



## **TMB Systems Limited Leased Line Schedule**

This Leased Line Schedule forms part of TMB's General Terms and Conditions and this schedule together with the General Terms govern the provision of all Leased Lines provided to the Customer by the Supplier whether as part of the Managed Services Schedule or ordered separately. Where there is any conflict between this schedule and the General Terms this Schedule will take precedence. All capitalised terms are either defined in this schedule below or in the General Terms.

### **1. Definitions**

<b>“Acceptance Tests”</b>	means the ITU-T industry standard tests to be carried out by the Supplier as modified or amended from time to time;
<b>“Access Circuit”</b>	means a circuit, from a Customer Site to an the Supplier point of presence, provided by the Supplier or a third party;
<b>“Act”</b>	means the Communications Act 2003, as amended from time to time;
<b>“Associated Company”</b>	in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.
	A reference to a holding company or a subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of: (a) another person (or its nominee) by way of security or in connection with the taking of security; or (b) its nominee.
<b>“Associated Facilities”</b>	means a facility falling within Clause 32(3) of the Act;
<b>“Authorisation”</b>	means entitlement to provide an Electronic Communications Network or Electronic Communications Services, or to make Associated Facilities available, under the Act;



<b>“Available”</b>	means that Leased Line Services are available for use in accordance with the manner defined in the Service Level Agreement and “Availability” and “Non-Availability” shall be construed accordingly;
<b>“BES”</b>	means “Backhaul Extension Service” which is a Short Haul Data Service as specified in BT SIN 444–448 or the equivalent third-party specification;
<b>“Cancellation Charges”</b>	means the charge(s) which shall be payable by the Customer to the Supplier on termination of this Agreement or part thereof as set out in Sub-Schedule 1 section 2.0;
<b>“Carrier Private Circuit”</b>	means a circuit provided by the Supplier;
<b>“CDR”</b>	means committed data rate;
<b>“Circuit”</b>	means a Leased Line, ADSL Circuit, FTTC circuit or other form of IP connectivity
<b>“Downgraded Services”</b>	means a Leased Line Service that has been downgraded to a slower circuit speed than that originally ordered;
<b>“Fault”</b>	means a fault affecting the Leased Line Service;
<b>“Initial Term”</b>	means the Initial Term of the Agreement as specified in the Acknowledgement.
<b>“Handover Point”</b>	means the demarcation point where Leased Line Services are connected into either Customer-Site Equipment or Customer Operating Environment at a Site and as detailed in the Acknowledgement;
<b>“Installation Charges”</b>	means the charges payable for installation of Customer-Site Equipment and for the commissioning and configuration of Leased Line Services as stated on the Acknowledgement and in accordance with the Installation or Managed Services Schedule (as applies in the particular case).
<b>“Leased Line”</b>	means a circuit provided by the Supplier;



<b>“LES”</b>	means “LAN Extension Service” which is a Short Haul Data Service as specified in BT SIN 118 or the equivalent third-party specification;
<b>“Leased Line Fees”</b>	means the fees specified on the Acknowledgement for the provision by the Supplier and maintenance of the Leased Lines.
<b>“National Ethernet Circuit”</b>	means a circuit provided by the Supplier;
<b>“NTU”</b>	means a network termination unit;
<b>“PE Router”</b>	means a router used by the Supplier to connect the Leased Line Service to the Supplier Network and which is not Customer-Site Equipment;
<b>“Public Communications Provider”</b>	means a public communications provider as set out in Clause 151 of the Act;
<b>“Ready for Service Date”</b>	means the date on which the Supplier first notifies the Customer that the Leased Line Services or part thereof are Ready for Service or, if earlier, the date on which the Customer first makes use of the Leased Line Services or part thereof;
<b>“Ready for Service”</b>	means that the Leased Line Services are ready for use in accordance with the Contract;
<b>“Reconfiguration Charges”</b>	means the reconfiguration charge(s) payable by the Customer to the Supplier following any partial reduction of or other change to Leased Line Services, as advised by the Supplier;
<b>“Scheduled Maintenance”</b>	means maintenance or upgrading of the Supplier Network or the Customer-Site Equipment as planned by the Supplier and notified to the Customer from time to time to ensure the proper working of the Leased Line Service and which will prevent a Leased Line Service(s) from being Available.
<b>“Service Levels”</b>	means the service levels relating to the Leased Line Service which are contained in the SLA including the Target Circuit Availability levels, Target Repair Times and Target Ready for Service Dates to be provided by the Supplier to the Customer as set out in Sub-schedule One;



<b>“Service Credits”</b>	means reductions in certain charges or compensation payments in respect of the Supplier failing to meet specified Service Levels, calculated in the manner set out in Sub-schedule One;
<b>“Short Haul Data Service”</b>	means a LES, WES or BES provided by BT or an equivalent service provided by a third party;
<b>“Site”</b>	means the premises or other locations from and to which Leased Line Services are to be provided to the Customer or their authorised user;
<b>“SLA”</b>	Means the Service Level Agreement set out in Sub-Schedule 1;
<b>“SNMP”</b>	means Simple Network Management Protocol;
<b>“Supplier Network”</b>	means the Electronic Communications Network (including Customer-Site Equipment) operated by the Supplier or any Associated Company (as principal or agent) from time to time under the Act;
<b>“Supplier’s Price List”</b>	means the Supplier price list in force from time to time. means the service level agreement as attached in Sub-Schedule 1 or such other service level agreement which is agreed in writing between the parties from time to time.
<b>“Third Party Services”</b>	means any part of the Leased Line Services which the Supplier procures from any third-party telecommunications services and/or equipment provider which the Supplier uses in Acknowledgement to provide the Leased Line Services.
<b>“Unscheduled Maintenance”</b>	means emergency or urgent repairs to the Leased Line Service which do not form part of the Scheduled Maintenance.
<b>“Upgraded Services”</b>	means a Leased Line Service that has been upgraded to a higher circuit speed than that originally Acknowledged;
<b>“User”</b>	means any person authorised by the Customer to use the Leased Line Services;



**“WES”**

means “Wholesale Extension Service” which is a Short Haul Data Service as specified in BT SIN 431 or the equivalent third-party specification;

**“Working Day”**

means Monday to Friday Business Hours.

## **2. Commencement and Duration**

This Leased Line schedule will commence on the Commencement Date for the Leased Lines as stated in the Acknowledgement and shall continue for the Initial Term and thereafter will automatically renew for successive 12-month periods (each an Extended Term) unless terminated in accordance with the TMB General Terms or the Terms of this schedule.

## **3. Provision of the Service**

- 3.1 The Supplier shall provide or procure the provision of the Leased Line Service to the Customer in accordance with the terms of this schedule and TMB's General Terms.
- 3.2 The Supplier grants to the Customer for the term of this schedule a non-transferrable, non-exclusive, royalty-free, worldwide licence to such Third-Party Materials as are incorporated in the Leased Line solely so that the Customer can use such Leased Line Service for the term of this schedule.
- 3.3 The Supplier shall use reasonable endeavours to provide the Leased Line Services throughout the Initial or Extended Term in a manner which meets or exceeds the Service Levels.
- 3.4 Where the Supplier in its reasonable opinion states that a fault in the Leased Line Service results in failures in respect of non-Leased Line Services the Customer accepts that its only remedy will be those stated under the Leased Line SLA unless it can be conclusively shown by the Customer that the failure of the SLA further up the system was not the result of the Leased Line failure.
- 3.5 The Customer understands that the SLA's stated in this schedule are usually passed on directly from the Third-party Provider, through the Supplier, to the Customer and are the sole remedy for any faults in the Leased Line Service (whether taken as part of the Managed Services or on a standalone basis).
- 3.6 The Customer acknowledges that it is technically impracticable to provide a fault free Service and the Supplier does not undertake to do so.
- 3.7 Occasionally the Supplier may have to interrupt the Leased Line Service or change the technical specification of the Leased Line Service for operational reasons (such as maintenance or Service upgrades) or because of an emergency. The following shall apply to such interruptions:

### **Scheduled Maintenance**

The Supplier shall comply with the Scheduled Maintenance Service Levels and shall use reasonable efforts to minimise outages and routine maintenance/upgrading during the maintenance hours outlined in the SLA. The Supplier will use reasonable efforts to inform the Customer of Scheduled Maintenance in accordance with the Scheduled Maintenance Levels.

### **Unscheduled Maintenance**



The Supplier and their Third-Party Service Providers may carry out emergency or urgent maintenance at any time to repair the Leased Line Service. The Supplier shall comply with the Unscheduled Work Service Levels in this respect. The Supplier shall notify the Customer in advance of the Unscheduled Work where possible but in any event as soon as practicable after the completion of the emergency or urgent maintenance.

#### **4. Use of the Service**

4.1 The Customer must not use the Leased Line Service:

- 4.1.1. in breach of legislation or license terms applicable to the Customer or that is any way unlawful or fraudulent or has any unlawful or fraudulent purpose or effect;
- 4.1.2 in connection with the carrying out of a fraud or criminal offence against the Supplier, or any other telecommunications operator;
- 4.1.3 to send, knowingly receive, upload, download, use or re-use any material which is abusive, indecent, defamatory, obscene or menacing, or in breach of any copyright, confidence, privacy or any other similar rights;
- 4.1.4 to send or procure the sending of any unsolicited advertising or promotional material other than in the case of the Customer to its own customers;
- 4.1.5 in a way that does not comply with any reasonable operating instructions that the Supplier has given to the Customer; or

4.2 The Supplier will be entitled to suspend the Leased Line Service or terminate the Contract where the Supplier, in its absolute discretion, believes the Customer is in breach of any provisions of Clause 4.1.

4.3 The Customer will co-operate with the Supplier's reasonable requests for information regarding the Customer's use of the Service and supply such information within a reasonable period of time.

4.4 Except as otherwise expressly permitted under this schedule, the Customer may not:

- 4.4.1 modify the Service without the Supplier's prior written consent (such consent not to be unreasonably withheld or delayed).
- 4.4.2 redistribute, copy or use the Service, or transfer rights to the use of the Service to any third party;
- 4.4.3 use the Service except in conjunction with the Supplier's recommended operating guidelines;

#### **5. Fees**

5.1 The Leased Line Fees shall be payable from the Ready for Service Date for the Service.

5.2 The Customer will pay the Leased Line Fees in line with the terms for charges stated in TMB's General Terms.

5.3 The Supplier may also make an additional charge (on the basis of additional charges detailed in the current Supplier Price List) where a fault relates to equipment or software other than that supplied under this schedule by the Supplier.

5.4 The Customer agrees to pay the Installation Fees relating to the installation of the Leased Line Service which have been agreed in advance by the Customer and in the



case of installation Services being provided they will be provided in accordance with the Terms of either the Installation Schedule or where part of the Managed Services as part of the Managed Services Schedule.

## **6. Customer Obligations**

- 6.1 The Customer-Site Equipment shall remain the property of the Supplier or their Third-Party Service Supplier and the Customer shall at all times make clear to third parties that the same is the property of the Supplier or a Third-Party Service Supplier. The Supplier may modify, substitute, renew or add to the Customer-Site Equipment from time to time at its absolute discretion.
- 6.2 Any Customer Operating Environment connected to or used with the Leased Line Service must be connected and used in accordance with any reasonable instructions, safety and security procedures applicable to the use of the equipment. Any equipment, which is attached (directly or indirectly) to the Leased Line Service must be technically compatible with the Leased Line Service and approved for the purpose under any relevant legislation or telecommunications industry standards.
- 6.3 The Customer undertakes: -
  - 6.3.1 to comply with all reasonable instructions the Supplier may notify to the Customer for use of the Customer-Site Equipment.
  - 6.3.2 not to allow the Customer-Site Equipment to be repaired or maintained other than by an authorised representative of the Supplier.
  - 6.3.3. not to damage the Customer-Site Equipment and not to add modify or in any way interfere with the performance of the Customer-Site Equipment;
  - 6.3.4 not to attempt to sell the Customer-Site Equipment;
  - 6.3.5 not to remove any identification mark affixed to the Customer-Site Equipment showing that it is the property of the Supplier or other third-party supplier of such equipment.

## **7. Support of the Service**

Technical support for the Service is available by telephoning 01202 818888 (24/7/365) or by sending e-mail to [support@tmbsystemsgroup.com](mailto:support@tmbsystemsgroup.com)

## **8. Termination**

- 8.1 In addition to the termination provisions in the General Terms, the Customer may terminate this Agreement by giving at least ninety (90) days prior written notice to the Supplier.
- 8.2 On termination of this Leased Line Schedule the Customer shall pay the Cancellation Charges.
- 8.3 The Supplier may suspend the Service wholly or partly if the payment of any amount due and payable under the terms of this Agreement in relation to those Leased Line Services is not made and the Customer fails to remedy that non-payment within fifteen (15) days (or such longer period as specified in the appropriate notice) of the date of the written notice issued by Supplier which clearly stipulates the payment(s) that have not been made by the Customer and that the Supplier intends to suspend such Leased Line Services if payment is not received within the specified period. Any such suspension shall be without prejudice to its right to terminate this Contract. Where the Leased Line Service is suspended under this paragraph 8.3 the Customer must pay the charges for



the Leased Line Service until this Agreement is terminated. For avoidance of doubt, the suspension of the Leased Line Services shall be limited to those Leased Line Services to which the non-payment relates and not any other Services provided by the Supplier under this Contract.

- 8.4 Upon termination of this Agreement the Customer shall immediately stop using the Service and the Customer's right to use the Service shall immediately terminate. If the Service is provided with equipment, such as a managed router, this equipment must be returned to the Supplier at the Customer's expense. If the equipment is not returned the equipment cost will be charged to the Customer.
- 8.5 **Third party usage and hacking:** The Customer shall remain responsible for the use of the Leased Line Services under its control, including any use by third parties (whether fraudulent or invited by the Customer). The Customer accepts that the Installation Services have the potential to be hacked and will use best endeavours to protect the Leased Line Services from third party hacking including using passwords which are regularly updated, secure locations and training for personnel using the system. Any recharged usage charges incurred through PBX hacking or hacking of any other kind shall be borne by the Customer and not the Supplier unless due to the material negligence of the Supplier. The Supplier shall use reasonable endeavours to alert the Customer to any hacking as soon as practicable but is not liable for any damage caused prior to and within a reasonable time after becoming aware of the hacking. The Customer agrees to indemnify the Supplier in respect of any costs incurred by the Supplier in making the Leased Line Services safe again.



## **Sub-Schedule one** **Service Level Agreement**

### **1.0 Fault Management**

Full details of the fault reporting process and contact names and numbers are set out in the TMB Escalations Matrix document.

### **2.0 Cancellation and Modification**

#### **Cancellation of Service by Customer**

##### ***Cancellation prior to Target Ready for Service Date***

If a Circuit is cancelled before the Target Ready for Service Date, the Supplier reserves the right to make a Cancellation Charge to cover all reasonable costs incurred by the Supplier as a result of such cancellation or modification, in accordance with Table 1 below.

**Table 1**

Percentage of Acknowledgement lead time before Target Ready for Service Date when cancellation occurs	Percentage of Installation Charge and first year's Leased Line Fees payable as Cancellation Charge
0 to 10%	100%
10-25%	75%
25-50%	50%
50-75%	25%
75%+	0%

##### ***Cancellation after Target Ready For Service Date***

If Customer terminates the Service following the Target Ready for Service Date, the following cancellation terms will apply:

**Table 2**

Notice required by TMB	3 months written notice
Circuit Cancellation Date	3 months after acknowledgement of receipt of written notice
Cancellation Charge	100% of any outstanding Leased Line Fees calculated pro-rata from the Circuit Cancellation Date to the end of the Initial Term



### **Modification of Service by Customer**

If the details of the Service are changed substantially at any time by Customer (such as but not limited to change in A-end or B-end location, change in capacity or change in presentation) the Supplier reserves the right to charge Reconfiguration Charges or treat the modification as a cease and re-provide and charge a Cancellation Charge.

### **3.0 Service Level Targets and Credits**

The Service Credits set out in Tables 3 and 4 are subject to a maximum, in aggregate in any calendar month, of 100% of the monthly Leased Line Fees for the Circuit in question.

Service Credits shall not apply and, for the purposes of these Service Levels, the Leased Line Services shall be deemed to be Available in respect of any period where the Supplier's failure to meet the Service Levels results directly or indirectly from:

- (a) a Force Majeure Event;
- (b) any actions or inactions of Customer (including, without limitation, requests for testing of the Service by Customer although no Fault has been detected, requests for modifications, failure of Customer Operating Environment, failure by Customer to provide access to Service Equipment, failure by Customer to operate the Leased Line Services in accordance with the General Terms and Conditions);
- (c) Service misuse contrary to the General Terms and Conditions;
- (d) any Scheduled Maintenance
- (e) any Fault that is not reported to the Supplier within 10 days of its occurrence;
- (f) any reported period of non-Availability where the Supplier, having carried out reasonable investigations, can find no Fault;
- (g) any Fault that is due to User error; and



## Target Service Availability

For Leased Circuits, the Supplier warrants that the end to end Availability for each Service to be at least 99.95% in each 12-month period following the Ready for Service Date. For the purpose of calculating Availability, "Unavailable Time" means a period of time when there is a total break in transmission or where the bit error rate (BER) in each of ten consecutive seconds is worse than  $1 \times 10^{-3}$ . Where the Availability of the Service falls below 99.95%, Customer shall be entitled to Service Credits in accordance with Table 3 below.

Table 3

Circuit Availability in each 12-month period	Compensation
99.95% or greater	0% of monthly Leased Line Fees
Less than 99.95% to 99.85%	60% of monthly Leased Line Fees
Less than 99.85% to 99.5%	90% of monthly Leased Line Fees
Less than 99.5%	100% of monthly Leased Line Fees



## Service Restoration Time

The Target Resolution Time for a Circuits is set out in the table below.

Table 4

Priority Level	Description	Target Resolution Time	Response Time
High	Total loss of Service resulting from a single event. User has total loss of Service/product or degraded beyond usable limits. Degraded Service. E.g. Errors, packet loss to router interface, Inability to transmit/receive where Business operations are severely impacted.	5 hours Ethernet# 7 hours for other services**#	½ hour followed by updates each hour
Medium	Partial loss of Service or degradation of Service, resulting from one event. Partial loss where Service is intermittent or slow throughput. Dribbling errors; packet loss less than 25%; slow throughput;	24 hours	4 hours
Low	Service Enhancement* that requires a change to the existing Service and/or DAISY Network components that will facilitate Service. (*Service Enhancements exclude speed upgrades which are considered on a case-by-case basis and the TMB shall endeavour to resolve such requests within 10 Business Days) Service requests or changes etc	3 Business Days	-

\*\* Other services are Etherway Copper, Superfast GEA, EFM.

# time for resolution is extended to 15 hours if it is the result of a Fibre break



The Target Repair Time is extended to 15 hours if it is the result of a Fibre break.

In the event that the Supplier fails to repair a Fault within the specified Target Repair Time then Service Credits will be payable, subject to the maximum stated above, in accordance with Table 4 below:

Table 5

Hours past Target Resolution Time	Service Credit as percentage of monthly Leased Line Fees
Each hour or part of hour beyond the Target Repair Time.	10% of the monthly Leased Line Fees.

Repair times for non-service affecting faults, meaning faults which although not functioning correctly result in no or minimal effect on the Leased Line Service quality, will be agreed on a case by case basis. No Service Credits shall be payable for failure to repair non-service affecting faults within the Target Repair Time.

Measurement of Repair Time will commence at the time the Customer or the Supplier raises a Fault ticket and will end when the Supplier confirms to the Customer that Service has been restored. In the event that the Supplier is unable to contact the Customer or is waiting for the Customer to respond or where waiting for a replacement part, then from the time logged by the Supplier shall be subtracted from the time of Unavailability.

#### **4 TOTAL SERVICE CREDITS**

For the avoidance of doubt, the maximum aggregate Service Credits during the Contract available this Schedule, whether claimed under Table 3 or Table 5 of this Service Standard, shall not exceed three (3) months Leased Line Fees Charges payable under this schedule.

In the event that any Service Credits due to you under this Service Standard relate to the same incident or cause, you shall only be entitled to claim, and we shall only be liable for, the lower of the Service Credits under either Table 3 or Table 5 of this Service Standard.

For the avoidance of doubt, we shall not be liable to pay Service Credits under both tables in respect of the same incident or cause or as a result of SLA failures in the Managed Services Schedule which solely relate to a Leased Line Service failure.

#### **5 PAYMENT OF SERVICE CREDITS**

All claims for Service Credits must be submitted to the account manager within 30 Working Days (dependent on the type of claim), from either:

- a) the date Service was delivered (in the case of late delivery);
- b) the end of the Service Measurement Period (in the case of Service Availability); or



- c) the date the fault was notified to Us (in the case of failure to meet the target repair time).

Credit notes for any Service Credits due to you shall be issued as soon as practicable by us. We will pay you the relevant Service Credits by off-setting them against future Charges under this Contract as a whole. If at any time an account under this Contract as a whole enters into credit, you may request payment by cheque to reduce the account balance to zero. When the balance on the account is in debit, a cheque cannot be requested

## **6 Scheduled Maintenance**

All necessary equipment maintenance or network upgrades will, wherever possible, be planned to avoid any interruption to the Leased Line Service. Where the Supplier provides diverse circuits, we will not carry out Scheduled maintenance on both routes at the same time, unless it has agreed this with you in writing. Generally, Scheduled Maintenance would be scheduled at low traffic periods to minimise any disruption. Except in an emergency, or when events outside the control of us do not allow, we will provide ten (10) Working Days' notice to you of any Scheduled Maintenance that will affect the availability of the Service. Such requested outages will be limited to a single outage per calendar quarter. Any other or additional outage request is subject to agreement between us and you (both parties acting reasonably). All notifications will be transmitted by e-mail or white mail.