes into the public domain other than by reason of a breach of this Agreement; or
- 23.12.2** is previously known on a non-confidential basis to the receiving Party at the time of its receipt; or
- 23.12.3** is independently generated, developed or discovered at any time by or for the receiving Party; or

23.12.4 is subsequently received from a third party without any restriction on disclosure;

23.13 The provisions of this Clause 23 shall apply to employees and ex-employees for a period of five (5) years after the termination of this Agreement.

24. Prevention of Fraud

24.1 If a Party becomes aware of, or suspects, fraudulent use of, theft or misuse of the other Party's respective services and or equipment they will promptly inform the affected Party.

24.2 If requested by one Party then the other Party will co-operate in a fair and reasonable manner and in line with relevant legislation in the provision of any information or support with regard to such fraudulent use.

25. Resolution of Disputes

25.1 The Parties shall resolve all disputes arising under or in connection with this Agreement in accordance with Annex F (*Dispute Resolution Process*), except where:

25.1.1 one Party seeks urgent interlocutory, injunctive or other immediate relief under Clause 25.3 below; or

25.1.2 the dispute is a Billing Dispute and such a dispute is not escalated for resolution under the Dispute Resolution Procedures and is covered by separate provisions in Annex B (*Billing and Payments*).

25.2 The Dispute Resolution Procedures are without prejudice to any right or remedy available to a Licensee under law for any breach of any of the Interconnection Agreement.

25.3 Nothing in the Interconnection Agreement shall prevent a Licensee from seeking urgent interlocutory, injunctive or other immediate relief in a court of law.

25.4 Any time limits or provisions specified in the Dispute Resolution Procedures may only be varied by written agreement between the Parties.

25.5 Each Party shall continue to perform its obligations under the Interconnection Agreement in the event and for the duration of any dispute notified under the Dispute Resolution Procedures.

25.6 Neither TVL nor the OLO shall use information obtained in the course of any dispute for any purpose other than to resolve the relevant dispute.

25.7 Each Party shall act in good faith for the duration of a dispute and shall use its best endeavours to resolve disputes as quickly as possible and to minimise any delays in the settlement of such disputes.

25.8 Subject to any order of a court, each Party shall bear its own costs (including costs of retaining legal advisers) in relation to a dispute.

26. Breach, Suspension And Termination

- 26.1** If one Party's Network seriously and adversely affects the normal operation of the other Party's Network, or is a threat to any person's safety, the affected Party shall immediately inform the affecting Party with a Notice in accordance with Clause 30. The affecting Party shall take immediate action to resolve the problem and in the event that normal operation is not restored in a reasonable period of time or if the matter is extreme, the affected Party may suspend, to the extent objectively reasonable and necessary, such of its obligations under the Interconnection Agreement, and for such period as it may be considered objectively reasonable and necessary to ensure the normal operation of its Network or to reduce the threat to safety. Except where the adverse effects presents a threat to any person's safety, such suspension shall be notified in writing as a Notice prior to such suspension. This Notice shall be sent to the other Party and copies to TRR and may continue unless TRR, within the powers under the Act, instructs otherwise or the problem is resolved.
- 26.2** If either Party is in material breach of any provisions of the Interconnection Agreement (including failure to pay an undisputed sum due hereunder) one may serve a written notice (the "Breach Notice") on the Party in breach and copy it at the same time to TRR specifying the breach and requiring it to be remedied in accordance with the provisions of Clause 26.3 as well as stating the consequences of failure to remedy including potential suspension or termination.
- 26.3** If the Party in breach fails to remedy the breach within twenty eight (28) Calendar Days of receipt of the Breach Notice, the other affected Party may, until such breach is remedied, action the consequences stated in the breach notice including suspend performance of such of its obligations made under the Interconnection Agreement as is reasonable in the circumstances. Such suspension shall be notified in writing to TRR.
- 26.4** If the Party in breach fails to remedy the breach within the period stated in the Breach Notice the affected Party may terminate the Interconnection Agreement with immediate effect on written notice to both the Party in breach as well as TRR. Such termination shall be notified in writing to TRR and will be implemented unless TRR instructs otherwise, using its powers under the Act.
- 26.5** The Interconnection Agreement may be terminated by either Party by written notice forthwith to both the other Party as well as the TVL if any one of the following occurs;
- 26.5.1** Either Party formally commences bankruptcy proceedings
- 26.5.2** Bankruptcy proceedings are formally commenced against the OLO

- 26.5.3** The OLO ceases to carry on business.
- 26.6** TVL or the OLO may Terminate this Agreement immediately on notice, in writing to the other Party, in the event that a licence to operate services is immediately revoked and not re-awarded or in the event that an operator:
- 26.6.1** Interferes or obstructs the other Party in carrying out its lawful obligations under any regulation;
 - 26.6.2** Fails to pay any undisputed invoice or portion of such invoice and has failed to remedy such breach within the allowed time under Billing Disputes;
 - 26.6.3** Is in breach of any material obligation under this Agreement and has not remedied that breach within the timescales set out in this Agreement; or
 - 26.6.4** Where circumstances arise where it is no longer technically feasible to provide Services.
- 26.7** TVL or the OLO may also terminate this Agreement by giving at any time to the other not less than twelve (12) months' written notice to Terminate.
- 26.8** After a notice has been given by either Party pursuant to Clause 26.7, either TVL or the OLO may request in writing within twenty (20) Working Days of the notice given under Clause 26.7, that the Parties carry on good faith negotiations, which cannot reasonably be refused, with a view to entering into a new agreement.
- 27. Effects Of Termination**
- 27.1** Such termination or expiry of this Agreement will not prejudice the rights and obligations of the Parties prior to such termination and such termination will not affect the continuing enforcement of clauses that by agreement or implications should remain in force until expiry (including but not limited to)
 - 27.1.1** Clause 23 Confidentiality of Information;
 - 27.1.2** Clause 26 Breach, Suspension and Termination;
 - 27.1.3** Clause 28 Intellectual Property Rights; and
 - 27.1.4** Clause 31 Limitation of Liability.
 - 27.2** Termination or expiry of this Agreement shall be without prejudice to the rights, liabilities and obligations of either Party that have been established for services already provided as result of the Agreement to date.
 - 27.3** Upon termination or expiry of this Agreement:
 - 27.3.1** all sums not yet due (under term of payment, due date) and payable under this Agreement or in respect of the terminated Interconnection Service (as the case may be) will become immediately due and payable;

- 27.3.2** the Terminating Party must refund any amount or proportionate amount of any sum paid in advance by the other Party in respect of any period after the date of termination;
- 27.4** On termination or expiry of the Agreement all monies including compensation for any unused forecast capacity as set out in this Agreement will become due and payable. TVL will use its reasonable endeavours to mitigate its losses to either reuse in a reasonable time frame or sell the equipment purchased as part of the forecast capacity before calculation of any monies and related costs owed to TVL.
- 27.5** Upon expiry of the Interconnection Agreement each Party shall take such steps and provide such facilities as are necessary for recovery by the OLO of equipment (if any) supplied by the OLO. Each Party shall use reasonable endeavours to recover equipment made available by it.
- 27.6** If after thirty (30) Calendar Days of the expiration of the Interconnection Agreement one Party fails to recover all equipment because of the acts or omissions of the other (or a third party appearing to have control of a site where such equipment is situated) without reasonable cause, then one Party may demand reasonable compensation from the other which shall be paid by the other Party within thirty (30) Calendar Days of the date of the demand.
- 28. Intellectual Property Rights**
- 28.1** Except as expressly otherwise provided in the Interconnection Agreement, Intellectual Property Rights shall remain the property of the Party creating or owning the same and nothing in the Interconnection Agreement shall be deemed to confer any right or title whatsoever or licence of the Intellectual Property Rights of one Licensee to the other, and nothing in this Agreement shall be deemed to restrict the rights of either Party to own, use, enjoy, license, assign or transfer its own Intellectual Property.
- 29. Review**
- 29.1** Either Party may seek to amend the Interconnection Agreement by serving on the other a review notice if:
- 29.1.1** either Party's Licence is materially modified (whether by amendment or replacement); or
- 29.1.2** a material change occurs in the law or regulations governing Telecommunications in the Republic of Vanuatu; or
- 29.1.3** the Interconnection Agreement makes express provision for a review or the Parties agree in writing that there shall be a review; or

- 29.1.4 a material change occurs, including enforcement action by any regulatory authority, which affects or reasonably could be expected to affect the commercial or technical basis of the Interconnection Agreement; or
 - 29.1.5 the rights and obligations under the Interconnection Agreement are assigned or transferred by the other Party; or
 - 29.1.6 there is a general review pursuant to provisions in the Interconnection Agreement: or
 - 29.1.7 Two (2) years after the date of signature of the Interconnection Agreement if requested in writing by either Party and on each second anniversary thereafter if requested by either Party.
- 29.2 A review notice shall set out in reasonable detail the issues to be discussed between TVL and the OLO.
- 29.3 A review shall take place following changes either mandated or approved by TRR to the TVL RIO. Any such changes shall be effective based on the timeframes as set out in the revised TVL RIO.
- 29.4 On service of a review notice, TVL and the OLO shall forthwith negotiate in good faith the matters to be resolved with a view to agreeing the relevant amendments to the Interconnection Agreement.
- 29.5 For the avoidance of doubt, TVL and the OLO agree that notwithstanding service of a review notice, the Interconnection Agreement shall remain in full force and effect.
- 29.6 If TVL and the OLO fail to reach agreement on the subject matter of a review notice the provisions of Annex F (*Dispute Resolution Procedure*) shall apply.
- 29.7 TVL and the OLO shall enter into an agreement to modify or replace the Interconnection Agreement in accordance with what is agreed between the Parties.
- 30. Notices**
- 30.1 A notice shall be duly served if:
- 30.1.1 delivered by hand, and exchanged for a signed receipt, at the time of actual delivery;
 - 30.1.2 sent by facsimile, upon its receipt being confirmed in the first instance by phone between nominated persons and followed in writing;
 - 30.1.3 sent by registered mail service, five (5) Working Days after the day of despatch.
- 30.2 Except if otherwise specifically provided all notices and other communications relating to the Interconnection Agreement shall be in writing and shall be sent to the contact points and addresses as set out in the Interconnection Agreement or JWM as appropriate.
- 31. Limitations On Liability**

- 31.1** Except as provided in Clauses 31.2 and 31.6, under no circumstances shall either Party (the First Party) or any member of its group, or any of their respective officers, employees, contractors or agents, be liable in contract, in tort (including but not limited to negligence), in equity, for breach of statutory duty, or otherwise compensate the other Party (the Second Party) for any loss, injury, liability, damage, costs or expense arising directly or indirectly from any of the following, in the course of or out of the provision, operation, servicing or termination of services or the performance or non-performance of obligations by the First Party or any member of its group, or any of their respective officers, employees, contractors or agents, under or in relation to this Agreement:
- 31.1.1** any act, omission or delay of the First Party or its group, or any of their respective officers, employees, contractors or agents;
 - 31.1.2** any act, omission or delay in respect of the making available, continued availability, provision, use or termination of the First Party's Interconnection Services;
 - 31.1.3** the failure by the First Party or its group, or any of their respective officers, employees, contractors or agent to connect the First Party's Network to the second party's Network or to make available, continue to make available or provide the First Party's Interconnection Services;
 - 31.1.4** any failure of the First Party's Interconnection Services;
 - 31.1.5** any failure of anything which is part of, or associated with, the First Party's Interconnection Services;
 - 31.1.6** any interception, distortion or any communication or attempted communications (including but not limited to any call or text message) using the First Party's Interconnection Services; or
 - 31.1.7** any act or omission of any customer of the First Party or its group and any other third party for whom the First Party or its group is not responsible.
- 31.2** Notwithstanding Clause 31.1, but subject to all other provisions of this Clause 31, the first party does not by this Agreement exclude liability:
- 31.2.1** for direct loss suffered by the Second Party as a result of the wilful misconduct of the First Party or its group, or any of their respective officers, employees, contractors or agents, in each case in the course of their engagement by the First Party;
 - 31.2.2** for direct loss suffered by the Second Party as a result of the gross negligence of the First Party or its group, or any of their respective officers, employees, contractors or agents, in each case in the course of their engagement by the First Party, (for which

purpose, gross negligence is any conscious or voluntary act or omission, which results in serious injury or damage by a person who was aware of a clear and present threat or danger that such injury or damage would occur);

- 31.2.3** for physical damage to the Second Party's property occurring in the course of the provision, operation, servicing or termination of the First Party's Interconnection services that is attributable, directly or indirectly and in whole or in part, to the negligence of the First Party or its group, or any of their respective officer, employees, contractors or agents in each case in the course of their engagement by the First Party; or
 - 31.2.4** to indemnify the Second Party under any express indemnity under this Agreement,
 - 31.2.5** but only to the extent that the liability arises in the course of or out of this provision, operation, servicing or termination or services of the performance or non-performance of obligations by the First Party or its group, or any of their respective officers, employees, contractors or agents, in each case in the course of their engagement by the First Party, under or in relation to this Agreement.
- 31.3** In any event, under no circumstances shall the First Party or its group, or any of their respective officers, employees, contractors or agents be liable to the Second Party in contract, in tort (including but not limited to negligence), in equity, for breach of statutory duty, or otherwise for loss of profits, business or anticipated saving or for any indirect or consequential loss whatever arising in the course of or out of the provision, operation, servicing or termination of services or the performance or non-performance of obligations by the First Party or its group, or any of their respective officers, employees, contractors or agents, under or in relation to this Agreement, notwithstanding that the First Party or its group, or any of their respective officers, employees, contractors or agents have been advised of the likelihood of such losses.
- 31.4** If for any reason the First Party, its group and/or any of their respective officers, employees, contractors and/or agents is or are liable to the Second Party in contracts, in tort (including but not limited to negligence), in equity, for breach of statutory duty, or otherwise, the combined maximum liability of the First Party, its group and their respective officers, employees, contractors and agents to the Second Party arising in the course of or out of the provision, operations, servicing or termination of services or the performance or non-performance of obligations by the First Party or its group, and/or any of their respective officers, employees, contractors or agents under or in relation to this Agreement shall be:

- 31.4.1** in respect of any one event or related series of events, 200 million vatu; and
- 31.4.2** in any twelve (12) months period, irrespective of the number of events, 400 million vatu.
- 31.5** Each limitation or exclusion of this Clause 31 and each protection given to the First Party or its group, or any of their respective officers, employees, contractors or agents by any provision of this Clause 31 is to be construed as a separate limitation, exclusion or protection applying and surviving even if for any reason any of the other provisions is held inapplicable in any circumstances.
- 31.6** Nothing in this Clause 31 shall exclude or limit the liability of the First Party to pay when due the charges or interest payable to the Second Party under this Agreement.
- 31.7** In no event shall the First Party or its group, or any of their respective officers, employees, contractors or agents be liable to the Second Party in contract, in tort (including but not limited to negligence), in equity, for breach of statutory duty, or otherwise in respect of any event or related series of events where the combined amount of the loss incurred by the Second Party arising in the course of or out of the provision, operation, servicing or termination of services or the performance or non-performance of obligations by the First Party or its group, and/or any of their respective officers, employees, contractors or agents under or in relation to this Agreement in respect of that event or related series of events in less than 50,000 vatu.
- 31.8** The Second Party shall use its reasonable endeavours to ensure that a provision shall (to the extent that it is not now included) be included in:
- 31.8.1** each contract with a customer of the Second Party for the provision of its end user service which excludes and limits (to the maximum extent be permitted by law) any liability of:
- a. the First Party, its group, and their respective officers, employees, contractors and agents; and
 - b. any Licensed Operator (whose network is connected to and with the First Party's Network), its subsidiaries now and from time to time and their respective officers, employees, contractors and agents;
- 31.8.2** arising directly or indirectly from or in connection with the Second Party's end user service;
- 31.8.3** each contract with any Licensed Operator (where the Licensed Operator's network is connected to and with the Second Party's Network) which excludes and limits (to the

maximum extent permitted by law) any liability of the First Party, its group, and their respective officers, employees, contractors and agents arising directly or indirectly from service provided by the Second Party to the Licenses Operator; and

31.8.4 each customer contract of any Licensed Operator (where the Licenses Operator's network is connected to and with the Second Party's Network) which excludes and limits (to the maximum extent permitted by law) any liability of the First Party, its group, and their respective officers, employees, contractors and agents arising directly or indirectly from service provided by the Licensed Operator to its customer.

31.9 The Second Party agrees that under no circumstances shall any Licensed Operator (whose network is connected to and with the First Party's Network), or its subsidiaries now or from time to time, or any of their respective officers, employees, contractors or agents, be liable to compensate the Second Party for any loss, injury, liability, damage, costs or expense arising directly or indirectly from the provision by the First Party of an Interconnection Service that includes a component provided to the First Party by that Licensed Operator.

32. Force Majeure

32.1 Neither TVL nor the OLO shall be liable for any breach of this Agreement caused by force majeure, insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions of Government, highway authority or other competent authority, act of any Government or other authority, act of terrorism, compliance with law, regulations or demands of any Government or Governmental agency, industrial disputes of any kind (not involving either TVL's or the Other Licensed Operator's employees), fire, lightning, explosion, flood, earthquake, subsidence, weather of exceptional severity, acts or omissions of persons for whom neither Licensee is responsible or any other cause whether similar or dissimilar outside its reasonable control and any such event or circumstance is an event of "force majeure".

32.2 The Party affected by the event of force majeure shall notify in five (5) Working Days the other Party in writing and has an obligation to provide a certificate confirming the event of force majeure.

- 32.3** If as a result of the event of force majeure, the performance by either Party of such Party's obligations under this agreement is only partially affected, such Party shall nevertheless remain liable for the performance of those obligations not affected by the event of force majeure.
- 32.4** Upon cessation of the force majeure, the affected Party shall promptly notify the other Party of such cessation.
- 32.5** If the event of force majeure last more than three (3) months the Parties shall agree upon the further continuation of the Interconnection Agreement.
- 33. Indemnities**
- 33.1** Each Party shall indemnify and shall keep the other Party fully indemnified against all damages, losses, costs, expenses, actions, demands, proceedings, claims and liabilities made against or suffered or incurred by the other Party arising directly or indirectly out of:-
- 33.1.1** any act, omission or negligence of its own or any persons acting under its express or implied authority; or
- 33.1.2** any act, omission or negligence of its own Customers; or
- 33.1.3** any breach or non-observance of the provisions of the Interconnect Agreement.
- 33.2** The indemnities contained in the Interconnection Agreement are continuing obligations under the Interconnection Agreement, separate and independent from the other obligations, and will survive until the other (that is not in fault) is fully indemnified even after the termination of the Interconnection Agreement.
- 34. Independent Contractors and Agency**
- 34.1** Either TVL or OLO shall remain at all times an independent contractor fully responsible for its own acts or defaults (including those of its employees or agents). Neither TVL nor the OLO is authorised and neither of the Parties nor their employees, agents or representatives shall at any time attempt to act or act on behalf of the other Party to bind the other Party in any manner whatsoever to any obligations.
- 34.2** Nothing in the Interconnection Agreement shall be considered as to constitute a partnership or joint venture between TVL or the OLO.
- 35. Assignment of Rights and Obligations**
- 35.1** Without prejudice to the Licence issued by TRR in accordance with the Act no rights, benefits or obligations made under the Interconnection Agreement may be assigned or transferred, in whole or in part, by a Licensee without the prior written consent of the other Party, such consent not to be unreasonably withheld.

36. Waiver

- 36.1** No waiver, or failure to enforce, any term or condition relating to the Interconnection Agreement shall be construed as a waiver of any other term or condition of the Interconnection Agreement. No waiver shall be valid unless it is in writing and signed on behalf of the Licensee making the waiver.
- 37. Severability**
- 37.1** The invalidity or unenforceability of any provision in the Interconnection Agreement shall not affect the validity or enforceability of the remaining provision.
- 38. Amendments**
- 38.1** Agreed amendments and supplements to the Interconnection Agreement, including its Clauses, Annexes, Attachments and Service Schedules, shall be issued with not less than ten (10) Working Days notices subject to the approval of TRR.
- 39. Entire Agreement**
- 39.1** The Interconnection Agreement embodies the entire agreement between TVL and the OLO relating to the provision of Interconnection Services mentioned in the Interconnection Agreement and supersedes all previous understandings, commitments, agreements or representations whether written or oral in relation to the subject matter of this Agreement.
- 40. Variations**
- 40.1** Except as expressly provided in the Interconnection Agreement, no variation of the Interconnection Agreement shall be effective unless agreed in writing by TVL and the OLO and signed by a person nominated by each Party in writing.
- 41. Governing Law**
- 41.1** The interpretation, validity and performance of the Interconnection Agreement shall be governed in all respects by the laws of the Republic of Vanuatu and TVL and the OLO submit to the exclusive jurisdiction of the Courts of the Republic of Vanuatu.